

**ADVISORY COMMITTEE ON THE
FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

COUNCIL OF EUROPE



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**Comments of the Government of Poland on the Fourth Opinion of the Advisory Committee on
the implementation of the Framework Convention for the Protection of National Minorities by
Poland –**

received on 6 April 2020

Ministry of Interior and Administration

*Comments on the Fourth Opinion on Poland
adopted by the Advisory Committee on the Framework Convention for the Protection of
National Minorities*

Warsaw, April 2020

Poland appreciates the highly dialogic formula of the FCNM Advisory Committee's visit and its openness to the idea of supplementing the necessary information about the situation of national and ethnic minorities in our country.

Poland welcomes the Advisory Committee's comments on the observed improvement in the State's activities focusing on minorities. These include:

- general attitude of tolerance towards minorities in everyday life, as reported by their representatives;
- disaggregation of data on hate crimes that enables more effective monitoring of emerging tendencies;
- making it possible to indicate more than one ethnic affiliation during the national census and establishing the practice of consulting the census methodology with representatives of national and ethnic minorities to the relevant extent;
- existence of extensive broadcast programming in minority languages or addressed to minorities, produced in regional branches of public media, as well as an increased number of hours of broadcasts for minorities;
- a rich and thriving landscape of newspapers for minorities;
- a social campaign promoting the use of national and ethnic minorities' languages;
- the work of voivodes' plenipotentiaries for national and ethnic minorities, focusing also on the mainstream society;
- increasing the national and ethnic minorities' participation in the decision-making process related to the allocation of budget funds to address their needs;
- wide scope of activities related to the Jewish heritage and the Jewish culture in Poland, as well as noticeable steps undertaken e.g. by the Ministry of Culture and National Heritage and certain local government authorities to support projects benefiting the national and ethnic minorities and contributing to the restoration of the Polish Jews' heritage;
- multitude of institutions, museums, libraries and cultural centres supported by the Ministry of Culture and National Heritage;
- additional project financing provided to national minorities under the *Folk and Traditional Culture* programme;

- changes related to increasing the financing of education of students belonging to national and ethnic minorities and a significant increase in the number of children learning minority languages;
- improving accessibility of free textbooks via an electronic portal and developing textbooks for Lithuanian, Belarusian and Kashubian minorities;
- establishment of Kashubian ethno-philological studies at the University of Gdansk;
- bilateral contacts with the Republic of Lithuania and the Federal Republic of Germany related to matters important for national and ethnic minorities, among other issues;
- conclusion of an agreement between the ministers competent for educational and pedagogical matters of Poland and Ukraine;
- unquestionable benefits of the *Programme for the Integration of the Roma Community in Poland for 2014–2020* and its efficient implementation;
- existence of quality television programmes addressed to the Roma minority.

At the same time, Poland takes proper account of the recommendations presented in the *Opinion*, aimed at strengthening and improving the mechanisms that contribute to maintaining and developing the ethnic and cultural identity of persons belonging to national and ethnic minorities. The efforts taken will be supported by measures including the organisation of a meeting between representatives of the competent ministries and representatives of minorities with representatives of the Advisory Committee, preliminarily scheduled – in cooperation with the Convention's Secretariat – to take place in mid-2020.

It is worthwhile to note that the improvement in the functioning of national and ethnic minorities organisations has been – since 1989 – dynamic: following an open and constant dialogue with representatives of national and ethnic minorities several legal, financial and organisational mechanisms have been introduced successively into the Polish legal order. The government does not regard this process as completed, and solutions beneficial for minorities were and will continue to be developed in constant cooperation between the State administration and minorities' organisations.

The entire history of Poland, which spans more than one thousand years, bears testament to the tradition of respect for multiculturalism and multireligiousness. It needs to be noted that a significant portion of the cultural heritage of Judaism and Yiddish culture developed over the course of centuries on the territory of the Republic of Poland. The historic pantheon of distinguished Poles includes numerous examples of people of non-Polish descent and of non-Roman Catholic denomination.

The stereotype of a Pole being a Catholic anti-Semite, which has been presented in the foreign media for some time now, seems to diminish the above-mentioned strong track-record. Since

1989, support for small and ephemeral political groups promoting extremist nationalist¹ or anti-Semitic views has never exceeded 1–2%. None of such groups has proven capable of surviving on the Polish political scene and none has ever managed to introduce its representatives to the Polish parliament.

Contrary to the opinion about Poland which has become widespread following the ‘refugee crisis’ of 2015, the Polish government has maintained from the very beginning that providing aid in the regions where migration is born is key to effective action; even though the Polish government has consequently opposed the mechanism of forced relocation of third-country nationals, this does not mean that Poland does not react to the international situation. Indeed, Poland is a country opening its labour market to around 1.2–1.5 million Ukrainians per year.

The statement accusing the Roman Catholic Church in Poland of dominating the public life, especially in the area of education, as presented in the *Opinion* following the report of the UN Special Rapporteur in the field of cultural rights², needs to be corrected. The fact that the vast majority of Polish citizens are practising Catholics cannot be used as an argument to justify the opinion that freedom of religion in Poland is restricted. The Roman Catholic Church in Poland is open towards other monotheistic religions, with the Days of Islam and the Days of Judaism celebrated by it for the past 20 and 23 years, respectively, being only one of examples.

It is important to note that the exacerbation of the political debate observed currently both in Europe and in Poland is obviously present also within the national and ethnic minorities community in Poland, which may be reflected both in the statements by certain representatives of national and ethnic minorities, as well as in media reports presented in Polish and foreign media. Despite that, the State policy on national and ethnic minorities in Poland after 1989 may be regarded as a matter of political consensus maintained by the post-1989 government administration.

To sum up, it has to be clearly emphasised that the Republic of Poland considers the heritage of national and ethnic minorities as an obvious part of the cultural heritage of our country, which for centuries has constituted a unique synthesis of Eastern and Western European influences on the map of Europe.

I. Key findings

Monitoring process

Re 2. The following statement: “Some comments and corrections by representatives of national minorities are appended to the state report in Annex 8” needs to be made more specific. In reality,

¹ It is important to remember that in Polish the word “national” (*narodowy*) is not synonymous with the word “nationalistic” (*nacjonalistyczny*).

² Karima Bennoune, UN Special Rapporteur in the field of cultural rights, [Poland: UN expert concerned that erosion of cultural freedom threatens the country’s rich cultural life](#), End of Mission Statement issued following the visit in 2018.

certain comments by representatives of minorities were included in the text of the *4th report*, while those that were not – were included on the list presented in Annex No 8, in order to provide the Advisory Committee with full information, including comments critical of the State administration.

Re 3. The lack of translation of the *Opinion* into minority languages is motivated by cost-efficiency considerations – the translation of texts spanning several dozen pages into 14 languages would generate costs disproportionate to the effect of such documents, since the representatives of minorities – as citizens of the Republic of Poland – speak Polish.

Referring to the comment on the lack of a meeting summarising the 3rd monitoring cycle, in 2020 – following the end of the current cycle – the Polish authorities intend to organise such a meeting with representatives of the Advisory Committee, representatives of national and ethnic minorities and representatives of the competent ministries.

General overview of the current situation

Re 8. The system of one-year project support reflects the requirements of the current structure of the State budget. It does not mean, however, that projects important for national and ethnic minorities' organisations are being discontinued. The events which a given minority considers to be the most important are indeed covered by annual financial support which, however, has been provided regularly for a number of years now. The flourishing nature of the following cyclical events organised in 2019 proves that concerns related to continuity of support are unfounded, despite annual budgeting:

- the 31st edition of the *International meeting of gypsy bands Romane Dyvesa* (Roma minority);
- the 20th *Lemko Jerusalem*, the 23rd edition of the *International Folklore Festival 'Świat pod Kryczerą'*, the 28th edition of the *Meetings with Lemko Culture*, the 30th *'Łemkowska Watra' in Ługi*, the 38th *'Łemkowska Watra'*, the 40th *'Łemkowska Watra na Obczyźnie'* (Lemko minority);
- the 22nd edition of the *SIMCHA Jewish Culture Festival* (Jewish minority);
- the 18th edition of the Lithuanian Children Songs Competition *'DAINORĖLIS'*, the 26th edition of the National Minorities Meetings, the 29th edition of the Children Theatres Festival, the 29th edition of the Barn Theatres Festival, the celebrations of the 60th anniversary of *Aušra* biweekly (Lithuanian minority);
- 27th edition of *Slovak Culture Days in Małopolska*, the 39th edition of *The Regional Brass Bands Review* (Slovak minority);
- the 16th *German Language Recitation Competition 'Young people recite poems' / 'Jugend trägt Gedichte vor'*, the 19th *German Minority Children and Youth Bands Review Leśnica 2020*, the 26th edition of *The Autumn integration fair of TLKN 'Fatherland' – THE BAKED POTATO HOLIDAY*, the 28th edition of the Review of German Minority Orchestras Leśnica 2020, the 28th *Review of the Artistic Oeuvre of German Minority Bands as part of Municipality Harvest Festival, Leśnica 2020*, the 28th *National Minorities' Day*, the 29th *Choirs and Vocal Groups Festival in Walce* (German minority);

- the 12th *Festival of Ukrainian Culture 'Ekołomyja'*; the 24th *Hola Fair*, the 25th *Edition of the Itinerant Ukrainian Culture Festival* (Ukrainian minority).

The stable functioning of minorities' organisations is also ensured by the system of annual grants for the functioning of the national and ethnic minorities' NGOs: grants for renting and maintaining offices, administration, accounting, legal services, etc.

Assessment of measures taken to implement the recommendations for immediate action

Re 10. The Polish State's policy towards national and ethnic minorities has never been driven by the principle of 'mutuality' so as not to treat the Polish citizens belonging to national or ethnic minorities as 'hostages' of bilateral relations. On 7 September 1939 Poles living in Germany lost the status of a national minority – this status has not been reinstated to this day, despite a large Polish diaspora in Germany estimated at around 1.5–2 million persons. The property belonging to the Polish minority in Germany back then was confiscated in 1940 and has still not been returned. Meanwhile, the German minority in Poland, which is about four times smaller than the Polish diaspora in Germany, receives financial support of around PLN 1.7 million every year, being the second largest sum paid to the minorities in Poland from the budget of the Ministry of the Interior and Administration.

Poles in Lithuania still cannot write their surnames in the original form in which they appear in their mother tongue, in contrast to Lithuanians in Poland, who have been enjoying this right – similarly to all other minorities – since 2005.

In light of this information, the sentiment about the 'mutuality' principle voiced by certain representatives of minorities has to be regarded as unfounded.

Re 11. There are plans to increase the number of Roma school assistants as part of the next integration strategy, to be implemented post-2020.

Financing of the costs of pre-school education for Roma children has been present in integration strategies for this group since 2001. Sporadic issues with children's attendance at preschools (among those Roma who decided to avail themselves of this possibility) stemmed from the fact that certain local governments – acting in line with the applicable law – were adding the support received under the integration strategies to the families' income, which, in some cases, led to a situation where Roma families exceeded the income threshold entitling them to receive social benefits. For this reason, parents of Roma children may have decided to withdraw their children from preschool education in order to retain the right to receive social benefits. Such behaviour is understandable from the psychological point of view – given that many Roma families lack stable sources of income, the threat of losing social benefits entails a decision reflecting upon the education and upbringing of their children. The Ministry of the Interior and Administration will make an attempt to analyse this situation and find a satisfactory solution. The year-long preschool

education obligation for children aged 6³, introduced in September 2017, which provides for at least 5 hours of free education daily, has been one of the factors which contribute to improving the situation in this regard. In addition, a local government unit may also exempt the child's parents / legal guardians from the other expenses – e.g. expenses related to food or education in excess of the free 5-hour minimum.

The local government is obliged by law to provide all children aged 3–5 and 6 residing on a given territory with a place where they can exercise their right to preschool education. If a parent / legal guardian wishes for the child to be covered by preschool education, he/she has to choose a specific preschool and participate in the recruitment process. If the child is not admitted to a given preschool (fails to obtain the required number of points) and the relevant appeal procedure has been completed, the local government will identify another preschool where the child will be able to receive preschool education.

Re 12. The information contained in this item of the *Opinion* needs to be corrected. The top-up for the education of students from minority backgrounds is not a grant (*dotacja*) – which within the framework of Polish legal order has to be earmarked – but rather a subsidy (*subwencja*), which is spent for an educational purpose specified by a given municipality (*gmina*). This means that the municipality (*gmina*) – as an authority responsible for managing schools – may use it e.g. for the construction of a school sports field. The decision on how to spend a subsidy is taken by a given local government independently, and the central State authorities are unable to influence this decision.

However, the Ministry of the Interior and Administration exercises its right to request the Supreme Audit Office to verify whether the funds meant to support the rights of minorities are expended correctly. Irregularities identified in several instances resulted in certain municipalities being forced to return the relevant funds to the State budget. For this reason the Ministry of the Interior and Administration, aware of the need to support the education of students from national minority backgrounds, will take further measures to raise the local government units' awareness of the educational needs of students representing particular national minorities.

Assessment of measures taken to implement the further recommendations

Re 16. The Ministry of National Education does not agree with the opinion on the lack of content related to national and ethnic minorities in the curriculum. The general education curriculum states that the main goal of primary education is to ensure the integral biological, cognitive, emotional, social and moral development of the student. The objectives of school education and upbringing include the following: to strengthen the student's individual, cultural, national, religious and ethnic identity; to help students form a sense of personal dignity and an attitude of respect towards other

³ Pursuant to Article 31(4) of the Act of 14 December 2016 – Education Law (consolidated text: Journal of Laws [Dz. U.] of 2019, item 1148).

people; to promote openness towards the world and other people, social activity and a sense of responsibility for the community.

The analysis of the curriculum allows the following conclusions to be drawn:

- the objectives of education and the content of the curricula of different subjects such as: social studies, geography, ethics, and the Polish language and modern foreign languages take into account the idea of multiculturalism, as well as tolerance of and acceptance for national minorities, their place in the society and their rights;
- these topics are addressed to the largest extent within the subject related to modern Poland – *social studies*; the primary school pupil is required to be able to list national and ethnic minorities living in Poland, as well as groups using regional languages, indicate the territories on which they reside and present – in accordance with the relevant provisions of the Constitution of the Republic of Poland – the rights to which ethnic minority groups are entitled. Just as importantly, the requirements related to this thematic area also point to important pedagogical goals – they call for an active attitude with regard to defending the fundamental rights of minorities and emphasise the need for coexistence between different communities / the need to function within different communities: the pupil needs to be able to demonstrate that different socio-cultural identities (regional, national/ethnic, State/civic, European) can be reconciled, to identify the symptoms of xenophobia, including racism, and chauvinism, and to justify the need to combat such phenomena;
- in line with the *social studies* curriculum, secondary school students are required to be able to present the rights of national and ethnic minorities (as well as groups residing on the territory of the Republic of Poland who use a regional language) in greater detail, and in the case of extended curriculum – to also present different concepts of a nation (political, and ethnic and cultural), characterise the factors which contribute to the creation of a nation and factors conducive to preserving national identity and to discuss – based on the results of public polls – the attitudes of the Polish society towards national and ethnic minorities;
- Poland's historic relations with its neighbours, the issues related to national and religious relations over the course of Polish history and information about the situation of national minorities in the different periods are discussed during history classes. The conditions and methods of implementing the core curriculum in the teaching of history emphasise in particular the task of shaping and fostering a patriotic attitude, while respecting the achievements of other nations.

In 2019, the Ministry of National Education submitted to the Joint Commission of Government and National and Ethnic Minorities a summary of relevant provisions of the new general education curriculum (from 2017 and 2018) relating, among other things, to the issues of national and ethnic minorities.

Re 17. The slight change in the employment rate among the Roma is related to the level of educational attainment of this minority representatives – 90% of the Roma population in Poland have attained primary education (and half of this group – incomplete primary education) and either none or hardly any professional qualifications. In view of the technological progress and the labour market needs, it is crucial to increase the Roma youth participation in secondary education, especially vocational education. This measure is only one of the priorities for the planned next Roma integration strategy.

II. Article-by-article findings

Article 3 of the Framework Convention

Scope of application

Re 20. The term ‘Silesians’ is also imprecise in the light of the data referenced by the Advisory Committee in footnote 8 on the number of different identities related to the concept of being ‘Silesian’. Within the group of 846,700 people referred to by the Advisory Committee, there are 3 identities: German-Silesian identity (38,700 persons) identity, Silesian identity (375,600 persons), Polish-Silesian identity (430,800 persons), which shows the fluidity of this term and phenomenon. Poland maintains the view referenced in item 21 of the *Opinion* that the language, culture and tradition of Silesians are not separate from the Polish language, culture and tradition but rather form “an integral part thereof” and that Silesian is a variant of the Polish language.

Re 22. The Silesian dialect is one of four main dialects of Polish, along with Lesser Polish, Greater Polish and Mazovian. It is worth noting that, similarly to other dialects, within the Silesian dialect there are various subdialects characteristic of the speech of people living in smaller areas. This view is shared by numerous linguists and ethnologists who study this subject. It also bears remembering that both the Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Language (Journal of Laws of 2017, item 823) and the *European Charter for Regional or Minority Languages* state that the term ‘regional language’ does not cover dialects of the official state language.

Re 24. Pursuant to the Act on National and Ethnic Minorities and on the Regional Language, one of the conditions for recognising a group ethnically distinct from the majority as a national or ethnic minority is the requirement to have been living on the present territory of the Republic of Poland for at least 100 years. The Greek diaspora has been present in Poland since the civil war in Greece in 1944–1949, so it will soon be able to apply for the national minority status in Poland.

Re 26. According to Poland, defining the category of national and ethnic minorities does not contradict the right to individual, free self-identification. Identifying this category is a form of recognition and shows respect for ethnically and culturally distinct groups (in terms of linguistic and religious differences) which were a substantial part of the Polish-Lithuanian Commonwealth they formed jointly in the past.

Re 28. The cultural heritage of Wilamowice is considered important and it is being researched. In 2015, as part of research projects related to minority languages of the Ministry of Science and

Higher Education and the National Science Centre, a project documenting the linguistic and cultural heritage of Wilamowice was carried out under the National Humanities Development Programme (NHPD).

Re 29. In 1998 and 2007, Polish Supreme Court held that the Silesians are not considered a separate national group by the general public. In 2004, the European Court of Human Rights dismissed an action against the 1998 decision. A belief held by a group of people or even them declaring a separate nationality in censuses is not sufficient to accept the existence of a separate Silesian nation and nationality.

Population census

Re 32. The claim that “[i]t was [...] not until 2015 that the final census results on ethnicity and language were first published by Statistics Poland” is not true.

The 2015 publication referenced in the *4th Opinion* is the most comprehensive and thorough statistical and analytical study by Polish public statistics on the results of the 2011 census in regard to national and ethnic affiliation, language and religion. It is, however, by no means, the first publication presenting the final results of the 2011 census in regard to national and ethnic affiliation, language and religion, nor is it the first public statistics effort to disseminate the final data from the 2011 census and make it available.

The final results of the 2011 census were processed and compiled in late 2012 / early 2013, including the data on ethnicity and language and since then they have been gradually disseminated and made available by Polish public statistics (previously, nationality data were presented based on preliminary census results).

In January 2013, the following information was published: “National and ethnic affiliation of the population – 2011 National Census⁴” presenting basic data on national identification prepared based on the final results of the 2011 census. In April 2013, the first comprehensive publication, prepared based on the final census results, was released. It was entitled “Population. Size and socio-demographic structure – 2011 National Census” and featured an electronic table annex including a chapter on national and ethnic affiliation, language and religion. Shortly after that, regional equivalents of the above mentioned publication were released by the provincial centres of public statistics. They also contained sections on ethnicity. Starting from 2013, the final census data related to national and ethnic affiliation have been published in statistical and demographic yearbooks. In April 2014, a special set of tables on national and ethnic affiliation, language and religion from the 2011 census was published on the public statistics website. It included ethnic identity data by county (*powiat*).

⁴ <https://stat.gov.pl/spisy-powszechne/nsp-2011/nsp-2011-wyniki-wstepne/przynaloznosc-narodowo-etniczna-ludnosci-nsp-2011,1,1.html>

In addition to publications, since 2013, Polish public statistics has taken measures to make the final results of the 2011 census available to interested parties. In response to requests and orders, the census results were provided to research centres and other organisations and institutions, including international institutions such as the UN (in 2013).

Moreover, independently from the dissemination of data on all types of ethnic identities recorded in the 2011 census, in 2013–2014 public statistics prepared and made available the (final) results of the census on minority communities defined and identified based on formal and legal criteria, i.e. communities specified in the Act of 6 January 2005 *on National and Ethnic Minorities and on the Regional Language*. The prepared summaries included socio-demographic characteristics and geographic distribution (such as lists of municipalities (*gmina*) meeting the various criteria in terms of minority percentage) for the 13 minorities listed in the above mentioned Act and users of the regional language. These data were submitted to the ministry competent for national and ethnic minorities (then: Ministry of Administration and Digitisation), which published the received materials on its websites about national and ethnic minorities and used them in reports prepared for international institutions. In 2013, the final data on national and ethnic minorities were also presented to the National and Ethnic Minorities Committee of the Polish parliament.

Statistics Poland would also like to address the statement regarding the differences between the preliminary and final results of the 2011 census and their interpretation in terms of methodological difficulties. It should be noted that public statistics, in response to public expectations, publishes preliminary results (prior to establishing the final ones) on a variety of issues, including ethnic data, while the census data are still being processed. These data may, to a certain extent, differ from the final results. This practice was also used for previous censuses. It is worth stressing that preliminary results are a kind of approximation of results usually given with less precision (e.g. only in thousands) which may, to some extent, differ from the later established final results. Such is the nature of preliminary results, so these differences should not be viewed as an effect of any particular problems with the methodology.

Article 4 of the Framework Convention

Legal and institutional framework for the protection of national minorities

Re 36. As regards the comment that the ultimately vetoed draft *amendment to the Act on National and Ethnic Minorities and on the Regional Language* required the authorities to prepare a report every four years and introduced the possibility for local authorities to nominate plenipotentiaries for national minorities, among other changes, it should be noted that the Act in its current wording requires the minister competent for national and ethnic minorities to prepare a report on the situation of minorities every two years, while the nomination of such plenipotentiaries by local authorities is their sovereign decision, independent of the above-mentioned Act. As an example, local governments in Nowy Sącz and Andyrchów availed themselves of this possibility by nominating plenipotentiaries for Roma minority, while Opolskie Voivodeship local authorities

nominated (in 2019) a plenipotentiary for multiculturalism whose duties include cooperating with the German minority.

Re 40. Regarding the information that some persons belonging to national minorities were unaware of the existence of voivodes' plenipotentiaries for national and ethnic minorities, it should be noted that this function was introduced in Poland in all voivodeships in 2001 to facilitate much needed contact between the public administration and representatives of national and ethnic minorities. Noting certain gaps in cooperation during the initial period of plenipotentiaries' activity, an obligation was imposed on plenipotentiaries to prepare annual reports on their activities, which are subject to review by both the Ministry of the Interior and Administration and the Joint Commission of Government and National and Ethnic Minorities. *The Code of Good Practice of Plenipotentiaries for National and Ethnic Minorities*⁵ was also prepared and implemented, and annual meetings are held at the Ministry of the Interior and Administration for plenipotentiaries to discuss e.g. the forms of cooperation with national and ethnic minority organisations. All plenipotentiaries also organise regular meetings at the regional level with representatives of national and ethnic minorities. To strengthen this mechanism with regard to the Roma minority, the planned next Roma integration strategy introduces a mandatory mechanism for such regular meetings.

In this point of the *Opinion*, a factual error was made – there are 16 voivodeships in Poland, not 18, as mistakenly indicated in the *Opinion*.

Legal and institutional framework on non-discrimination

Re 44. Research in the area of equal treatment is not one of the tasks of the Government Plenipotentiary for Equal Treatment under the Act of 3 December 2010 on the Implementation of Certain Provisions of the European Union in the Field of Equal Treatment.

Re 46. The type of statistics of cases brought to and processed by the Government Plenipotentiary for Equal Treatment results from the legal basis for the appointment and operation of the Plenipotentiary, namely the *Act of 3 December 2010 on the Implementation of Certain Provisions of the European Union in the Field of Equal Treatment*, which refers to the grounds for discrimination, including race, nationality and ethnic origin.

Re 49. The Minister of the Interior and Administration unequivocally condemns any cases of vandalising graves and forms of commemorating the Ukrainian minority which are located in the Republic of Poland. Forms of commemoration and the issue of destruction of memorials of Ukrainian nationality victims which are located in Poland have been addressed by the Joint Commission of Government and National and Ethnic Minorities (e.g. on 5 October 2016, 19 February 2019 and 23 October 2019). The representatives of the Police, National Prosecutor's

⁵ Available at: <http://mniejszosci.narodowe.mswia.gov.pl/mne/mniejszosci/podmioty-odpowiedzialn/pelnomocnicy-wojewodow/10203,Kodeks-Dobrych-Praktyk-Pelnomocnika-wojewody-do-spraw-mniejszosci-narodowych-i-e.html>

Office, Internal Security Agency, Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, Ministry of Culture and National Heritage and voivodeship offices were invited to join the discussion. Issues related to counteracting discrimination and aggression are coordinated at the national level by the Investigation Division of the Criminal Bureau of the General Police Headquarters. Hate crime coordinators have been appointed in every Voivodeship Police Headquarters and in the Warsaw Metropolitan Police Headquarters. The plenipotentiary of the Commander-in-Chief of the Police in cooperation with the Prevention Bureau of the General Police Headquarters have drawn up the “Police Action Plan for 2018–2021 on counteracting the promotion of fascism and other totalitarian systems and crimes of incitement to hatred based on national, ethnic, race or religious differences or lack of any religious denomination.” On 6 July 2018, this document was sent to all Voivodeship Police Headquarters and to the Warsaw Metropolitan Police Headquarters along with an order to implement it.

There are around 1.5 million Ukrainian migrants in Poland. An independent survey carried out in 2019 by Havas Media Group⁶ on a representative sample of adult Poles over 18 years of age shows that the image created by the media suggests that the attitude of Poles towards Ukrainians is extremely negative with mutual suspicion and reluctance, while the survey commissioned by the National Bank of Poland shows that 80% of respondents declared that working in a company with Ukrainians would not be an issue for them. Over half of the respondents declared that they had positive attitude towards Ukrainians. The estimates of the National Bank of Poland indicate that on average 1.2 million Ukrainians participate in the Polish labour market yearly (this number relates to legal workers only; the size of the black economy is unknown).

Such a large number of Ukrainians was absorbed by both the labour market and the housing market which means that the level of acceptance for Ukrainian migrants in Poland is high.

Recommendations

Re 53. The recommendation is already being implemented. Adopting and implementing a new National Action Programme on Equal Treatment (which includes the issue of implementing the principle of equal treatment of national and ethnic minorities) is one of the priorities for the Government Plenipotentiary for Equal Treatment. The Programme for 2021–2030 is currently being developed.

Re 55. The issue of raising awareness of discrimination against the Roma has been part of the integration strategies of this group since 2001, but it does not attract due interest among those implementing them, including Roma organisations. Nevertheless, these issues will be also included in the next Roma integration strategy planned for the period starting in 2021. This includes information on the possibility of receiving free assistance by Roma as described below.

⁶ <https://businessinsider.com.pl/wiadomosci/ukraincy-ilu-pracuje-w-polsce-dane-nbp/r1yf4pe>

The system of free legal aid provided at assistance points set up for this purpose by Starosts (heads of counties) under the *Act of 5 August 2015 on Free Legal Assistance, Free Civil Counselling and Legal Education* (Journal of Laws of 2015, item 1255, as amended), which operates since 1 January 2016, is a tool used for raising awareness of standards and for increasing the availability of free legal assistance.

The assistance points are run by attorneys advocates or attorneys-at-law and non-governmental organisations. The aim of the system is to ensure access to basic legal services to a group of people who, because of their financial situation or their situation in life, are unable to receive professional legal assistance at the pre-litigation stage.

The amendment of the Act as of 1 January 2019 improved the assistance system by broadening its scope, increasing the range of services and the group of beneficiaries, as well as providing for improvements for the disabled persons with disabilities such as introducing the possibility of mediation and educational activities, enhancing the system of service quality control and integrating assistance services with other forms of free counselling.

Promoting full and effective equality of Roma

Re 57. Information on the low use of funds for housing in 2017, referenced in the *Opinion*, concerns a singular case and results from the fact that one of the local governments⁷ withdrew from the implementation of the project for technical reasons (it was necessary to prepare technical documentation, which had not been foreseen earlier). In 2014–2019, the funds available under the Roma integration strategies were used on average in 94%.

The fact that projects implemented under the Roma integration strategy are annual grants does not threaten long-term projects such as youth community centres. Such projects are funded on an annual basis although the schedule for transferring grants to beneficiaries definitely needs improvement.

As regards the sustainability of financing for professional activation of the Roma, it should be emphasised that the integration strategy is supplementary to the main mechanism of professional activation of the Roma, which is the *Sub-measure 2.7 Increasing employment opportunities for people who are at greatest risk of social exclusion* intended for this ethnic group in the Operational Programme Knowledge Education Development (implemented by the Ministry of Family, Labour and Social Policy). The burden of professional activation was transferred from the strategy to this *Sub-measure* precisely so that several-years long projects could be implemented.

⁷ The local government unit in question is the Municipality Office of Łącko.

Re 58. The housing situation of the Roma is difficult but diverse. It should be noted that the community – as the only social group – almost in its entirety is a beneficiary of the system of council apartments (owned by the municipality (*gmina*)). Under the existing legal provisions, they may buy council apartments for a symbolic price (around 1–2% of the apartment’s value).

Access to housing benefits is regulated by law so any potential difficulty in obtaining them arises from the fact that many Roma families struggle with rent arrears due to the lack of stable income from the employment relationship. Some local governments used the ‘work in exchange for rent arrears’ formula available under the integration strategy, which consists in working for the municipality (*gmina*) and having part of the wages used to cover the rent arrears, which in the long run made it possible to eliminate them and receive a housing benefit. However, some local authorities signalled that no one was willing to participate in such a project.

Due to the severe shortage of social housing in Poland, the Roma wait for allocation of flats on equal footing with other citizens and the order in which they are granted one results only from their respective position on the waiting list. It should be also noted that the housing problem faced by this ethnic group is intensified by a quicker succession of generations and the extended family model.

Re 59. The Committee is incorrect in its view that specific measures on anti-discrimination or combating anti-Gypsyism do not fall within the Programme for Roma integration, since the programme only targets the Roma communities themselves. The wording of each programme for the Roma has provided for the necessity to embed the integration perspective, that is the engagement of direct beneficiaries also from the mainstream community, in the activities. The aim of the Programme is not only “support”, but also “integration”. Addressing measures only to the Roma is deemed inappropriate, as it fails to meet the integration requirement and could cause social tensions at the local level. Under previous programmes, combating discrimination and promoting the Roma culture and knowledge on this community were covered by separate chapters, which may have led to the misunderstanding underlying the Committee’s opinion. In the current Programme, these aims are integrated in the “Education” chapter.

Holiday and day-care centre projects are addressed also to children from the majority community, some housing projects include e.g. restoration of the shared areas in buildings, while educational measures incorporate training for teachers working with Roma students. Before applying for co-financing, local authorities are obliged to consult the local Roma community.

As the strategy coordinator, the Ministry of the Interior and Administration is aware that the level of consultation is not always satisfactory. Therefore, in the next edition of the strategy, this component will be strengthened by e.g. regular communication between voivodes’ plenipotentiaries for national and ethnic minorities, local authorities and representatives of local Roma communities.

Article 5 of the Framework Convention

Support for the preservation of national minority cultures

Re 62. It needs to be noted that even though the measures that the Ministry of the Interior and Administration may use for protection, conservation and development of the cultural identity of national and ethnic minorities are always insufficient from the point of view of minority organisations, they are not the only resources available for financing these organisations' projects. All the ministries announce competition procedures for grants to public tasks falling within their remit, which any organisation can take part in, including those representing national and ethnic minorities. Similarly, local authorities also have such resources at the regional and local levels, including resources from structural funds.

What seems to be a problem is that national and ethnic minority organisations are somehow 'dependent' only on grants from the Ministry of the Interior and Administration. As pointed out by the Ministry of Culture and National Heritage, out of 300 applications under the "Art events for children and youth" competition in 2019, only 1 was submitted by a national and ethnic minority association, while in the 2020 edition, there was also only one such application out of 333 applications in total. It must be concluded that representatives of ministries who are members of the Joint Commission of Government and National and Ethnic Minorities should put more effort in promoting competitions for public tasks organised by these units.

Re 63. According to the Act on public finances, the State budget is adopted for one fiscal year corresponding with the calendar year, which makes multi-annual financing impossible.

The grant awarding 'rhythm' is indeed long, but it does not span 12 months. Applications for preserving cultural identity are submitted in late August / early September of the year preceding their implementation, while the decision on allocation of funds is adopted in mid-December (e.g. for applications for special grants implemented in 2019, the deadline was 14 September 2018, while the deadline for the Minister to adopt a decision on the allocation of funds was 14 December 2018). These three months between September and December is time needed for the processing of applications – explanations, corrections and negotiations with applicants, formal and quality assessments of applications, and preparing the material for the Selection Committee's meetings. It needs to be noted that on average, around 600 applications are submitted yearly to the Department of National and Ethnic Minorities.

The deadline for signing contracts with beneficiaries depends on when the Parliament adopts the State budget for a given year and submits it to the President for signing, which might be by the end of January of a given year. The contracting procedure starts in late January / early February; however, the starting date for task implementation indicated by the beneficiary applies, even if it is earlier than the date of signing the contract.

Numerous attempts to work out another schedule that would more favourable for NGOs have failed.

Re 65. The amount of funds available for minorities' projects does not depend on their size. As indicated in item 8, the Ministry of the Interior and Administration is committed to continuing tasks important for minorities regardless of their size; however, numerically larger groups have naturally more organisations and, in consequence, submit more project applications and have more human resources for their implementation.

Support for Jewish culture and restitution of property

Re 68. It needs to be clarified here that as regards the POLIN Museum of the History of Polish Jews and the Estera Rachel and Ida Kamińska Jewish Theatre in Warsaw, the Ministry of Culture and National Heritage is a co-organiser of these institutions, which means that they are constantly financed by the State budget. Therefore, the State administration continues to support the functioning of the Jewish minority.

The Ministry of Culture and National Heritage operates the programme "Culture" ("Kultura"), financed from national and EEA (European Economic Area) funds. This programme features a project implemented by the POLIN Museum of the History of Polish Jews in cooperation with the Emanuel Ringelblum Jewish Historical Institute and Norwegian partners: the Norwegian Centre for Holocaust and Minority Studies in Oslo, the Oslo Jewish Museum, the Jewish Museum in Trondheim, the Falstad Centre and the European Wergeland Centre. The project is planned to be implemented until 2024 as a continuation of the "Jewish Cultural Heritage" project ("Żydowskie dziedzictwo kulturowe").

The aim of this project is to protect and promote the Jewish heritage in Poland and in Norway through innovative educational programmes, removing barriers in access to culture, building national and international partnership as well as developing historic resources and making them available for educational, research and exhibition purposes. The EUR 10 million project is to be finished in 2024. The project is financed by the EEA financial mechanism (EUR 8.5 million) and a special grant from the State budget (at the disposal of the Ministry of Culture and National Heritage) (EUR 1.5 million).

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Re 73. This section of the *Opinion* suggests that the then Minister of the Interior described the whole event (presented in this section as a presentation of racist slogans) as a 'beautiful sight'. Poland deems this statement unacceptable. The march was organised to jointly and solemnly commemorate our ancestors, patriots and soldiers who sacrificed their lives for the independence of Poland. Its principal aim is to unite the society regardless of beliefs and political views.

There were only few xenophobic banners, which triggered immediate response from the Police and the security services of the march. The march security personnel took any possible measures to prevent such provocations.

It has to be clearly emphasised that after 1989, those few racist or anti-Semitic political groups that emerged in Poland in the early 1990s have not attracted any significant or sustained social support.

The top-level state officials react strongly to any emerging xenophobic incidents and condemn them in public.

Re 74. In order to appropriately address the problem of the alleged tolerance of xenophobic statements by politicians, it would be worthwhile to identify specific examples, which are not provided either in the *Opinion* or during the meetings of the Joint Commission of Government and National and Ethnic Minorities. The Polish law penalises any incitement to violence for ethnic reasons. It may seem that in this item we should refer to the observation made in the introduction, namely that the strong allegations of some interlocutors of the Advisory Committee should be considered as an expression of (subjective) political aversion towards the ruling political groups rather than an objective description of the situation.

Re 75. The opinion expressed in this item is one-sided. It may be useful to refer to the data of the European Union Agency for Fundamental Rights⁸, which show that in Poland, there are significantly fewer anti-Semitic incidents than in other countries. For example, in 2016/2017/2018 there were, respectively 101/73/179 such cases in Poland, 1,468/1,504/1,799 in Germany, 335/284/275 in the Netherlands and 335/311/541 in France.

Stating that anti-Semitic sentiments increased in the aftermath of the 'Holocaust law' is a simplification. The Law was undoubtedly the subject of heated public debate, started – aside from the Law itself – by the statement of the ambassador of Israel presented on 27 January 2018 during the ceremony held at the Former German Nazi Concentration and Extermination Camp Auschwitz-Birkenau. The ambassador, stressing that she refuses to deliver the prepared speech and that she carries out the instructions received from Tel Aviv, criticised the Law, stating that it 'makes it impossible to tell the truth about the Shoah.'

The Polish public opinion was also critical towards the attempts to interfere in the Polish lawmaking process undertaken by third countries – Israel and the USA. These reactions cannot be automatically regarded as anti-Semitic statements. At the same time, the opinions presented by the international media and Israeli politicians distorted the wording of the Act on the Institute of National Remembrance, treating it as an attempt at censoring the Holocaust studies. Such an interpretation is contrary to the facts.

⁸ https://fra.europa.eu/sites/default/files/fra_uploads/fra-antisemitism-overview-2008-2018_en.pdf

The resulting diplomatic conflict was obviated by the Prime Ministers of Poland and Israel⁹. The Chief Rabbi of the Republic of Poland Michael Schudrich stated in his interview for *Die Welt* that ‘Synagogues are not being attacked in Poland, and there are no police officers stationed in front of the Jewish centres (...). The Jews wearing yarmulkes are not being attacked in Poland, as is the case in Berlin or Paris. I cannot say why it is so peaceful in our country, but I am certainly very happy that it is the case.’¹⁰

Re 76. The following statement: ‘Furthermore, a political party contesting the 2019 European elections ran on a platform of “five problems”, one of which was “Jews”’, is untrue. The link provided in the footnote refers to the political programme of ‘Konfederacja’ political party, which reads: ‘We do not agree to have any foreign claims relating to the “non-inheritance property” carried out.’ We will take steps at an international level to ensure that Poland is equipped with adequate geopolitical measures, so as not to become a hostage of the US administration acting pursuant to the JUST Act (447). We intend to launch a cultural and historical offensive in order to reach all opinion formers in the world and present them – in an attractive manner – a truthful depiction of the events of WWII, focusing in particular on the fate of Poland and Poles. We will also strive to adopt an act blocking any activities aiming at transferring property or capital to organisations or groups which try to force Poland to take measures in this regard.’

In this context it is also necessary to correct the information about the ‘extremist protest march’ organised at Memorial and Museum Auschwitz-Birkenau, former German Nazi Concentration and Extermination Camp – this march was organised on the route leading to the Museum, not at the Museum itself.

Re 78. The results of the National Census of 2011 indicate that the majority of the Polish society identifies itself with religious institutions: more than 34 million of people residing in Poland consider themselves members of churches, religious associations, denominations and religious movements. This number corresponds to 88.9% of the population of Poland or – when compared to the number of people who answered the question about their religious denomination – 97.4% of the population declaring specific denomination.

The results of the census confirm the statistically dominant position of the Roman Catholic Church. The congregation of the Roman Catholic Church in Poland amounts to 33.7 million people, which corresponds to 87.6% of the total population and 96% of the population of people declaring specific denomination.

It needs to be reiterated that speaking about ‘dominating’ the public life is completely unjustified – rather, every citizen is entitled to exercise their constitutional right to freedom of conscience and religion (Article 53 of the Constitution), including the freedom to manifest one’s religion, either individually or collectively, publicly or privately, by worshipping, praying, participating in ceremonies, performing of rites or teaching. As emphasised in Article 35(2), national and ethnic

⁹ [English version of the declaration](#) and [Polish version of the declaration](#)

¹⁰ <https://www.dw.com/pl/schudrich-w-polsce-nie-ma-dziś-fizycznych-ataków-na-żydów/a-52162915>

minorities shall have the right to establish their own institutions, including institutions designed to protect religious identity.

Religious Education is a standard school subject in Europe. Poland is no exception in this regard. Only 4 European countries do not offer Religious Education as one of the subjects taught in public schools (Belarus, Bulgaria, France and Slovenia).

The law ensures that all churches and religious associations can enjoy the same rights related to organising religious education within the educational system. Teaching religion of any denomination (including Roman Catholic) is organised at a written request of the child's parent / legal guardian. The same rules apply to the teaching of ethics – all students are entitled to take part in ethics classes, whether they attend RE classes or not. The statement presented in the *Opinion*, according to which 'sometimes only Catholic religious education is taught, the other option being ethics, which is not widely available,' is not true.

For instance, the Islamic Community in Białystok thanks the community of Primary School No 28 in Białystok on its official Facebook profile for the opportunity to organise 30 thematic meetings during the 2015/2016 school year. The same school invited (in 2019) the Tatar Children and Youth Group "Buńczuk" to take part in a family picnic organised by the school, which serves as proof of integration of cultural traditions other than the mainstream ones at the local level.

Re 79. It is not clear on what premise did the Advisory Committee base its opinion about 'a Polish identity with specific parameters, excluding other religions.'

Identifying certain ethnic groups as national or ethnic minorities is equivalent to their recognition and emphasises their special relationship with and role within the tradition of the Republic of Poland.

Re 80. The range of information sources used to describe the situation in Poland seems rather one-sided. The *Opinion* cites e.g. the press article by the wife of one of the prominent members of the opposition party and the UN document also referring to the said article. The media cited in footnotes to items 72 and 73 are not sympathetic towards the political party currently ruling Poland. On numerous occasions, they have been trying to unjustly associate the ruling party with extremist groups in other countries.

It is important to emphasise once again that the groups promoting nationalistic and extremist views are marginal in Poland and do not constitute a significant political force. This does not mean, however, that the Polish authorities disregard any symptoms of xenophobic behaviour.

Re 82. With regard to this issue, see the response in item 10. The principle of reciprocity cannot be applied in light of the following facts: persons of German descent enjoy the status of a national minority in Poland, along with a wide array of rights to which minorities are entitled, while Poles in Germany do not enjoy the minority status.

As regards the information presented in footnote 86 on the statement by a representative of the Ministry of Foreign Affairs, it is important to note that this statement did not ‘refer to reciprocity’, as mentioned in this item, but merely highlighted certain disproportions in Polish-German relations and stressed the need to establish partner relations and introduce proper standards with regard to the Polish diaspora in Germany: make it possible for the Poles to learn their mother tongue and restore their status of a national minority in Germany, which they were deprived of by the Third Reich¹¹.

Hate crime and hate speech

Re 92. As regards this item, the Ministry of Justice would like to correct the data on the number of persons convicted by a final judgment: in 2016 – 72 (instead of 79), in 2017 – 116 (instead of 108), in 2018 – 128 (instead of 69).

Article 9 of the Framework Convention

Regulatory media framework and multicultural programming

Re 98. There is an error in this item. It is not true that: ‘The management board of *Telewizja Polska* and *Polskie Radio* appoint the directors of regional branches of public radio and television (as per Article 30 of the Broadcasting Act), with the consent of the National Media Council.’

Article 30 of the Broadcasting Act, which the authors of the *Opinion* invoke here, relates exclusively to public television. The regional public radio consists of 17 independent companies managed by their CEOs selected by the National Media Council.

The information that the National Council of Radio Broadcasting and Television ‘fines’ broadcasters also needs to be corrected. Pursuant to the Polish law, fines (*grzywna*) constitute criminal sanctions. They are regulated by the Criminal Code, the Code of Offences or the Fiscal Penal Code. It is important to emphasise that broadcasters in Poland are independent, and in line with Article 13 of the Broadcasting Act they prepare their programme independently and remain solely responsible for its content. The National Council of Radio Broadcasting and Television safeguards the freedom of speech in radio and television, the autonomy of media service providers and the interests of the audience; it also ensures an open and pluralistic nature of radio and television broadcasts. At the same time, the Chair of the National Council of Radio Broadcasting and Television is entitled to impose administrative sanctions in specified amounts by way of an appropriate decision if a supplier breaches the provisions of the Broadcasting Act. Nevertheless, it is an administrative sanction, and not a fine, which constitutes a criminal law measure.

The National Media Council’s competence to appoint programme boards was established in Article 28a of the Act of 22 June 2016 on the National Media Council. According to this Article, all programme boards are appointed by the National Media Council, while the directors of regional branches of *Telewizja Polska* do not have any competence related to the personal composition of

¹¹ The statement is available at: <https://opole.tvp.pl/44665720/30-wrzesnia-2019> 02:59’ –’06:09.

programme boards. The National Media Council does not monitor the programmes transmitted by the public media broadcaster.

The issue of participation of representatives of national and ethnic minorities' organisations was the subject of the 69th meeting of the Joint Commission of the Government and National and Ethnic Minorities held on 18 December 2019. The Council's representative undertook to submit the request to include the representatives of minorities in the public media programme boards – this issue will be discussed further.

Re 99. There is an error in this item. There are no “broadcasting councils” within the structure of Polish public media.

It is also important to take note of the following statement: ‘some national minorities, in particular those related to neighbouring states, reported being increasingly portrayed in a negative way (...).’ It is difficult to take a stance on such an assessment, as it is too vague. There is no indication to which minority it refers or in which public media programme this minority was portrayed in a negative way. Therefore, the manner in which such assessments are formulated is unfair to Polish public broadcasters, in particular to regional radio broadcasters, as nearly all such broadcasters either permanently employ or cooperate with representatives of minority associations when preparing their programme offer. Thus, it is difficult to imagine that representatives of minorities would agree to be portrayed in a negative way in programmes broadcast by their community.

Re 101. This matter is not related to the competence of the National Council of Radio Broadcasting and Television, since it has no influence on the lawmaking process in Poland. When it comes to legal regulations affecting the public media, the legislative initiative rests with: the parliament of the Republic of Poland, the President of the Republic of Poland, the government of the Republic of Poland and a group of at least 100,000 citizens.

Re 102. The Advisory Committee's concerns over the exclusion or the lack of respect for non-Christian religious beliefs are unjustified. The Polish public media broadcast religious ceremonies of various denominations. They are transmitted systematically during the holidays celebrated by particular communities according to the specific liturgical calendar. Such programmes are broadcast on stations whose area of coverage includes large groupings of the relevant communities (e.g. in *Radio Białystok* or *Radio Rzeszów*). In addition, *Telewizja Polska SA* – in line with the Agreement of 10 September 1996, as amended on 5 March 2008, concluded with the Polish Ecumenical Council, which brings together Churches of different denominations and representatives of minorities – broadcasts the following transmissions: the Christmas Liturgy – Greek Catholic Church, the Christmas Liturgy – Eastern Orthodox Church, the Polish-Catholic Church Mass, the Old Catholic Mariavite Church Mass, the Polish Reformed Church Service, the Evangelical Church of the Augsburg Confession Good Friday Service, the Easter Vigil – Eastern Orthodox Church, the Jewish Purim Holiday Service, the Eastern Orthodox Church Grabarka Liturgy, the Baptist Union Service, the Evangelical Methodist Church Service, the Feast of Transfiguration –

the Autocephalous Orthodox Church, the Greek Catholic Holiday of Apostles Peter and Paul, the Greek Catholic celebrations in Biały Bór – the Nativity of the Blessed Virgin Mary, Reformation Day – the Lutheran Church Service.

Referring to the comment on *Ida*, it is important to remember that this film was co-financed by the Polish Film Institute, *i.e.* from the public funds. Besides, in relation to the programme broadcast by TVP 2, during which the film was discussed, it needs to be noted that pursuant to Article 13 of the Broadcasting Act the broadcasters prepare their programme independently and remain solely responsible for its content. No State authority may order them to broadcast a particular programme or prohibit them from broadcasting one. If a given programme breaches the provisions of the Broadcasting Act, a complaint may be filed with the National Council of Radio Broadcasting and Television.

Re 103. The Advisory Committee claims that ‘the current offer of programming concerning national minorities’ history and culture, promoting intercultural dialogue at the national level, is unsatisfactory, and that the authorities should take concrete action to ensure the inclusion of information about minorities in mainstream programming (...).’ As was the case in item 99, the Committee did not present any data to substantiate this view. It is contrary to the facts, since the offer of nearly all radio and television units includes programmes fostering social integration and intercultural dialogue. Such programmes are broadcast in Polish. Programme activities undertaken by the companies in this regard focus on familiarising the Polish listeners and viewers with different areas of culture related to minorities, such as annual holidays celebrated by them, their symbolic meaning, presenting their achievements in different fields of culture and arts (painting, sculpture, traditional and modern music), presenting different historical events, the activities and role of minority organisations and associations, interviews with interesting people from the world of politics, science and culture who represent these circles. Various events organised by minority organisations are held under the patronage of regional public media.

Media in minority languages

Re 106. The terminology used in the *Opinion* is unclear. The Committee writes about the number of hours of ‘broadcasts’, even though the comments indicate that it actually means the total number of hours of programmes forming an offer addressed to minorities, including broadcasts. The term ‘broadcast’ refers to direct live transmissions of events (masses or services or cultural events). In light of formulated conclusions this differentiation is important, since the number of broadcasts is always smaller than the total number of hours of programmes included in the offer addressed to a given target audience. The authors of the *Opinion* should take this into account. This item of the *Opinion* states that ‘the Advisory Committee is (...) concerned by the significant reduction in hours broadcast by *Radio Opole*, which decreased by more than 50%.’ This conclusion is not true, as due to the fact that the National Council of Radio Broadcasting and Television finances 100% of the costs of preparing such programmes, the public media companies have been obliged, since 2018, to submit the data on the number of hours of programmes broadcast for the first time to the National Council of Radio Broadcasting and Television. In light of this fact, the

number of hours of such programmes is larger, since one should also include the rebroadcasts of the most interesting programmes.

Re 107. The comment on ‘programmes which were (...) short or appeared at inconvenient times, either late at night or early in the morning (...)’ is imprecise, since it does not contain any information about the particular minority to which it refers. According to the data kept by the National Council of Radio Broadcasting and Television, the relevant programmes are broadcast at various times during the day. This is when first-time broadcasts of programmes are transmitted. Whereas rebroadcasts are indeed transmitted late in the evening and at night. When it comes to the duration of the different programmes, it varies from 15 to 25 minutes, with the exception of news bulletins, which are by nature shorter (from 7 to 13 minutes). The *Schliesen Journal* programme presented in the *Opinion* as an example is precisely this type of format. In this context it is worthwhile to note that the average duration of news bulletins broadcast in Polish is 5 minutes.

Referring to the comment by the Advisory Committee, according to which ‘[c]are should be taken to produce quality minority language programmes that are attractive to a wide audience, and to ensure that they are broadcast at convenient times’, it needs to be stressed that the Polish Broadcasting Act (Article 13) provides the broadcaster with freedom to determine the content of the programme and obliges them to take responsibility for this content. Furthermore, it is important to remember that the teams preparing the offer addressed to minorities include representatives of such minorities who certainly strive to offer the best possible product to their audience.

Re 108. The three radio stations mentioned in the *Opinion* (*Radio Opole*, *Radio Koszalin* and *Radio Zachód* – see footnote 125) are not the only ones creating programmes which aim to break down stereotypes and encourage the integration of society. *Radio Rzeszów* and *Radio Olsztyn* have been providing an interesting offer in this regard for a long time now.

Since 1959, *Radio Rzeszów* has been broadcasting, on a biweekly basis, a 50-minute long programme *Skrynia* addressed to the inhabitants of South-Eastern Poland of Ukrainian descent and to all enthusiasts of the Ukrainian language and culture. The programme consists of various radio formats: a news bulletin, a historical calendar, broadcasts from ceremonies, exhibitions, scientific conferences and community meetings, press review, Ukrainian music (from folk to pop and rock), as well as interviews with representatives of the Association of Ukrainians in Poland and representatives of the world of politics, science and culture. The author of the programme is a journalist of Ukrainian descent. Occasionally, the programme deals with the symbols and ceremonies related to Christmas and Easter holidays in the Greek Catholic Church.

Radio Olsztyn has a similar offer. To encourage mutual understanding, tolerance and social integration, they air the broadcast “Dialog” weekly. It promotes openness, mutual respect, resisting stereotypes and combating discriminatory attitudes. Experts from various areas of social and cultural life are guests on the broadcast. They encourage different forms of dialogue between social

groups and point out the benefits of such functioning. The programme is created by people from the German and Ukrainian minorities.

Article 12 of the Framework Convention

Knowledge about minorities and intercultural education

Re 126. The answer provided in item 16, namely concerning the curriculum content devoted to national and ethnic minorities, should be recalled here.

Primary school pupils learn about national and ethnic minorities in history (grades 4–8), geography (grades 5–8) and in social studies (grade 8) classes and secondary school students during the entire education period in history, social studies and geography classes.

The claim that “the authorities do not seem to have an overview of how national minorities are portrayed in textbooks and other teaching materials as well as in teacher training” is unfounded. The content of textbooks reflects the curriculum established by the Minister of National Education. The basic condition for allowing a textbook to be used in schools is its compliance with the curriculum, *i.e.* it needs to address all educational objectives (general requirements) and teaching content (specific requirements) established in the curriculum. Each textbook is checked and evaluated in this respect by at least two experts from the Minister’s list. Authorising a textbook for school use requires favourable expert opinions.

Access of Roma children to education

Re 134. Roma school assistants come entirely from this ethnic group (in the *Opinion*, the term “mostly” was used).

Teaching Polish returnees from abroad does not fall within the scope of assistants’ competence. Their role is to identify students who, e.g. as a result of returning from abroad, need additional Polish language classes. Therefore – pursuant to the binding legal provisions – such students are offered additional classes in Polish and a package of compensatory classes in other subjects – in line with their needs diagnosed by teachers – up to 5 hours per week in total.

Re 135. The salary of Roma school assistants, who are employees of the local government, is regulated under different provisions than those that apply to teachers. The Ministry of the Interior and Administration undertakes to support, also financially, the assistants’ salary; however, it should be stressed that this issue is the responsibility of the employer – in this case the local government units.

Re 141. The Ministry of National Education, similarly to other government units working on tasks for the Roma ethnic minority, highly appreciates and promotes the work of Roma school assistants. In 2019, on the Teacher’s Day, which is very celebrated in Poland, the Minister of National Education awarded the highest distinctions in education – National Education Commission Medals – to three Roma community leaders, including two Roma school assistants.

Article 14 of the Framework Convention

Teaching in and of national minority languages

Re 147. Additional clarification: only Russian minority students learn Russian as a minority language (not, as it is written: “in Russian”).

Re 148. The statement on the lack of demand for Romani language teaching should be clarified here. Speaking more precisely, due to the fact the Romani language is strictly taboo for Roma in Poland, the Roma strongly oppose any attempts to teach this language.

Re 149. With regard to this item, see the response in item 12.

Re 150. It is impossible for the data on subsidy amounts to be ‘exaggerated’. They reflect the actual amount of subsidies granted to local government units. However, the decision on how to spend these funds in detail for education-related purposes is up to the local governments themselves.

Re 151. In light of the irregularities identified in the organisation of foreign language and minority language teaching in primary school grades 7 and 8, the Ministry of Education drew the attention of superintendents (performing pedagogical supervision over schools) to the current factual and legal situation in this regard.

According to the definition set out in Article 3(2) of the Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Language, the minority language shall be construed as the national minority’s own language. Article 13 of the Act of 7 September 1991 on the Education System states that students have the right to retain their sense of national identity, in particular to learn the language and study their history and culture.

Teaching of German as a national minority language (mother tongue) are is organised based on the regulations of the Minister of National Education issued under Article 13(3) (Regulation of the Minister of National Education on the conditions and manner of performance by preschools, schools and public educational institutions of tasks supporting national, ethnic and linguistic identity of students from national and ethnic minorities and the community speaking the regional language of 14 November 2007 (Journal of Laws of 2014, item 263) and of 18 August 2017 (Journal of Laws, item 1627).

In accordance with the new curriculum for primary schools and the new framework curricula, each student must learn one modern foreign language at the first education stage and two languages at the second stage – from grade 7. All students in Polish schools must learn two modern foreign languages and students from national and ethnic minorities and from the community speaking the regional language (Kashubian) are also guaranteed teaching of mother tongue, history and culture.

In accordance with legal provisions (Article 44zdd(8) of the Act on the Education System), a student who has been learning the language of a given national minority cannot choose that language of

the national minority at the matriculation examination in a modern foreign language as a compulsory subject. Therefore, in practice after many years of learning German as a minority language at the last stage of education students (100%) consistently give up learning German as their mother tongue to be able to take the exam in German but as a foreign language.

As a result, students who learn German as a foreign and at the same time as their mother tongue take the same matriculation exam in German as a foreign language as other students (who do not belong to a minority) who have studied it much less extensively (at least 3 hours less per week) and over a shorter period of time (even during 11 school years). Consequently, students have unequal opportunities to access the teaching of this examination subject.

Such a situation also does not help maintain the national and linguistic identity of minority students, because this 'economical' approach of schools results in low quality of teaching German as a minority language, which is confirmed by the fact that no student has taken the matriculation exam in German minority language in many years. Lithuanian, Belarusian, Ukrainian, Lemko and even regional Kashubian languages are regularly taken and passed at this examination. Teaching minority language has become an extracurricular subject, a form of free tutoring improving the students' competence in German but does not pursue the objectives enshrined in Article 13 of the Act on the Education System and the objectives set out in the curriculum.

Irregularities in the organisation of language education in grade 7 of the primary school have resulted from previous mistakes in the organisation of foreign language teaching and minority language teaching in lower secondary schools (*gimnazjum*) and the lack of systematic control over comprehensive educational plans by superintendents. Therefore, starting from the school year 2019/2020, when introducing second foreign language teaching from grade 7 onwards, primary school principals are obliged to organise this process properly and in accordance with the binding legal provisions.

Teaching and learning materials

Re 157. Until 2011, textbooks on the Ukrainian language were published by a private entity – Wydawnictwa Szkolne i Pedagogiczne S.A. Since 2012, this publishing house has not edited any publications for minority languages. Since 2012, no entity has been willing to publish a textbook and a supplementary book for teaching Ukrainian. From 2016, Fundacja PROSVITA has been developing textbooks and educational materials on the Ukrainian language for primary schools. At the same time, in 2019 the Minister of National Education, under Article 22c of the Act on the Education System and Article 464(1) of the Act on Higher Education and Science, entered into an agreement with the Catholic University of Lublin to develop a textbook on the Ukrainian language (4 parts) for grades 1–4 of high school (*liceum*) and technical secondary school (*technikum*) in 2020–2022.

The Ministry of National Education has not received any comments on the low quality of textbooks on the Lithuanian language. The way any handbook is developed is an autonomous decision of the publisher. Textbooks on national minority languages and the regional language and on minority's

history and geography are being approved for the school use. Textbooks on the other subjects are not drafted in minority languages.

Re 158. The interpretation of the reason for setting up the Polish-Lithuanian working group, referenced in the *Opinion*, does not reflect reality. The group was set up mainly due to the lack of textbooks on the Polish language in schools in Lithuania. The issue of the alleged low quality of textbooks on the Lithuanian language in schools in Poland has been repeatedly disproved and explained during the work of this group, also in writing.

It should be noted that the existing legal provisions allow the minister competent for educational and pedagogical matters to finance only those textbooks that ensure maintaining the regional/national/ethnic language, culture and tradition, *i.e.* textbooks for teaching minority languages, history and culture. Although, it should be stressed that there is a legal and financial mechanism (grant)¹² that enables school authorities to buy textbooks (if available) or educational materials in a minority language for teaching general education subjects in primary schools (e.g. mathematics) if the school/teacher decides to use them in the teaching process.

Re 159. The claim that there are no teaching materials for learning the Lemko language is untrue. Until 2008, textbooks on the Lemko language were published by the Lemko foundation Fundacja Wspierania Mniejszości Łemkowskiej RUTENIKA. In 2012, the supplementary book “Poradnik metodyczny dla nauczycieli języka łemkowskiego” (“Methodology guide for Lemko language teachers”) published by łemkowski Zespół Pieśni i Tańca „Kyczera”. The supplementary book “Frazologia języka łemkowskiego dla uczniów” (“Lemko phraseology for students”), prepared by Federacja Inicjatyw Oświatowych, was submitted for the public procurement plan of the Ministry of National Education for 2020.

Re 160. With regard to comments in items 156–160, it should be noted that the Ministry of National Education does not develop and publish textbooks. It can only co-finance this process.

Pursuant to Article 68 of the Act on Financing School Education Tasks, textbooks aiming to teach students within the scope necessary to sustain the sense of national, ethnic and linguistic identity may be financed from the State budget part administered by the minister competent for educational and pedagogical matters.

In the case of textbooks, they are approved by the Minister of National Education for school use based on positive opinions of experts who have been appointed to give opinions on the educational and linguistic aspects of the textbook. The role of the Ministry of Education is to finance their development and deliver them to schools. The process of developing the textbook itself cannot and should not be the responsibility of the Ministry. Developing and publishing a textbook should fall within the remit of professional publishers of educational materials, in the case of minorities –

¹² Act of 27 October 2017 on Financing School Education Tasks (Journal of Laws of 2017, item 2203).

also entities that act on their behalf. The role of the Ministry of Education should be limited to (co) financing (which is the case for textbooks for national or ethnic minority students) these textbooks.

So far the Ministry of National Education financed in 100% all publications of textbooks and supplementary books developed by publishers originating from the different minority communities. In addition, textbooks for German minority pupils of primary school grades 1–3 developed by the publishing house Klett Polska have also been purchased. No entities submitted a proposal to publish a textbook and supplementary book on the Lemko (since 2013) and Ukrainian (since 2012) languages. In 2019, under Article 22c of the Act on the Education System and Article 464(1) of the Act on Higher Education and Science, the Minister of National Education entered into an agreement with the Catholic University of Lublin to develop a textbook on the Ukrainian language (4 parts) for grades 1–4 of high school (*liceum*) and technical secondary school (*technikum*) in 2020–2022.

It should be added that since 2012, the Ministry of National Education has been providing, via ICT tools, open access to digital versions of all purchased textbooks on minority language, including on history and geography <http://www.scholaris.pl/>, which makes it much easier for all those interested to access these materials free of charge and with no limits.

Minority language teachers

Re 161. School governing authorities (local government units) allocate within their budgets certain funds to finance, in part or fully, the costs of teachers' participation in various forms of teacher education or training based on the applications of school principals for financial support for teacher training. The financing of teacher training is regulated by Article 70a of the Act – Teacher's Charter and the Regulation of the Minister of National Education of 23 August 2019 on the financing of teacher training and the organisation of industry training for vocational education teachers (Journal of Laws, item 1653).

Re 164. School governing authorities (local government units) allocate within their budgets certain funds to finance, in part or fully, the costs of teachers' participation in various forms of teacher education or training based on the applications of school principals for financial support for teacher training. The financing of teacher training is regulated by Article 70a of the Act – Teacher's Charter and the Regulation of the Minister of National Education of 23 August 2019 on the financing of teacher training and the organisation of industry training for vocational education teachers (Journal of Laws, item 1653).

Article 15 of the Framework Convention

Participation of persons belonging to national minorities in public affairs

Social and economic participation of Roma

Re 171. The situation of the Roma in Maszkowice undoubtedly warrants some immediate and intensive action to provide the residents of the settlement with decent housing conditions. The Ministry of the Interior and Administration makes effort to become a partner for local authorities in solving this problem, for example by providing financing to the local government under the implemented strategy. The lack of satisfactory results shows that it is necessary to find search for an effective formula in the new integration strategy, of which the issue of the settlement in Maszkowice is an important part.

Re 172. With regard to this item, see the response in item 58.

As for the statement of the European network of legal experts in gender equality and non-discrimination, the term 'drastic' is justified in the context of the Maszkowice settlement but it is not justified in the context of the housing situation of Roma in Poland in general. It needs to be stressed that at times dilapidated housing infrastructure of council buildings is not only a problem of the Roma but of all inhabitants of such buildings. Moreover, renovations made in such buildings financed from the integration strategy funds also include shared areas to avoid local tensions and so that all residents can benefit from measures implemented for the Roma, as mentioned in item 59.

Re 173. It should be noted that there were two different situations in the case at hand. In one of them, all went smoothly, while the other case resulted in a social conflict because not all required procedures were observed.

The term "moved" used by the Advisory Committee may suggest some forced action against the Roma. Actually, the interested Roma families who agreed to live in another municipality were consulted in advance.

Re 174. With regard to this item, see the response in item 57.