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

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**COMMENTS OF THE GOVERNMENT OF POLAND  
ON THE SECOND OPINION OF THE ADVISORY COMMITTEE ON THE  
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES BY POLAND**

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(received on 7 December 2009)

Warsaw, September 2009

## Executive summary

**PARAGRAPH 2** - To supplement the information contained in this paragraph, one should mention that the Act of 6 January 2005 on National and Ethnic Minorities and on Regional Language (Journal of Laws No. 17, item 141, with subsequent amendments) has made it also possible to use additional names of places and physiographic objects in minority languages and in the regional language in municipalities where the number of people belonging to a minority does not exceed 20 % of inhabitants. In such municipalities, all that is required is the consent of a simple majority of inhabitants taking part in social consultations.

**PARAGRAPH 3** To supplement the information contained in this paragraph, one should explain that, in accordance with the decree of the Minister of National Education, the authorities which run schools for national minorities (local government entities) receive educational subsidy from the State budget increased by 20% or by 150% for pupils from classes and schools for national and ethnic minorities, communities using the regional language and pupils of Roma nationality for whom additional tuition is provided by the school. The subsidy is increased by 150% in the case of primary schools in which the total number of pupils attending classes for a national or ethnic minority or for a community using the regional language or for pupils of Roma origin does not exceed 84 and in the case of lower and upper secondary schools with no more than 42 such pupils. The subsidy was first increased by 50% (from 2002), then by 100% (from 2005) and finally by 150% (from 2006) in line with the demands of national and ethnic minorities.

**PARAGRAPH 6** - In the opinion of the Ministry of the Interior and Administration, a larger number of racist and anti-Semitic offences recorded in statistical sources, which had been reported to the Police both by non-governmental organizations and victims themselves, does not necessarily mean that the number of such incidents has increased. It must be taken into account that the Police and the Public Prosecutor's Office are now more sensitive to this type of phenomena. In addition, there is greater public awareness that racially motivated acts, as well as other forbidden acts, must be punished and that the rights of persons belonging to national and ethnic minorities can be more effectively enforced. Furthermore, a larger number of cases reported to law enforcement authorities may be an indication of increasing trust of persons belonging to national and ethnic minorities in these authorities. Nonetheless, one should agree with the opinion that each case of this kind should be strongly opposed and strictly prosecuted. The Ministry disagrees with the view that perpetrators of such offences do not face the consequences of their actions. The Polish law strictly forbids racist or anti-Semitic behaviour. Regulations concerning sporting events also contain detailed guidelines on counteracting this type of behaviour.

**PARAGRAPH 7** - One cannot agree with the objections presented in this paragraph. In the Polish legislation pertaining to national and ethnic minorities and in the day-to-day practice of institutions and offices taking action for their benefit, no reference is made to the principle of reciprocity in treating national minorities in Poland and the Polish minority in the neighbouring countries. In addition, people belonging to national and ethnic minorities and communities using the regional language are fully entitled to request competent institutions for an intervention if their rights are violated at local level. All voivodeship offices have designated employees who deal with issues of national and ethnic minorities (some of them in

the rank of voivode's plenipotentiaries for national and ethnic minorities). All matters of this kind may be directly reported to the Department for Religious Denominations and National and Ethnic Minorities of the Ministry of the Interior and Administration. They can also be reported to the Joint Commission of Government and National and Ethnic Minorities of the *Sejm* of the Republic of Poland.

**PARAGRAPH 8** – Within the framework of the 2004 to 2013 *Programme for the Roma Community in Poland*, which may be continued beyond 2013, the government administration, local government entities and non-governmental organizations carry out a wide range of activities, which include, but are not limited to: educational activities, measures aimed to improve living and social conditions and counteract unemployment and activities in the area of health and safety. Appropriate steps are taken to promote real equality in all spheres of economic and social life of both persons belonging to the Roma minority and those belonging to the majority, also within the framework of programmes co-financed by the European Union. In 2008, the so-called “Roma Component” was launched as part of the Operational Program Human Capital (Sub-action 1. 3. 1 – Projects for the Roma Community). It comprises projects in the field of education, employment, social integration and health which are aimed to foster the social and vocational activity of the Roma community, to help members of this community to overcome their difficult situation and to integrate into the labour market. *The Programme for the Roma Community in Poland* and Sub-action 1.3.1 of the Operational Program Human Capital are implemented in ongoing consultation with representatives of the Team for Roma Affairs of the Joint Commission of Government and National and Ethnic Minorities.

**PARAGRAPH 9** – The number of municipalities that apply for an entry in the *Official Register of Municipalities on whose Territory Names in a Minority Language are Used* or to the *Official Register of Municipalities where a Supporting Language is Used* depends on the wishes of the local authorities and local communities. The government administration encourages minorities to make full use in this regard of the relevant provisions of the Act on National and Ethnic Minorities and on Regional Language. It should be emphasized that in 2008, the Minister of the Interior and Administration announced an open competition for proposals of tasks promoting the use of minority languages and the regional language as a supporting language in relations with municipal bodies. During this competition, co-funding was provided for two projects (a photo exhibition and a symposium) promoting the use of additional names in minority languages. As regards the use of the supporting language, it should be noted that representatives of national and ethnic minorities and of the community using the regional language did not, neither as the Act on National and Ethnic Minorities and on Regional Language was being drafted nor during its present implementation, voice an opinion that the scope of use of the supporting language should be extended to the bodies and institutions referred to in this paragraph.

## I. MAIN FINDINGS

### Equality and protection against discrimination

**Point 12.** In addition to the stated information, one should note that the Labour Code was additionally amended in 2008 (Act of 21 November 2008 on amending the Act – Labour Code (Journal of Laws No. 223, item 1460) to bring it in line with the provisions of the said Directives.

**Point 13.** With reference to the information contained in this point, it should be explained that the Government Plenipotentiary for Equal Treatment was appointed pursuant to the regulation

of the Council of Ministers of 22 April 2008 (Journal of Laws No. 75, item 450). The resolution entered into force on 30 April 2008. The Bureau of the Government Plenipotentiary for Equal Treatment was set up by Decree No. 12 of the Head of the Chancellery of the President of the Council of Ministers of 3 July 2008.

### **Support for minority cultures**

**Point 15.** The procedure for the award of grants for tasks supporting the preservation and development of the identity and culture of national and ethnic minorities and the preservation and development of the regional language, had been drawn up in such a way so as not to favour large entities. Applications are selected only on the basis of their usefulness for maintaining and developing the cultural identity of national and ethnic minorities and for preserving and developing the regional language. It should also be noted that, every year, the Minister of the Interior and Administration publishes *Information on Specific Rules of Procedure for the Award of Grants for the completion of tasks aimed to protect, preserve and develop the cultural identity of national and ethnic minorities and to preserve and develop the regional language*, which lays down the criteria that are taken into account in the award of grants. Before the *Information* is signed, consultations are carried out with the Joint Commission of Government and National and Ethnic Minorities. In the course of its work, the Joint Commission has as yet received no information that grants are allocated for larger organizations to the disadvantage of smaller ones. In response to requests of national and ethnic minorities, in September 2009, the former “Ruska Bursa” building in Gorlice was returned to the Lemko minority and the Przemyśl City Council adopted a resolution which makes it possible to transfer the building of the former Ukrainian National Home to the Union of Ukrainians in Poland.

### **Tolerance and intercultural dialogue**

**Point 17.** As stated above, people belonging to national and ethnic minorities and to a community using the regional languages are fully entitled to request the relevant institutions for an intervention if their rights are violated at local level. All voivodeship offices have designated persons who deal with issues of national and ethnic minorities (some of them in the rank of voivode’s plenipotentiaries for national and ethnic minorities). All matters of this kind may be directly reported to the Department for Religious Denominations and National and Ethnic Minorities at the Ministry of the Interior and Administration. They may also be reported to the Joint Commission of Government and National and Ethnic Minorities of the *Sejm* of the Republic of Poland.

**Point 18.** As has already been mentioned, in the opinion of the Ministry of the Interior and Administration, a larger number of racist and anti-Semitic offences recorded in statistical sources does not necessarily mean that the number of this type of incidents has increased. It should be taken into account that the Police and the Public Prosecutor’s Office are now more sensitive to such phenomena and the public is more aware that racially motivated acts, as well as other forbidden acts, must be punished and that the rights of people belonging to national and ethnic minorities can be effectively enforced. In the opinion of the Ministry, one cannot agree with the view that perpetrators of this type of offences do not face the consequences of their actions. The Polish law strictly forbids racist or anti-Semitic behaviour. Regulations concerning sporting events also contain detailed guidelines on counteracting this type of behaviour.

## **Media**

**Point 19.** It is true that people belonging to national and ethnic minorities or a community using the regional language are underrepresented in programming councils of public media. The recently appointed programming councils only comprise representatives recommended to the National Broadcasting Council by the Union of Ukrainians in Poland. The other candidatures did not obtain the required majority of voices. As follows from the information supplied by the National Broadcasting Council, the Council intends to make efforts to include representatives of communities of national and ethnic minorities in future programming councils, to which elections are to be held in 2010.

## **Use of minority languages in the public sphere**

**Point 22.** As stated above, representatives of national and ethnic minorities and the community using the regional language did not, neither as the Act on National and Ethnic Minorities and on Regional Language was being drafted nor during its present implementation, voice an opinion that the scope of use of the supporting language should be extended to the bodies and institutions referred to in this paragraph. Therefore, the authorities cannot be said not to have demonstrated a sufficiently flexible approach in this respect.

## **Minority language teaching**

**Point 23.** As has already been mentioned, in accordance with the regulation of the Minister of National Education, authorities running schools for national minorities (local government entities) receive an educational subsidy from the State budget, which has been increased by 20% or 150% for pupils from classes and schools for national and ethnic minorities, communities using the regional language and pupils of Roma nationality for whom additional tuition is provided by the school. The subsidy is increased by 150% in the case of primary schools in which the total number of pupils attending classes for a national or ethnic minority or for a community using the regional language or for pupils of Roma origin does not exceed 84 and in the case of lower and upper secondary schools with no more than 42 such pupils.

**Point 24.** Both curricula and textbooks for learning languages of national or ethnic minorities or the history and geography of their country of origin are written by teachers from the communities concerned. The Minister of National Education prepares only the core curriculum according to which curricula and school books are written, whereas it is the task of the school itself to prepare a set of school curricula. The Ministry of National Education encourages the activity of school communities associated with the preparation of curricula and school books and finances their production and publication. Books for national minorities are given to pupils free of charge.

## **Participation in public affairs**

**Point 25.** To supplement the information contained in this point, one should point out that people belonging to national and ethnic minorities may also be elected to the *Sejm* and the Senate of the Republic of Poland from the lists of electoral committees associated with political parties. In the last elections to the *Sejm* of the Republic of Poland, seats were obtained in this way by candidates of the Belarusian and Ukrainian minority. According to the Polish authorities, the recently adopted regulations enable communities of national minorities to stand for election to the *Sejm* and the Senate under preferential conditions, which are nonetheless consistent with the spirit of democracy.

## II. ARTICLE-BY-ARTICLE FINDINGS

### ARTICLE 3

#### **Personal scope of application of the Framework Convention**

**Point 34.** Referring to the opinion presented in this point, one should note that non-citizens of Poland who stay in the territory of the Republic of Poland are also protected, under general rules, by provisions which forbid racial and national discrimination and are free to cultivate and develop their cultural identity and language. In the opinion of the Polish authorities, there is no need to cover these persons with the provisions of the Convention.

**Point 36.** Referring to the issue of the status of person who declared Silesian Nationality during the 2002 national census of population and housing, it should be clearly emphasized that this group cannot be treated as a national or ethnic minority, because it does not satisfy the conditions laid down in Article 2 of the Act of 6 January 2005 on National and Ethnic Minorities and on Regional Language. These conditions must be met for a given group of citizens of the Republic of Poland to be recognized as a national or ethnic minority. Scientists (historians, sociologists, linguists) agree that it is not possible to talk of a separate Silesian nation, and thus of a Silesian minority. It would be more appropriate to say that Silesians constitute one of the ethnic groups that live in Poland. In connection with the above, this group of citizens of the Republic of Poland could not be covered with the provisions of the said Act.

**Point 38.** As stated before, persons or groups of persons who are not covered by the provisions of the Convention may cultivate and develop their identity and culture without any problems. Polish authorities are open for a dialogue with these persons to discuss the rights to which they are entitled. As regards the issue of culture and identity of the inhabitants of Silesia, which is mentioned in this point, it is the regional authorities (voivodeship government and its institutions, voivodeship municipalities and counties (poviats) and the Voivode of Silesia) who deal with these issues on an ongoing basis, including issues such as the history of Silesia, Silesian heritage and cultural identity of its residents. In particular, one should mention the activities of institutions such as: Upper Silesian Heritage Centre, the Silesian Library, the Silesian Museum, “Silesia” Song and Dance Ensemble, Museum of the History of Katowice, Museum of Upper Silesia and other cultural institutions in the Silesian voivodeship. The Silesian Voivode organizes commemorations of anniversaries that are important for regional communities, such as the 85th anniversary (in 2007) of the union of Upper Silesia with Poland after over six centuries of separation. Moreover, he cooperates, on an ongoing basis, with the self-government and municipalities of the voivodeship in the organization of events that are important for regional communities. The Silesian Voivode provides support for activities intended to commemorate the victims of Hitler’s and communist regimes in Upper Silesia. In addition, the Voivode actively participates in the debate on the Silesian identity and language and on the proposal to recognize it as a regional language. The Voivode supports actions which raise the above-mentioned debate to the level of a reliable dialogue, free from political divisions and based on a scientific socio-cultural analysis. In addition, the Bureau of the Government Plenipotentiary for Equal Treatment has involved representatives of the Silesian community, including the Silesian Autonomy Movement, in consultations on current problems that hinder the practical application of the principle of non-discrimination based on national or ethnic origin. It should be noted that the Framework Convention contains no definition of the notion “national minority”. It was thus left to the national legislations to define this notion (see points 12 and 13 of the Explanatory Report to the Framework Convention on the protection of national minorities). Consequently,

Poland has adopted such solutions in its legal system, in complete conformity with the Framework Convention, which do not provide for a “Silesian national minority” or the possibility of extending the rights of minorities to non-citizens.

### **Data collection and self-identification**

**Point 41.** As stated in this point, the last National Census of population and housing failed to establish the nationality of 2% of the population. It should be noted, however, that it was not caused by interviewees’ refusal to answer the question on nationality or omission of that question. The above part of the population was not directly covered by the census, mainly because of the absence of some household members when the census was being carried out. It seems that such a problem cannot be avoided in mass studies covering the entire population of the country. It should be emphasized that – unlike in the case of other characteristics investigated in the census – no methods of supplementing and re-estimating the data have been used in relation to the nationality and language. The next population census, which is scheduled for 2011, will be carried out using a new methodology and different sources of information, such as:

- data contained in registers and data bases of public institutions (sources of this kind do not comprise data on nationality),
- essential information, including data on nationality, directly provided by participants of a self-census on forms available on the Internet,
- data of a wider scope – including data on nationality – obtained from a part of the population (about 20%) during the sample survey consisting in direct interviews conducted by census takers.

Due to the adopted methodology of the forthcoming census, a vigorous campaign is to be undertaken to promote it, in particular, to encourage people to take part in the self-census. During the awareness-raising campaign, the public will be informed about the aims and tasks of the census, its methodology and purpose, ways in which census information will be used and safeguards relating to personal data protection. It should also be pointed out that the manner of conducting the census and the census questions are discussed in detail during meetings of the Joint Commission of Government and National and Ethnic Minorities. During the last meeting of the Joint Commission, which took place on 23 September 2009, questions concerning nationality received a favourable opinion of the Joint Commission.

**Point 42.** The progress of census preparations is regularly presented and discussed in the Joint Commission of Government and National and Ethnic Minorities.

**Point 43.** The point contains a recommendation to include members of national and ethnic minorities as census takers/interviewers, yet it should be pointed out that as the methodology of the forthcoming census will differ from that of traditional censuses conducted previously, it will significantly decrease the involvement of interviewers in the census survey. Their number will be reduced from about 180 thousand in the last census in 2002 to 20 thousand in the 2011 population census. As a consequence, it will diminish their influence on the way in which the census is carried out. In addition, interviewers will be used in a different way, i.e. they will mainly participate in the sample survey. Interviewers will be involved in carrying out interviews in no more than 20% of households, randomly selected in the sample survey. This change will make it possible to recruit better qualified interviewers and to improve the conditions of preparing them for their work during the census. On the other hand, only a part of the population will be randomly selected for the census conducted by interviewers, which decreases the rationale for the effective use of members of national and ethnic minorities as census takers in their communities, especially when one considers the relatively small numbers of minority groups and their considerable and uneven dispersion. Nonetheless, depending on the results of the random selection of the sample, in areas compactly inhabited

by members of national, ethnic and linguistic minorities – in as much as it is possible and appropriate – members of minority communities will be recruited as census takers, in agreement with organizations representing these minorities. As it is envisaged at the current stage of the work, census forms will be translated and made available in several language versions, both during the Internet census and during the sample survey conducted by interviewers.

**Point 44.** Within the framework of activities promoting the National census in 2011, public statistics officials intend to cooperate with organizations representing national and ethnic minorities, encouraging them to get involved in awareness-raising campaigns among members of their communities to boost their participation in the census and persuade them to reveal their national and ethnic identity. The public statistics institutions in Poland have long-standing experience in the area of data protection, having for many years adhered to high standards of personal and individual data protection in their activities, in compliance with the provisions of the Act of 29 June 1995 on Public Statistics (Journal of Laws No. 88, item 439, with subsequent amendments) and the Act of 27 August 1997 on the Protection of Personal Data (Journal of Laws of 2002 No. 101, item 926, with subsequent amendments).

## **ARTICLE 4**

### **Legal and institutional protection against discrimination**

**Point 47.** As mentioned above, it is important to note that the Labour Code was additionally amended in 2008 (Act of 21 November 2008 on amending the Act – Labour Code (Journal of Laws No. 223, item 1460) to bring it in line with the respective directives.

**Point 49.** To supplement the information stated in this point, one should note that, following an intervention of the Minister of the Interior and Administration, the issue of the return of the building of the former Ukrainian National Home in Przemyśl to the Union of Ukrainians in Poland is heading towards a satisfactory ending. The Association “Ukrainian National Home” in Przemyśl was established by the Ukrainians community. After the Second World War, the property on which the Association was headquartered was taken into the ownership of the State Treasury and then of the City of Przemyśl. In early 90s, the Ukrainian community initiated a procedure to recover their pre-war premises. During a meeting of the Podkarpacki Voivode with representatives of the Union of Ukrainians in Poland, the City of Przemyśl and the Ministry of National Defence and the Ministry of the Interior and Administration, it was agreed that, to compensate the City of Przemyśl for the return of the former Ukrainian National Home back to the Ukrainian community, the Municipality of Przemyśl would receive a different property from the State Treasury. In connection with the above, the President of Przemyśl proposed two properties belonging to the Military Property Agency that could be transferred by way of compensation. The Minister of National Defence decided to transfer a property belonging to the Ministry as compensation to the Municipality of the City of Przemyśl for the return of the former Ukrainian National Home to the Union of Ukrainians in Poland. Official legal procedures were initiated to finalise the restitution process. In June 2008, the Minister of National Defence consented to the expiry of the permanent management right of the Ministry of National Defence in relation to the property located in Grodzka Street in Przemyśl (entered in the land register as plot no. 1136/2 with an area of 0.1868 ha), transferring it to the State Treasury as a property to be administered by the Starosta (District Officer), for the purpose of its ultimate transfer to the Municipality of Przemyśl. The Minister of National Defence consented to the expiry of permanent management right to the plot (entered in the land register as plot no. 1136/1 with an area of 0.2231 ha) in September 2008. In connection with the expectations of the President of Przemyśl relating to the takeover of



the entire complex in Grodzka Street, on 16 December 2008, the Regional Infrastructure Directorate contacted the Infrastructure Department of the Ministry of National Defence, requesting the expiry of the permanent management right of the Ministry of National Defence in relation to another plot – plot no. 1139 in area 207, not taken into account in the consent of the Minister of National Defence from September 2008 for the transfer of the above-mentioned property to the Municipality of the City of Przemyśl. On 7 January 2009, the Minister of National Defence authorised the Regional Directorate in Lublin to take steps associated with the expiry of the permanent management right of the Ministry of National Defence to the above-mentioned plot. The property transfer process has thus been completed, making it possible to return the former Ukrainian National Home in exchange for a complex in Grodzka Street. On 3 September 2009, the City Council in Przemyśl adopted a resolution on the exchange of the above-mentioned properties.

**Point 50.** One cannot agree with the statement presented in this point that no court cases have been initiated thus far based on the provisions of the new anti-discrimination legislation, such as the provisions introduced by the by Act of 14 November 2003 on amending the Act – Labour Code and some other acts (Journal of Laws No. 213 item 2081), which bring Polish laws in line with the requirements of Community law. On 1 January 2004, non-discrimination regulations prohibiting discrimination based on sex were extended to incorporate a similar ban on discrimination based on age, disability, race, religion, nationality, political opinions, membership of a trade union, origin, belief, sexual orientation and full- or part-time employment for a definite or indefinite time. The term of discrimination based on sex incorporates sexual harassment as well. Pursuant to the Act of 21 November 2008 on amending the Labour Code (Journal of Laws from 2008, No. 233, item 1460), the amendment in section IIa of the Labour Code entitled “Equal treatment in employment” came into force on 18 January 2009. The amendment clarifies prerequisites of indirect discrimination and its manifestations and provides a definition of harassment. A person whose employer has breached the principle of equal treatment in employment has the right to lodge a complaint with the labour court, National Labour Inspectorate or to institute conciliatory proceedings before a conciliation commission. The burden of proof that the different situation of employees was not discriminatory rests on the employer and not on the person who subjectively considers himself or herself to be discriminated against. If the employer fails to prove that his or her decisions were not discriminatory, the victim of discrimination is entitled to compensation in an amount not lower than the minimum remuneration for work. The exercise of the employee’s rights in the case of a breach of the principle of equal treatment in employment does not constitute valid grounds for terminating a labour relationship by the employer or terminating it without a notice of dismissal. The statistics relating to cases for damages and compensation in connection with selected forms of discrimination clearly indicate that employees do exercise their rights, which means that anti-discrimination laws in employment do not exist “only on paper”. For example, in 2005, 53 cases relating to discrimination in employment (Article 11<sup>3</sup> of the Labour Code) were reported to regional labour courts and 7 to district courts. In 2006, 126 cases were reported to regional courts and 5 to district courts. In 2007, 63 cases were lodged with regional courts and 13 with district courts, whereas in 2008, 103 cases were lodged with regional courts and 13 with district courts. Complaints are also filed with labour courts in connection with other categories of discrimination. For example, in 2005, 220 cases associated with breaches of the principle of gender equality (Article 18<sup>3d</sup> of the Labour Code) were lodged with regional courts, in 2006 – 195. In 2007, 319 such cases were filed and in 2008 - 989. The above data indicate that the Polish society is already well aware of claims that can be pursued for discrimination in employment.

**Point 51.** With reference to the collection of statistical data on national and ethnic minorities, which is mentioned in this point, it should be noted that, due to historical and political

reasons, the Polish public statistics has been concerned with nationality matters for a relatively short time. Since 1992, a continuous study on national and ethnic associations has been conducted, however, it cannot provide data on the demographic and socio-economic structure of minority groups. Due to the specific character of national, ethnic and linguistic minorities in Poland, i.e. their small numbers and spatial diffusion, it is extremely difficult to carry out studies of these minorities which would produce methodologically correct and accurate characteristics of their members. Considering the nationality variables in the present demographic and socio-economic studies conducted by public statistics institutions, it would not be possible to obtain representative results for minority communities. Therefore, in the current situation, national censuses covering the entire population appear to be the only relatively reliable source of data on the numbers and the demographic and social structure of national and ethnic minorities, even though such surveys are known to have their flaws and limitations. Their main flaw is connected with the fact that they take place relatively seldom (usually in 10-year cycles). The 2002 National Population and Housing Census was the first census in the post-war history to include nationality questions. It seems that nationality data obtained in the forthcoming census will provide a better basis for designing sample surveys covering national and ethnic minorities. Such statistical and sociological surveys, focusing specifically on minority communities and based on the results of the 2011 census, are envisaged in multiannual research programmes of public statistics institutions. However, in relation to some communities, it will be difficult to ensure their representativeness in a strictly statistical sense, due to the above-mentioned reasons.

**Point 52.** At present, the Bureau of the Government Plenipotentiary for Equal Treatment employs 8 professional employees (in August 2008, when the Bureau was first opened, there were 3). Office support for the Bureau is provided by the Chancellery of the President of the Council of Ministers. At present, the Bureau has sufficient resources for conducting coordination, advisory and awareness-raising activities and – to a limited extent – for monitoring the incidence of discrimination and hostility on the grounds of race, nationality or ethnic affiliation. At present, a decision is pending on whether to increase the potential of the Bureau, as the competences of public institutions, especially the governmental ones, are being revised in the context of the economic crisis, whose impact on the State budget is currently being estimated. It should also be noted that violations of the rights of people belonging to national and ethnic minorities are monitored by the Monitoring Team on Racism and Xenophobia of the Department of Control, Complaints and Petitions at the Ministry of the Interior and Administration. In addition, the Team monitors events that may exhaust prerequisites arising from Article 118, Article 119, Article 256 and Article 257 of the Criminal Code, i.e. alleged cases of racism, discrimination, hostility on ethnic or national grounds and of racial and ethnic hatred. Furthermore, the Minister of the Interior and Administration has announced a competition for the completion of the following public task: *Methodology for the preparation of a data base – a needs analysis and methods (criteria) of identifying discriminatory, xenophobic or racist incidents. Indication of prerequisites for determining the character of an incident.*

**Point 53.** With reference to the opinion expressed in this point, see related comments to point 51.

### **Implementation of the principles of equal treatment and non-discrimination in respect of the Roma**

**Point 56.** To supplement the stated information, one should note that the *Programme for the Roma Community in Poland* may be extended for subsequent years, if such a need arises.

**Point 59.** Within the framework of the *Programme for the Roma Community in Poland*, the government administration, local government entities and non-governmental organizations carry out wide-ranging measures which include, among other things, activities in the area of education, health and safety and activities aimed to improve the living conditions and social situation and to counteract unemployment. As regards initiatives aimed to change the living conditions of the Roma minority, priority is given to investment tasks which improve the housing and sanitary conditions. These tasks consist in renovation of buildings, support for residential building, connecting flats to sewage and water installations and providing access to running water and electricity. Importantly, to supplement the above activities, social houses have been built and living accommodation has been provided in the purchased container houses. Between 2004 and 2008, 1329 renovations were carried out in the whole country and 44 new residential buildings were built. Within the framework of the *Programme*, steps have also been taken to settle the issue of the ownership of plots of land where buildings inhabited by Roma are located. This work will continue in the next years. The Minister of the Interior and Administration monitors, on an ongoing basis, the progress in improving the living conditions of Roma who live in housing estates in the municipalities of the Małopolskie Voivodeship. One of the tasks that have been carried out for several years under the *Programme* is the provision of the Roma housing estate in Koszary with a plumbing and water installation (with the total of 285 thousand PLN transferred for this investment in 2004-2007). In 2007, the task was finally completed when particular residential buildings were connected to the installation. The main obstacles encountered during the investment were the unresolved issue of ownership of land and tense relationships between the municipal authorities and the Roma. The problems associated with the investment in Koszary have been a frequent topic of discussions between representatives of the Ministry of the Interior and Administration, Małopolskie Voivodeship Office and the municipal authorities. In addition, in 2008, a multifamily building in an estate in Koszary was renovated and thermomodernized under the *Programme* (grant amount: 110 thousand PLN). The tasks associated with the renovation of buildings and flats occupied by Roma families in the municipality of Limanowa are being continued in 2009 (grant amount: 60 thousand PLN). In addition, several dozen flats occupied by Roma families in the Małopolskie Voivodeship are renovated every year under the *Programme* (in Nowy Targ, Limanowa, Koszary, Nowy Sącz, Andrychów, Krośnica, Czarna Góra). Every year, several social buildings are put into service (in Maszkowice, Szaflary, Czarna Góra) and connected to water and sewage systems (Krośnica). As regards the health situation of the Roma community in the Małopolskie Voivodeship, it must be observed that it is improving steadily. The work of community nurses employed under the *Programme for the Roma Community in Poland* is already bearing fruit. Community nurses have been employed for several years in the Nowosądecki and Limanowski counties (*poviats*) and in the city of Cracow. They regularly monitor the health of residents of the Roma estates, in cooperation with doctors and health care institutions. They supply the Roma community with medicines, personal hygiene products and cleaning products. The so-called 'white days' (in Tarnów and Cracow) and preventive medical consultations (in the Tatra highlands) are also organized. As concerns the problem of employment and the fight with unemployment, one should note that the *Programme's* beneficiaries seldom apply for funds for this purpose. The problem of unemployment affects not only the Roma community, but also the residents of Little Poland (*Małopolska*) at large. Specific measures in this regard are ensured under the UE Operational Programme Human Capital and its "Roma Component", which has been available since 2007. The Implementing Authority for European Programmes works in close partnership with the administrators of the *Programmes for the Roma Community in Poland* (Ministry of the Interior and Administration), which guarantees compatibility and complementarity of both programmes, thus ensuring comprehensive assistance for the Roma community in Poland.

**Point 60.** One should fully agree with the opinion that a separate entrance for children of Roma origin in the Primary School in Maszkowice (municipality [*gmina*] of Łącko in Małopolskie voivodeship) was a particularly disturbing phenomenon and that it was incompatible with the rules laid down in *Framework Convention on the protection of national minorities*. The building of the Primary School in Maszkowice comprises two wings. The main part of the school is situated in the left wing, whereas the right wing was adapted for classrooms for children enrolled in “Roma classes”. These classrooms, which do not differ from other classrooms in terms of their standard, were accepted for school use. They were renovated in February 2008. As the above-mentioned classrooms were assigned to Roma classes, for a certain period of time the Roma children used the side entrance to the school. Following the intervention of the Ombudsman, the Ombudsman for Children, the Minister of National Education, the Minister of the Interior and Administration, Małopolski Voivode and MPs from the Commission for National and Ethnic Minorities of the *Sejm* of the Republic of Poland, the separate entrance to the school was abolished. At present, all children use one entrance to the school - the main entrance. It should also be explained that in November 2008, at a press conference on the functioning of “Roma classes” in Poland organized by the Minister of the Interior and Administration, a strategy was adopted on the discontinuance of Roma classes, in agreement with school heads, teachers and representatives of the local self-governments concerned. It was agreed that in the school year 2009/2010, there would be no intake of pupils to Roma classes, while the already existing Roma classes would be gradually discontinued. Roma pupils who start their schooling will learn in the same classes with their non-Roma peers. Schools have been obliged to ensure appropriate psychological and educational assistance to Roma pupils who require special support because of poor command of Polish or because of school adaptation problems. Moreover, the Minister of National Education requested school superintendents, in the letter of 20 August 2008, to take measures to discontinue the remaining Roma classes. The Minister recommended that the opportunities offered by the multiannual governmental *Programme for the Roma Community in Poland*, and the possibility of refunding costs (by increasing the educational subsidy) of additional educational tasks undertaken by the school for the benefit of Roma pupils, should be used to provide educational support for Roma pupils of compulsory school age who learn in classes with their non-Roma peers. If such a need arises, the school should provide them with individual supplementary tuition in Polish and other subjects, tailored to their needs and possibilities. The discontinuance of Roma classes was also discussed during a meeting of the directorate of the Ministry of National Education with school superintendents before the beginning of the 2008/09 school year. In compliance with the agreed arrangements, the Primary School in Maszkowice is consistently implementing the plan of discontinuing the two Roma classes that still exist there. Such a form of teaching children and youth will be completely abolished in the 2010/2011 school year. In the school year 2008/2009, two Roma assistant teachers and three supporting teachers were additionally employed to work with the Roma children. Pupils were provided with additional tuition, textbooks and school accessories. A few meetings of Roma youth with psychologists were organized. In 2009, the construction by the Social and Cultural Association of Roma of an integrative club for children living in the municipality of Łącko is being financed from the State budget. It should also be explained that the Małopolski Voivode’s Plenipotentiary for National and Ethnic Minorities has made inquiries into the case of the teaching assistant who was denied access to the teachers’ office, which was reported at a meeting of the Parliamentary Commission. It has been found that the incident took place in one of the schools during the implementation of the *Pilot Programme for the Roma Community in the Małopolskie Voivodeship for the years 2001-2003*. However, the person who raised this issue at the meeting of the Parliamentary Commission was unable to provide more details about this case, which would be required to analyse it more thoroughly.

**Point 61.** One should agree with the opinion of the Advisory Committee that the authorities must intervene in the case of discriminatory practices that affect Roma in educational establishments. Such actions are taken by the Ombudsman, Government Plenipotentiary for Equal Treatment and the Minister of the Interior and Administration. Roma minority representatives from the Team for Roma Affairs of the Joint Commission of Government and National and Ethnic Minorities have been informed many times of the possibilities and procedures for reporting cases of discrimination to the above-mentioned entities. It should also be emphasized that campaigns and trainings are carried out to raise public awareness of these issues, within the framework of the *Programme for the Roma Community in Poland* and Sub-measure 1.3.1 of the Operational Programme Human Capital – *Projects for the Roma Community*.

## **ARTICLE 5**

### **Legal guarantees and support for the preservation of the culture of persons belonging to national minorities**

**Point 64.** Established pursuant to the Act on National and Ethnic Minorities and on Regional Language, the Joint Commission of Government and National and Ethnic Minorities functions as a consultative and advisory body of the President of the Council of Ministers. It is tasked with expressing opinions on the exercise of the rights of minorities and their needs. Among other things, it evaluates the way in which these rights are exercised and proposes measures intended to safeguard the rights and needs of minorities; it expresses opinions on programmes intended to create favourable conditions for the preservation and development of the cultural identity of minorities and for the preservation and development of regional languages; it evaluates drafts of legal acts relating to minority issues; it also expresses opinions on amounts and rules for the division of budgetary allocations for supporting activities aimed to protect, preserve and develop the cultural identity of minorities and to preserve and develop regional languages and it takes measures to counteract discrimination of people belonging to minorities.

**Point 66.** With reference to the information contained in this point, it should be made explicit that legal regulations in this area apply to Polish citizens regardless of their national affiliation. The current legal state makes it possible to pursue claims with respect to property confiscated under nationalisation procedures before an organ of public administration or in civil proceedings before a common court by proving that the respective nationalisation decision was issued in manifest disregard of the then applicable law. Property restitution claims can be verified in line with the provisions of the Administrative Procedures Code, in accordance with the rules laying down procedures in an administrative case and in determining the invalidity of final administrative decisions (only when conditions arising from Article 156 § 1 point 2 of the Administrative Procedures Code are clearly met). If a nationalisation decision is found to be invalid, the ex-owner or his or her legal successors (heirs) can apply for the restitution of the property confiscated by the State, either in kind or by claiming proper compensation in civil proceedings. The owner can claim compensation in the case when the nationalisation decision is found to be invalid, but the property in question cannot be returned in kind and in the case when the competent public administration body decides, in accordance with Article 158 of the Administrative Procedures Code, that a specific nationalisation decision was issued in breach of law, but its invalidity cannot be ascertained due to the occurrence of irreversible legal effects. The authorities competent to conduct proceedings to assess the validity of nationalisation decisions are the ones which are successors in law to the authorities supervising the conduct of nationalisation. In addition,

whether or not specific public authorities are competent to assess the validity of a given claim depends on the type of real property which had been appropriated by the State.

**Point 67.** At present, the Act of 8 July 2005 on exercising the right to compensation arising from leaving real property outside the present borders of the Republic of Poland lays down the principles for the exercise of the right to compensation for a property left outside the present borders of the Republic of Poland due to expulsion from the former territory of the Republic of Poland or departure from that territory in connection with the outbreak of the war in 1939. Persons qualifying to receive compensation include real property owners who, as of 1 September 1939, were Polish citizens and lived in eastern territories of the Republic of Poland and who later left that territory and possess Polish citizenship, as well as their heirs with Polish citizenship. Only natural persons and statutory and testamentary heirs qualify as eligible heirs.

**Point 68.** First of all, it should be emphasized that Polish citizens of Lemko and Ukrainian nationality resettled within the framework of the Operation “Wisła” had the right, pursuant to Article 5 of the Decree on the taking into the ownership of the State of real properties, not in actual management of their owners, and situated in certain counties (*poviats*) of the Białostockie, Lubelskie, Rzeszowskie and Krakowskie Voivodeships, to receive and thus become owners of agricultural farms in the territory of their forcible resettlement or to acquire non-agricultural property there. In accordance with Article 7 of the above-mentioned document, the value of the property that had remained in the territories which these persons had had to leave was taken into account when calculating the amount payable for the property acquired in the “Regained Lands”. Most people resettled under the Operation “Wisła” took advantage of this possibility. It should also be noted that the Ministry of the Treasury has prepared a draft act on cash benefits awarded to some persons affected by the nationalisation processes. The aim of the above-mentioned act is to award cash benefits to some persons affected by the nationalisation processes carried out under the decrees of the Polish Committee of National Liberation (PKWN) in the years 1944 – 1962, acts adopted by the Parliament of the Polish People’s Republic or without a legal basis. Today, one of the ways that can be used to alleviate the feeling of harm associated with the historical nationalization is to grant a cash (*ex-gratia*) benefit to victims, in the form of a public law benefit awarded on a discretionary basis. The resulting financial benefit has a symbolic, rather than a compensatory dimension.

**Point 69.** As stated above, people belonging to national and ethnic minorities and communities using the regional language are fully entitled to request the relevant institutions for an intervention if their rights are violated at local level. All voivodeship offices have designated persons who deal with issues of national and ethnic minorities (some of them in the rank of voivode’s plenipotentiaries for national and ethnic minorities). All matters of this kind may be reported directly to the Department for Religious Denominations and National and Ethnic Minorities of the Ministry of the Interior and Administration. They can also be reported to the Joint Commission of Government and National and Ethnic Minorities of the *Sejm* of the Republic of Poland. An issue which may be perceived as discriminatory by persons of the Ukrainian nationality is the opposition of some local communities in the Podkarpackie Voivodeship to the proposed form of commemorating the victims of the Operation “Wisła”. The Podkarpacki Voivode is conducting a wide dialogue to reach an agreement on such a form of commemorations that will be acceptable both to the municipal authorities concerned and to the community of the Ukrainian minority in Poland. On 29 September 2009, a conference organized at the initiative of the Union of Ukrainians in the Podkarpacki Voivodeship Office in Rzeszów took place at the Podkarpackie Voivodeship Office in Rzeszów. Its participants debated on issues associated with cemeteries, religious

buildings and commemorations of events in the territory of the Podkarpackie Voivodeship that are important to the Ukrainian minority.

**Point 70.** On 9 September 2009, the real property “Ruska Bursa” in Gorlice was sold to the “Ruska Bursa” Association (its current user) without a bidding procedure and with a 99% bonus. The Association paid 4,562.61 PLN for the property of the estimated value of 456,261.00 PLN. The other party to the dispute, the Lemko Association was provided with another building, purchased with the funds of the Ministry of the Interior and Administration (the Ministry of the Interior and Administration transferred 488,000 PLN for the purchase of that building). As mentioned in the comments to point 49, the issue of the former Ukrainian National Home is heading towards a satisfactory ending, after the adoption by the City Council in Przemyśl of the resolution of 3 September 2009. The estimated value of the property of the former Ukrainian National Home in Przemyśl, which is to be transferred to the Union of Ukrainians in Poland, amounts to over 2,000,000 PLN. What is worth emphasizing, in 2009, 317,000 PLN has been allocated from the resources of the voivodeship conservation officer and the City of Przemyśl for the renovation of the former Ukrainian National Home in that city. The repairs carried out in the Ruska Bursa building are also co-financed from the budget of the Minister of the Interior and Administration every year. 40,000 PLN has been allocated for this purpose in 2009.

**Point 71.** One cannot agree with the statement presented in this point that the procedures for awarding grants for the completion of tasks supporting the maintenance and development of the cultural identity of national and ethnic minorities and the preservation and development of the regional language are impossible to fulfil. A decisive majority of organizations competing for grants, including small organizations of national and ethnic minorities, apply for financial support correctly and settle the awarded grants without any difficulty. The applicable procedures for the award of grants in accordance with Article 18 of the Act on National and Ethnic Minorities and on Regional Language are published every year by the Minister of the Interior and Administration in the *Information on detailed procedural rules in the award of grants for tasks intended to protect, maintain and develop the cultural identity of national and ethnic minorities and to preserve and develop the regional language*. Before the *Information* is published, it is discussed with the Joint Commission of Government and National and Ethnic Minorities and it is approved by it. In response to the demands voiced in the Commission for Religious Denominations and National Minorities, in 2008, the Minister of the Interior and Administration issued a new ordinance on procedural rules for the award of grants for the protection, maintenance and development of cultural identity of national and ethnic minorities, preservation and development of the regional language and civil integration of the Roma minority (Official Journal of the Ministry of the Interior and Administration of 2009 No. 1, item 3, with subsequent amendments) simplifying the applicable procedures as requested by minority organizations. In addition, for 3 consecutive years, the Ministry of the Interior and Administration organized free trainings for organizations of national and ethnic minorities on applying for funds and their correct settlement. Each year, all documents relating to the rules for applying for grants and their settlement are published on the websites of this Ministry. In addition, instructions on the correct completion of grant applications are available on the websites of the Ministry of the Interior and Administration. Importantly, to help national and ethnic minorities with applying for grants and their correct settlement, every year the Minister awards, on the basis of the provisions of Article 18 of the Act on National and Ethnic Minorities and on Regional Language, special grants for covering the costs of accounting and reporting procedures of organizations of national and ethnic minorities and communities using the regional language, and for covering the costs of maintaining and renting their premises. What is worth noting, the grants which the Minister awards for specific tasks may also be utilized by applicant organizations for covering the costs of coordination and of the accounting, reporting and auditing procedures associated with their projects.

**Point 72.** In connection with the opinion expressed in this point, see related comments to point 68.

**Point 73.** In connection with the opinion expressed in this point, see related comments to point 71.

**Point 74.** As has already been mentioned in the comments to point 71, trainings for organizations of national and ethnic minorities were provided by the Ministry in 2007, 2008, 2009. Their participants could learn how to apply for public funds allocated for the maintenance and development of the cultural identity of national and ethnic minorities and for the preservation and development of the regional language and how to settle these funds correctly. The trainings and the training materials were provided free of charge. Free accommodation and board were ensured for training participants from outside Warsaw (in 2007 and 2008). In 2009, trainings were carried out in Warsaw, Wrocław, Cracow and Białystok to widen the participation of individuals interested in them.

## ARTICLE 6

### Tolerance and intercultural dialogue

**Point 79.** In July 2008, the Council of Ministers decided to appoint the Governmental Plenipotentiary for Equal Treatment as the coordinator of the *Programme*. To ensure proper implementation and assessment of the *National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance*, in February 2009 the Programme Monitoring Team was also set up as a consultative and advisory body of the President of the Council of Ministers. The Team is tasked, among other things, with analysing the *Programme*, presenting proposals for its modification and preparing assumptions for activities taken by the government in the continuation part of the *Programme*. After the first discussions in the Monitoring Team, it appears that the new programme will differ considerably from the one carried out in 2004-2009. More importance should be attached to educational activities associated with combating stereotypes which give rise to prejudice and discrimination. Further work is also required to improve the collection of data on these phenomena and to ensure their elimination from media and sport. In addition, the Bureau of the Government Plenipotentiary for Equal Treatment intends to carry out a systemic project in the years 2009-2012 within the framework of the Operational Programme Human Capital. It will comprise training for government administration at the central and voivodeship level on the implementation of the principle of equal treatment and counteracting discrimination. The aim of the project is to prepare human resources for the voivodeship network of plenipotentiaries for equal treatment. One of the essential tasks of plenipotentiaries is to be the monitoring of risks and infringements of the principle of non-discrimination on the grounds of race, nationality, ethnic origin or otherwise.

**Point 81.** The rights of Polish citizens belonging to national and ethnic minorities were laid down in the most important legal act that is in force in Poland – the Constitution of the Republic of Poland. Both the provisions of Article 35 of the Constitution and all other regulations relating to the rights of persons belonging to national and ethnic minorities, including the Act of 6 January 2005 on National and Ethnic Minorities and on Regional Language, are not, just like any other Polish laws, made conditional on the policy of other countries in relation to their citizens. Any attempts to make policy with respect to national



minorities conditional on the principle of reciprocity are inconsistent with the applicable law and the policy of the Government of the Republic of Poland.

**Point 82.** As it is provided for in Article 18 of the Act on National and Ethnic Minorities and on Regional Language, grants awarded annually from the budget of the Minister of the Interior and Administration may also be allocated for tasks intended to promote the knowledge on minorities. Tasks that are co-financed every year include tasks contributing to the attainment of that goal.

**Point 83.** Actions are also carried out within the framework of the currently implemented *National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance*. To execute the tasks assigned to the Ministry of the Interior and Administration under the *Programme*, a number of effective measures have been taken by the Ministry to eliminate racism and xenophobia from social life, for example:

- human rights issues, including the problems of discrimination, have been incorporated in the training programmes for the Police and Border Guards at all levels of training;
- educational materials for the Police and Border Guards have been developed and disseminated to foster anti-racist attitudes and to combat xenophobia and intolerance;
- two analyses have been carried out to monitor racist, xenophobic and anti-Semitic contents in the Polish press and publications;
- the setting up of a citizens' advice bureau has been commissioned by the government. The bureau advises citizens on matters associated with discrimination on the grounds of ethnic origin or nationality;
- training on tolerance and open society has been provided for representatives of government administration and, to a more limited extent, for local administration.

The Ministry of the Interior and Administration cooperates with organizations involved in implementing this *Programme*. In addition, to ensure proper evaluation of the progress achieved in implementing the *National Programme for Combating Racial Discrimination, Xenophobia and Related Intolerance*, in February 2009, the Programme Monitoring Team was also set up as a consultative and advisory body of the President of the Council of Ministers. Its first meeting took place in March 2009. The Team is tasked, among other things, with analysing the *Programme*, presenting proposals for its modification and preparing assumptions for activities taken by the government in the continuation part of the *Programme*. The Team comprises, among others, representatives of the Ministry of the Interior and Administration and of other departments and institutions implementing the *Programme*, as well as representatives of selected non-governmental organizations (Helsinki Foundation for Human Rights, Never Again Association, Association Against Anti-Semitism and Xenophobia - Open Republic, the Foundation "Polish Migration Forum", "Pro Humanum" Association). The Monitoring Team is chaired by the Government Plenipotentiary for Equal Treatment. The issues of the protection of human rights and non-discrimination, taken up by the Ministry of the Interior and Administration within the framework of the *Programme* have become a permanent component of trainings for employees and officers of different services. One of the programmes that make the actions of the Police more effective is the *Law Enforcement Officer Programme on Combating Hate Crime (LEOP)*, which is currently being implemented in cooperation with the Ministry of the Interior and Administration and the OSCE Office for Democratic Institutions and Human Rights (ODiHR). Under this programme, policemen-trainers and then officials of the Police are going to participate in cascade trainings. The aim of the *Programme* is to provide theoretical and practical knowledge on the rudiments of (international and domestic) law pertaining to hate crime and discrimination, to develop skills required for cooperating with a multicultural community, to conduct investigations there and to prevent and react to hate crime and provide their

documentary evidence. The *Programme* has already been approved by the Chief Commander of the Police. Trainings for trainers will begin in November 2009 and will subsequently be carried out at the voivodeship headquarters of the Police. In addition, at all Voivodeship Headquarters of the (Metropolitan) Police, many different trainings, conferences and other events are organized to ensure the protection of human rights in a broader sense. These undertakings can be divided into two groups:

– internal: training and vocational development.

They focus on topics such as, among other things: racial discrimination, anti-Semitism, Roma issues, integration of refugees, trafficking in human beings, prohibition of torture, contact with victims of crimes. In addition, numerous materials on human rights are published for police officers by the Police headquarters;

– external: actions aimed to prevent and combat crime.

Above all, such undertakings include: dissemination of information on the activities of the Police Plenipotentiaries for the Protection of Human Rights in Poland (also in the Internet), maintaining ongoing local contacts with minority organizations (exchange of information, building of trust), organizing meetings in schools and promoting anti-discriminatory attitudes, intensifying the patrolling of areas that are particularly vulnerable to crime, including racists offences (e.g. sites of public gatherings, cemeteries of minorities), cooperation with authorities of higher education institutions and student organizations aimed at counteracting discrimination of students of different race or nationality, meetings with local communities in areas where centres for foreign nationals are run, talks for foreign nationals (students, refugees).

At present, a full report is being compiled on the implementation of the *National Programme* in 2004-2009, on the basis of materials sent by institutions carrying out specific tasks. The Government is determined to continue the *Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance*. One of the tasks of the Monitoring Team on the *National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance*, set up in 2009, is to prepare objectives for actions taken by the Government in the continuation part of the *Programme*. According to initial plans, it will cover the years 2010-2013. Furthermore, due to the key role played by the education system in counteracting racism, xenophobia and related intolerance, and also due to the introduction of the new core curriculum and new textbooks, the Government Plenipotentiary for Equal Treatment requested the Minister of National Education to commission the team of experts working on the new textbooks to review them in terms of their consistency with the principle of equal treatment and non-discrimination based on sex, race, ethnic origin, nationality, religion or belief, political opinions, age, sexual orientation, civil and family status. In response to this, the Minister of National Education informed all experts that the contents of textbooks should be reviewed in terms of their consistency with the principle of equal treatment and non-discrimination.

**Point 84.** In connection with the opinion expressed in this point, see related comments to point 81.

**Point 85.** As has already been mentioned, non-citizens of Poland who stay in the territory of the Republic of Poland or who identify themselves with groups other than national and ethnic minorities are also protected, under general rules, by provisions which ban racial and national discrimination and are free to cultivate and develop their cultural identity and language. In the opinion of the Polish authorities, there is no need to cover these persons with the provisions of the Convention. Of course, it does not mean that the authorities are not ready to enter into a dialogue with representatives of these persons to discuss their situation and status.

## Efforts to combat hostility or violence on ethnic grounds

**Point 89.** As regards the monitoring of racist, xenophobic or anti-Semitic contents disseminated in the media, it should be observed that such monitoring is carried out on an ongoing basis by specialised administrative bodies (Bureau of the Government Plenipotentiary for Equal Treatment, the Monitoring Team on Racism and Xenophobia of the Ministry of the Interior and Administration). If the case of any racist or anti-Semitic contents discovered or reported by citizens, such contents are promptly notified to the Police so that an appropriate action can be taken. In addition, the Ministry of the Interior and Administration commissioned the Poznań Human Rights Centre at the Institute of Legal Sciences of the Polish Academy of Sciences to compile two reports (in 2007 and 2008) *Monitoring Racist, Xenophobic and Anti-Semitic Contents in the Polish Press*, thus fulfilling one of the tasks laid down in the *National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance 2004-2009*. Referring to the allegedly unrestricted availability of materials referred to in the Opinion and the impunity of people publishing them, it should be observed that, as follows from the information obtained from the Ministry of Justice, statistical data do not confirm the view that “anti-Semitic materials are readily available on the market”. Pre-trial proceedings are initiated when information is received about a crime prosecutable *ex officio* under Article 256 or 257 of the *Criminal Code*, be it in the form of a book or a press publication or racist contents published on web sites. Acts consisting in the painting of “graffiti” which promotes fascism or conveys messages that can be regarded as inciting to hatred on the grounds of race, nationality or religious denomination or which are insulting to a person or a population group for these reasons are prosecuted in a similar way. Proceedings are also instituted with respect to offences associated with the propagation of fascism, incitement to hatred on the grounds of race, nationality or religious denomination or when such contents are found in song lyrics. Without any doubt, the most essential thing in combating this type of behaviour is the energetic action of the Police upon receipt of a report. However, when such a case is not reported by a citizen (or through the intermediary of non-governmental organizations or their representatives), it is not possible to take proper action as it would be in breach of Article 256 or 257 of the *Criminal Code*. It should be noted that all reported cases of insults or events associated with hatred on the grounds of race or nationality (including those reported by Internet users) are examined and prosecuted by the Police in cooperation with the Public Prosecutor’s Office, as evidenced by reports of the National Prosecutor’s Office on racially-motivated or xenophobic cases examined by prosecutors’ offices (i.e. in the years 2007 - 2008). In the case of events arising from incitement to hatred on the grounds of race or nationality on web-portals, police officers carry out operational activities for the purpose of, among other things, establishing the identity of persons responsible for such acts. However, the effectiveness of Police operations in this respect is limited due to the fact that a part of web-sites containing hate speech are hosted on servers installed in countries with respect to which there are limited possibilities of cooperation in the prosecution of such offences due to their respective legal provisions (USA, Korea, Malaysia, etc.). Often, even when a server of this type is identified, its administrators (IP operators or administrators responsible for server collocations) explain that connections are not registered because they do not have equipment and software for such registration. In addition, it has been found that administrators of websites (containing the contents in question) use servers which ensure anonymity of internet connections (proxy servers, TOR networks). This makes it practically impossible to obtain any findings, because an administrator’s connection with the server is redirected through several or a dozen or so countries with different and often mutually exclusive legislations or even lack of regulations.

**Point 90.** In accordance with the rule applicable in the Polish parliamentary law, the Parliament discontinues its work with the end of its term, therefore no legislative work has been undertaken by the *Sejm* on the *Government Draft of the Act Amending the Act –*

*Criminal Code and Certain Other Acts* (parliamentary document no. 1756) even though it had been referred to the *Sejm* of the 5th Term of the Republic of Poland in May 2007. *The Act on Amending the Act - Criminal Code* (parliamentary document no. 1288) is currently being drafted by Members of the *Sejm*. The solutions envisaged in it are similar to the ones contained in the above-mentioned government draft. The first reading of the said draft took place in the Parliament of the Republic of Poland on 17 December 2008 and was subsequently transferred for further examination by the Extraordinary Commission for Changes in Codification. Being aware of reasons for broadening the penalization scope arising from Article 256 of the *Criminal Code*, the Government prepared a statement recommending that the draft in question should be submitted for further legislative work. The report of the Standing Sub-Commission for Amending Criminal Law, which was set up by the Extraordinary Commission to examine draft amendments of criminal codes prepared by the Government and Members of Parliament, takes into account the amendment of Article 256 of the *Criminal Code* by incorporating additional paragraphs 2-4. The amendment introduces penal measures with respect to acts consisting of the production, printing, fixing, importing, acquiring, storing, possessing, presenting or transporting or transmitting for the purpose of its dissemination of a printed material, recording or other object with contents propagating fascism or other totalitarian state system or inciting to hatred on the grounds of differences in nationality, ethnic origin, race, religion or lack of religion. A justification was also introduced excluding the criminality of the above-mentioned acts, if such acts are performed exclusively for cultural, historical or educational purposes

**Point 91** – As has already been mentioned, a larger number of racist and anti-Semitic offences recorded in statistical sources which had been reported to the Police both by non-governmental organizations and victims themselves does not necessarily mean that the number of such incidents has increased. It should be taken into account that the Police and the National Prosecutor's Office are now more sensitive to this type of phenomena. One should also note that there is greater public awareness that racially-motivated acts, as well as other forbidden acts, should be punished and that the rights of people belonging to national and ethnic minorities can be more effectively enforced. Furthermore, the increase in the number of cases reported to law enforcement authorities may be an indication of greater trust in them among people belonging to national and ethnic minorities. Nonetheless, it is true that each case of this kind should be strongly opposed and strictly prosecuted. As regards the issues of combating and prosecution of anti-Semitic behaviours and cases of profanation of cemeteries which are significant for national minorities, one should note that policemen are sent on daily patrol duties in the vicinity of cemeteries to counteract acts of vandalism or profanation of necropolises. In addition, numerous training are organized for police officers to make them familiar with the above-mentioned issues. The organizational units of the Police are provided with a complete list of burial sites, monuments and historical objects of minorities, or lists of movable and immovable property and photographs of the most precious exhibits that can be found in areas policed by them. The Police is establishing closer cooperation with conservation officers, representatives of the Church, religious communities, Jewish communities, local authorities and cemetery administrators. At the Voivodeship Headquarters of the Police and at the Metropolitan Headquarters, an *Action Plan on Enhancing Anti-Discrimination Measures and on the Protection of Monuments and Cemeteries of Minorities out of Respect for them, and to Preserve the Common Heritage 2008 – 2009* is being implemented.

**Point 92.** Referring to the issue of racist and anti-Semitic incidents, it should be reiterated that since 2008 there has been a steady increase in the number of proceedings with respect to racist offences. However, the detection of such offences has also improved in the same period, while the number of indictments brought to courts has increased. In 2000-2003, the total of 7 indictments were filed, in 2004 - 6, in 2005 - 7, in 2006 - 12, in 2007 - 19 and two cases were

examined in an accelerated procedure in which no formal bill of indictment is required. 28 indictments were filed in 2008 and 5 in the 1st quarter of 2009. An increase in the number of proceedings is mainly due to the fact that the society is now more sensitive to all phenomena connected with intolerance and discrimination and all incidents are reported to law enforcement authorities. It is also due to the public outcry and the reaction of law enforcement bodies to all media information on such events. As a result, a larger number of proceedings are initiated *ex officio*.

**Point 93.** One cannot agree with the view presented in this point that racist, anti-Semitic and xenophobic incidents plague Polish stadiums without evoking any reaction. One should note that some of the measures proposed in the Opinion of the Advisory Committee, such as expulsion from the stadium, ban on access and matches played behind close doors have already been used in accordance with the Act of 22 August 1997 *on the Safety of Mass Events* (Journal of Laws of 2005 No. 108, item 909 with subsequent amendments). It should be emphasized, however, that these measures were not directly connected with counteracting racism, xenophobia and intolerance, but rather with the general rules associated with ensuring safety during mass events. Since 1 August this year, the Act of 20 March 2009 *on the Safety of Mass Events* has been in force (Journal of Laws No. 62, item 504). This Act introduces additional restrictions, for example, it obliges the organizer of a football match to ensure identification of persons participating in this event, i.e. the so-called club ban. Just as in the case of the previously applicable *Act on the Safety of Mass Events*, the measures in question apply not only to behaviour referred to in the Recommendation No. R(2001)6 of the Committee of Ministers of the Council of Europe for the Member States, but have a more general character and are intended to prevent disruptions of events and ensure that they can proceed as planned. In addition, the above-mentioned tasks constitute an important part of activities of the Polish Football Association (PZPN). The Polish Football Association adopted *Disciplinary Rules* which apply, among others, to clubs, players and coaches belonging to PZPN. The *Rules* provide for sanctions against racist and anti-Semitic offences in football stadiums. As it is envisaged in the *Rules*, clubs, players, coaches, activists and licensed organizers of football events may be punished with: financial penalty, ban to play matches before an audience, ban for organized groups of fans to participate in away matches or periodic disqualification for the above-mentioned offences.

*The Rules* lay down penalties for, among other things:

- a) chanting racist, fascist, anti-Semitic and nationalist slogans,
- b) insulting or offending a group of persons or particular persons on the grounds of national, racial, ethnic or religious affiliation or non-affiliation, committing any other discriminating act or demonstrating a contemptuous attitude to the above-mentioned persons,
- c) the display by supporters of banners, flags or other similar objects with discriminatory or contemptuous contents.

In addition, in accordance with the "*Rules on safety during tournaments organized by the Polish Football Association and Ekstraklasa S.A.*", adopted by resolution of the Management Board of the Polish Football Association no. X/110 of 10 July 2007, organizers of football tournaments of the Polish Football Association and Ekstraklasa S.A. are required to comply with the UEFA "*Ten Point Plan of Action Against Racism in Professional Football Clubs*". To increase the effectiveness of the fight with racism, xenophobia and intolerance in football stadiums, on 29 May 2009, the Management of the Polish Football Association adopted a resolution on detailed rules for displaying banners, flags, placards and other similar objects at football tournaments. The provisions of the above-mentioned resolutions introduce a procedure for displaying banners (2) and flags and prohibit, among other things, to present or display inscriptions, symbols or drawings:

- a) with totalitarian, fascist or racist contents,
- b) which incite intolerance, chauvinism, xenophobia,
- c) which insult any club or its representatives.

In addition, the Ministry of Sport and Tourism, together with other institutions (including the “Never Again” Association – a founding member of the European federation *Football Against Racism in Europe (FARE)*, which is an official partner of the UEFA and is engaged in projects aimed to combat racist attitudes in the football community) takes numerous measures to raise public awareness of these pathological phenomena in sport and undertakes initiatives aimed to encourage fans to condemn cases of racism and anti-Semitism in sport.

**Point 94.** In connection with the opinion expressed in this point, see related comments to points 83 and 89. It should also be observed that since 2004 there has been a network of plenipotentiaries for the protection of human rights in the Police, who perform tasks at the General Headquarters of the Police, the voivodeship headquarters and police schools. The plenipotentiaries are tasked, among other things, with dissemination and promotion of human rights issues among police officers, monitoring all discriminatory incidents and initiating and coordinating anti-discriminatory campaigns of the Police. An important part of their activities is the provision of training for police officers, which is organized locally as part of their professional development. Plenipotentiaries for the Protection of Human Rights of the Voivodeship/Metropolitan Headquarters of the Police provide trainings for officials, covering topics associated with counteracting racial discrimination and hate crime. At briefings, police officers are assigned specific tasks, such as constant monitoring of nationalist, racist and other communities or taking decisive action in the case when they are found to be engaged in activities detrimental to any social, national or religious group. In addition, the plenipotentiaries maintain contacts with representatives of national and ethnic minorities who live in a given area and monitor the reporting and investigation of acts when there are justified grounds for suspecting that such acts have been committed with racial or xenophobic motives or due to other hostility or antipathy to a given social group (including hate crimes). The Plenipotentiaries perform their tasks in cooperation with the Monitoring Team on Racism and Xenophobia of the Ministry of the Interior and Administration, the Ombudsman’s Office and the Helsinki Human Rights Foundation. In particular, this cooperation involves the provision of information on discriminatory incidents reported to the Police and on the manner of their handling by the Police. A similar structure of supernumerary plenipotentiaries for human rights was established in 2008 at the General Headquarters of the Border Guard.

**Point 95.** In connection with the opinion expressed in this point, see related comments to point 89. At the same time, it should be affirmed that the authorities intend to continue making every effort to ensure that all manifestations of racist, anti-Semitic and xenophobic activities are strictly prosecuted.

**Point 96.** The authorities remain committed to the goal of raising the awareness of non-discrimination issues among officials, law enforcement institutions, media and the judiciary. The actions that have been carried out thus far include regular trainings for public officials (the Police and students of police schools, Border Guard, Customs Service, Prison Service) and employees of the judiciary system and representatives of legal professions (attorneys, legal advisors, public prosecutors and those training for these professions). One of the examples of such trainings is the project: “*The Role of Public Prosecutors in Effective Counteraction of Discrimination*”, co-financed under the Community Equal Initiative. Within the framework of this project, anti-discrimination training was provided for public prosecutors who are involved in counteracting discrimination on the grounds of race, ethnic origin, religion and belief, age and sexual orientation. Another example is “*The Police Forum Against Discrimination*” – a training seminar organized in 2008 by the Ministry of the Interior and Administration, the General Headquarters of the Police and the Police School in Słupsk within the framework of the *Law Enforcement Officer Programme on Combating Hate Crime* – a programme initiated by OSCE-ODIHR and coordinated by the Ministry of the

Interior and Administration. After the Commander in Chief of the Police approves a programme of cascade training (central level – voivodeship level), organized within the framework of the above-mentioned *Programme*, trainings will begin in October 2009 in the Police School in Legionowo. Irrespective of the above, short training courses are organized for candidates for policemen within the framework of their preparatory service, and for police officers - as part of their continuous training. Other interesting training schemes include trainings for officials of the Border Guard, organized by the Foundation “Ocalenie” (Rescue), covering topics such as cultural and religious differences, the origin of refugees, war trauma and culture shock, or the following training organized within the framework of Phare Access 2003: “Improvement of communication and skills in resolving conflicts in detention centres in Poland and Hungary”. Other examples include trainings on professional ethics for customs officers, covering issues associated with the fight with racism, xenophobia and related intolerance. Between 2005 and 2009, 1650 customs officers from customs offices along the eastern border of the European Union have been trained on these issues. At the same time, Police headquarters are engaged in preventive activities in schools, such as meetings with young people and promotion of tolerant attitudes. For example, the Voivodeship Headquarters of the Police in Szczecin conducted training within the framework of the *Safe School Programme* for pupils, educationalists, teachers and parents (special parents-teacher meetings) to educate them on these issues. Furthermore, the Voivodeship Headquarters of the Police in Szczecin carried out a Police Study on Safety (a prophylactic initiative), which comprised lectures on the propagation of fascist contents, hate speech and fascist symbols. In Szczecin, a programme “*A Fan Worthy of a Medal*” has been carried out. It comprised, a conference “*Say no to aggression in the stadiums*”, during which violations of human rights were discussed in the context of propagation of fascist and racist contents in the stadiums. Other activities envisaged in this programme include training on hate speech for teachers of physical education and school coaches. Similar actions have also been taken in other voivodeships.

**Point 98.** In connection with the opinion expressed in this point, see related comments to point 93. It should also be mentioned that a number of measures have been taken to raise public awareness and to encourage fans to adopt attitudes condemning racism, in order to eliminate all manifestations of racism and xenophobia from sporting events. For example, the Ministry of Sport and Tourism, together with other institutions, takes steps to make the public more aware of pathological phenomena in sport and undertakes initiatives intended to encourage fans to condemn cases of racism and anti-Semitism in sport. In February 2009, a letter of intent was signed by the company PL.2012 and “Never Again” Association, which obliges both parties to cooperate in the attainment of the following goals:

- a) conducting a public awareness-raising campaign in the years preceding the 2012 UEFA European Football Championships,
  - b) consulting each other in matters relating to the actual content of pedagogical and educational programmes and campaigns supported by the Company and the Association,
  - c) creating a platform for cooperation with all stakeholders, in particular with the host cities of Euro 2012,
  - d) preparing staff who will be involved in ensuring safety during the 2012 UEFA European Football Championships and training them to react properly to racist or xenophobic incidents.
- Within the framework of this cooperation, the PL.2012 company was involved in the Anti-racist Football Championships of Poland, organized by the “Never Again” Association during the Woodstock Festival earlier this year. A list of racist and xenophobic symbols used by extremist organizations all over Europe is to be jointly drawn up. Additional training will be provided for stewards working in the stadiums and Fan Zones during 2012 UEFA European Football Championships to make them familiar with this list and enable them to correctly recognize and adequately react to the use of forbidden symbols by fans. During the 2012 UEFA European Football Championships, the “Never Again” Association will be conducting

an anti-racist campaign in the host cities of Euro 2012. At present, both entities plan to organize a campaign *Let's Kick Racism out of the Stadiums*. The Ministry of the Interior and Administration is implementing a number of preventive programmes to raise public awareness of the problem of racist and anti-Semitic incidents before, during and after football matches and to encourage fans to condemn racist attitudes and behaviour. For example, on 5 November 2008, four Ministers (of the Interior and Administration, Sport and Tourism, National Education and Health) met at the Main Centre of Sport in Warsaw to sign an Agreement on cooperation in implementing the programme *Sport as a Means of Counteracting Aggression and Pathology Among Children and Youth*. In addition, the following programmes are implemented at local level:

- *Pseudo Fan* (Rzeszów) - talks and discussion with the Police, city guards, players and fans of opposing teams
- *A Fan With Class* (Sosnowiec) - meetings and discussions with the Police, city guards, football players and fans on issues of hooligan attitudes and sanctions associated with them.
- *Fan* (Warsaw) - educational activities fostering proper habits and behaviour of fans, meetings with football players and supporters, demonstration of proper behaviour of fans,
- *I Know how to be a Fan – EURO 2012* (powiat of Mikołów) - meetings with football players combined with a multimedia presentation (a film showing two “versions” of fan behaviour).

Efforts will be continued in the forthcoming years to eradicate xenophobia, racism and anti-Semitism from sporting events.

### **Memorials to war victims**

**Point 102.** It should be explained that in Białystok, there are no plans to erect a memorial to commemorate "Belarusian victims" "killed by the Polish military or para-military formations during World War II and in its aftermath, as it is suggested in this point. The authors of the Opinion probably had in mind the shrine that is now being built next to the orthodox church in Białystok to honour the memory of Orthodox inhabitants of the Białystok region who were killed, murdered, went missing or who were tortured to death in the years 1939-56. There is nothing in the thematic scope and the timing of this commemoration, or in the declarations of members of the building committee or in the inscription on the commemorative plaque ("To orthodox victims of World War II, martyrs for faith and nationality in the years 1939-1956, the saints of the lands of Podlasie") that would justify the interpretation presented in this point by the authors of the Opinion.

**Point 103.** The first sentence of this point is completely untrue. It is not consistent with historical truth and takes not account of last years' events. In reality, the said memorials were not erected to commemorate victims, but fighters of the Ukrainian Insurgent Army – a military organization connected with the Organization of Ukrainian Nationalists. The tensions relating to these commemorations, as described in this point, resulted from different interpretations of historical facts. The commemorations proposed by the organizations of Ukrainian minorities were opposed by the local communities who, during the war, had often suffered cruelty from the hands of persons or organizations whose memory was to be honoured in the said commemorations. It should also be observed that the issue in question has already been resolved. Cemeteries in places mentioned in this point have already been cleaned up or the remains have been exhumed and buried in cemeteries in other locations. As stated in this point, memorials erected in Berżniki and Zakopane met with criticism from some minority representatives. It should be observed, however, that these memorials were erected on the initiative of the local communities. The criticism of some minority



organizations associated with the said memorials is mostly caused by different perceptions of historical events. It should also be explained that the memorial in Berzniki was erected on private land and there was nothing that the authorities could do about it.

**Point 104.** The Government draft of the Act on National Memorials envisages the establishment of a National Remembrance Office, which will replace the present Office of the Council for the Protection of Memory of Combat and Martyrdom. The Council for the Protection of Memory of Combat and Martyrdom will continue to exist in a reduced form as a specialised expert body fulfilling advisory functions in the newly-created Office.

**Point 105.** The Polish authorities conduct an ongoing dialogue on memorials important to national and ethnic minorities. This dialogue is aimed to find mutually satisfying solutions for the community of national and ethnic minorities and for Polish nationals who live in areas where these memorials are planned. The agreed solutions must be consistent with the applicable law and historical truth. A dialogue is also conducted in the Joint Commission of Government and National and Ethnic Minorities and at voivodeship level. In particular, the noteworthy initiatives in that respect include the ones taken by the Opolski and the Podkarpacki Voivodes. At the same time, it should be emphasized that in the case when commemorations planned by national and ethnic minorities are opposed by local communities, the Council for the Protection of Memory of Combat and Martyrdom undertakes mediation in order to find a mutually satisfying solution. Moreover, the Council endeavours to ensure that an inscription both in Polish and in the respective minority language is engraved on every memorial relating to national and ethnic minorities.

**Point 106.** The said project was discussed at the 15th session of the Joint Commission of Government and National and Ethnic Minorities on 15 April 2009.

## **ARTICLE 8**

### **The right to manifest religion or belief**

**Point 109.** The Ministry of the Interior and Administration has not received any information from representatives of the Karaim minority, neither during their working relations with the Ministry of the Interior and Administration nor through their representative in the Joint Commission of Government and National and Ethnic Minorities, that provisions of Article 42 of the Act of 17 May 1989 on the Guarantees of Freedom of Conscience and Religion (Consolidated version – Journal of Laws of 2005 No. 231, item 1965, with subsequent amendments) were not respected with regard to Karaims. Neither have such cases been reported by representatives of the Karaim Religious Association in the Republic of Poland during their contacts with the Ministry. If such cases arise, the Minister of the Interior and Administration, as the minister competent for religious denominations and national and ethnic minorities, can take proper action to safeguard the rights to which Karaims are entitled.

**Point 110** In accordance with the Act of 18 January 1951 on non-working days (Journal of Laws No. 4, item 28, with subsequent amendments) all Roman Catholic holidays referred to in Article 9 (1) of the Concordat between the Apostolic See and the Republic of Poland are at the same non-working days by law. In addition, the above Act specifies non-working days other than church holidays. As regards the obligation to work on another day to compensate for absence from work on religious holidays which are not official holidays, it should be noted that people belonging to churches and other religious communities celebrating their religious holidays on days other than official holidays may, at their request, be given time off work or study for religious observances as required by their religion on condition that they work on another day to compensate for this absence (Article 42 of the Act of 17 May 1989 on

the Guarantees of Freedom of Conscience and Religion (Journal of Laws of 2005, No. 231, item 1965, with subsequent amendments). Such a regulation does not differentiate the legal situation of employees of different religions, as every employee has the same number of non-working days to observe church holidays during a calendar year, regardless of their faith. What is important, it has been brought to the attention of the Ministry of the Interior and Administration and the Ministry of Education that citizens have the right to be given time off work or study for religious observances according to the Julian calendar on days other than official holidays. This issue was discussed during meetings of the Joint Team of Representatives of the Government and the Holy Synod of Bishops. During one of the meetings of the Joint Team, it was agreed that from 1 September 2008 there would be an additional employee at the School Inspectorate in the Podlaskie Voivodeship to provide assistance to individuals who wish to exercise their right to be given time off work or study in accordance with the Act of 17 May 1989 on the Guarantees of Freedom of Conscience and Religion. As it was also agreed by the Joint Team, in August 2008, the Minister of National Education forwarded a letter to school inspectors, informing them that followers of religions who celebrate their religious holidays according to the Julian calendar have the right to be given time off work or study on those days. The letter also reminded them that the school head to whom requests for time off work or study are directed pursuant to the applicable provisions of law is required to make arrangements to enable such employees to work on another day or to enable such pupils to catch up with their school work. In particular, the school head is obliged to ensure that no tests or exams are organized on those days, as it might cause complications for pupils and teachers who take time off for religious observances according to the Julian calendar.

## **ARTICLE 9**

### **Legislation on television and radio broadcasting in minority languages**

**Point 119.** To comment on the objection presented in this point that national and ethnic minorities are marginalized by public broadcasting institutions, it should be stated that any such marginalisation attempts are strongly opposed both by the National Broadcasting Council and the Ministry of the Interior and Administration. The Council has repeatedly asked the public broadcasting institution for explanations, within the framework of explanatory procedures initiated after complaints were received that programmes for national minorities had been discontinued or their broadcasting times had been changed to night hours. The Ministry of the Interior and Administration intervenes whenever it receives information on unfavourable decisions taken by public broadcasting institutions with respect to programmes for national and ethnic minorities or a community using the regional language, to make sure that persons belonging to a minority have access to programmes addressed to them. For example, in 2008, the interventions of the Ministry of the Interior and Administration related to the Kashubian Magazine "Rodnô Zemia" and television programmes for the German minority. In 2009, the Ministry intervened with respect to a magazine of the Ukrainian minority ("Telenowyny") and was involved in ensuring proper funding for the production of programmes for national and ethnic minorities from the Podlaskie Voivodeship. One should fully agree with the opinion that national and ethnic minorities and communities using the regional language are underrepresented in programming councils of public media. The Ministry of the Interior and Administration has recently contacted the National Broadcasting Council to intervene in this regard. To supplement the information contained in this point, one should add that two representatives recommended to the National Broadcasting Council by the Union of Ukrainians in Poland have recently been elected to programming councils (in Radio Rzeszów and Radio Koszalin). However, the other candidatures have not obtained the required majority of voices. The National Broadcasting Council has informed that it intends to step up its efforts to include representatives of the communities of national

and ethnic minorities in future programming councils, to which elections are to be held in 2010.

**Point 122.** In this point, the authors mention the low level of funding for the production of programmes for national and ethnic minorities and programmes in the regional language. The public broadcasting institutions, whom the Act makes responsible for the programme, explain that this is caused by budgetary constraints resulting from decreased receipts for television licences. Public radio broadcasting is particularly affected by this situation. In this case, the National Broadcasting Council is trying to mitigate the effects of this financial collapse. The problem may be solved, among other ways, by making a provision in the resolution, setting aside a portion of financial resources, which are transferred to regional radio stations from televisions and radio licences, for covering the costs of programmes addressed to national and ethnic minorities. For example, in 2008, special funds were allocated for Radio Olsztyn for a local programme addressed to the Ukrainian minority. As regards the minority organizations whom public broadcasting institutions asked to produce programmes using their own financial resources, it should be stated that such cases are inconsistent with the applicable laws and the Ministry of the Interior and Administration takes proper measures when they occur. In accordance with Article 21 (1a) point 8a of the Act of 29 December 1992 on Radio and Television Broadcasting (Journal of Laws of 2004 No. 253, item 2531 with subsequent amendments) public broadcasting institutions are obliged to “take account of the needs of national and ethnic minorities and the community using the regional language, *inter alia*, they are obliged to broadcast information programmes in the languages of national and ethnic minorities and in the regional language”.

**Point 124.** As has already been mentioned, the Ministry of the Interior and Administration has reminded the National Broadcasting Council of the requirement to include candidates recommended by organizations of national and ethnic minorities and the community using the regional language when establishing programming councils of regional branches of TVP S.A., in accordance with Article 30 (4a) of the Act of 29 December 1992 on Radio and Television Broadcasting (Journal of Laws of 2004 No. 253, item 2531, with subsequent amendments). The Ministry fully agrees with the opinion that the number of representatives of national and ethnic minorities and the community using the regional language in programming councils of public media is insufficient.

**Point 125.** To supplement the offer of radio and television programmes for national and ethnic minorities and the community using the regional language, the Minister of the Interior and Administration awards grants, in the manner prescribed in Article 18 of the Act on National and Ethnic Minorities and on Regional Language, for programmes in languages of national and ethnic minorities and in the regional language broadcast on the air of non-public broadcasting institutions. In 2008, the Minister’s grants made it possible to broadcast the programmes of the Kashubian Radio “Kaszëbë” and the Belarusian Radio “Racja”. In addition, the Ministry of the Interior and Administration provided financial support for the broadcasting of radio programmes in German on the air of Radio Vanessa in Racibórz and Radio Park FM in Kędzierzyn-Koźle.

**Point 126.** On 6 April 2009, participants of the 15th session of the Joint Commission of Government and National and Ethnic Minorities discussed a draft act on public tasks in media services. The above-mentioned draft is intended to supplement the Act of 29 December 1992 on Radio and Television Broadcasting. As a result of this discussion, the Commission drew up an opinion on the draft, which was forwarded to the Culture and Media Commission of the *Sejm*. Any new drafts of amendments of the Act on Radio and Television Broadcasting which relate to national and ethnic minorities and the community using the regional language will also be discussed by the Joint Commission of Government and National Minorities.

## ARTICLE 10

### Use of minority languages in relations with administrative authorities

**Point 130.** In addition to the stated information, it should be mentioned that, as of 25 September 2009, 28 municipalities were registered in the Official Register of Municipalities where a Supporting Language is Used, including 22 municipalities with German (Opolskie Voivodeship), 3 municipalities with Belarusian (Podlaskie Voivodeship), one municipality with Lithuanian (Podlaskie Voivodeship) and two municipalities with Kashubian (Pomorskie Voivodeship).

**Point 131.** As mentioned before, the government administration encourages minorities to make full use of the provisions of the Act on National and Ethnic Minorities and on Regional Language, which enable them to enter a municipality in the *Official Register of Municipalities where a Supporting Language is Used*. It should be emphasized that, in 2008, the Minister of the Interior and Administration announced an open competition for proposals of tasks promoting the use of minority languages in relations with municipal bodies or the use of the regional language as a supporting language and additional use of traditional place-names. Two projects (a photo exhibition and a symposium) promoting the use of additional names in minority languages were co-financed during this competition. One of the co-financed projects was carried out in communities of the Belarusian minority in Poland. What is important, after completing the co-funded project, two more municipalities applied to the Ministry of the Interior and Administration for inclusion in the *Official Register of Municipalities where a Supporting Language is Used*.

**Point 133.** As mentioned before, representatives of national and ethnic minorities and of communities using the regional language have not, neither at the stage of work on the Act on National and Ethnic Minorities and on Regional Language nor during its present implementation, voiced an opinion that the scope of use of the supporting language should be extended to the bodies or institution mentioned in this paragraph.

**Point 134.** In accordance with Article 9 (3) of the Act on National and Ethnic Minorities and on Regional Language, the right to use the supporting language entails the right of people belonging to minorities to apply to the municipal authorities orally or in writing and to obtain, at their explicit request, an answer, orally or in writing, in the supporting language. Therefore, one cannot agree with the opinion presented in this point that no official documents can be delivered by municipalities in the supporting language. As can be seen, a person belonging to a minority can conduct all correspondence with the municipal authorities in the supporting language. As concerns official documents issued by municipal offices which also relate to third persons, the possibility to issue them in supporting languages has not been envisaged by the legislator.

**Point 135.** In accordance with Article 11 (1) of the Act on National and Ethnic Minorities and on Regional Language, employees who work in the municipal office, auxiliary municipal bodies or in municipal entities and budgetary establishments may receive a special salary supplement if they can speak a supporting language. The government administration have no influence on decisions of the authorities of municipalities registered in the Register relating to the award or non-award of such a supplement.

**Point 137.** The 20 % threshold referred to in the Act on National and Ethnic Minorities and on Regional Language for persons belonging to a minority in a municipality which applies for an entry in the *Official Register of Municipalities where a Supporting Language is Used* was

established as a result of a compromise reached when the Act was being drawn up. In the opinion of the Polish authorities, there is currently no need for this threshold to be modified.

## ARTICLE 11

### Personal names

**Point 140.** No difficulties with using first names and surnames in a version consistent with the spelling rules of mother tongues of minorities have been reported to the Ministry of the Interior and Administration by representatives of national and ethnic minorities, neither during working contacts with the Ministry of the Interior and Administration, nor through their representatives in the Joint Commission of Government and National and Ethnic Minorities. The Ministry has received no information about complaints that first names and surnames could not be changed in accordance with the spelling rules of the relevant minority language. If such problems had taken place, they should have been reported immediately to enable the Ministry to take proper action.

**Point 141.** In accordance with Article 7 (1) of the Act on National and Ethnic Minorities and on Regional Language, persons belonging to minorities have the right to use and spell their first names and surnames in accordance with the spelling rules of their respective language, in particular, to use them in civil status documents and identity documents. This provision likewise applies to persons spelling their surnames in German, Czech, Slovak and Lithuanian.

**Point 142.** As has already been mentioned in comments to point 140, representatives of the administration have as yet received no information that persons belonging to national and ethnic minorities encounter any problems with using their first names and surnames in a version consistent with the spelling rules of the relevant minority language. For this reason, the Ministry of the Interior and Administration believes that there is currently no need to introduce special programmes or projects to raise the officials' awareness in this respect.

**Point 143.** In the opinion of the Ministry of the Interior and Administration, this right is fully respected in Poland and there are no problems with its enforcement.

### Bilingual topographical indications and other inscriptions

**Point 145.** As mentioned before, the Act of 6 January 2005 on National and Ethnic Minorities and on Regional Language (Journal of Laws No. 17, item 141, with subsequent amendments) has made it possible to use additional names of places and physiographic objects in minority languages also in these municipalities where persons belonging to a minority account for less than 20 % of all inhabitants. In such municipalities, all that is required is the consent of a simple majority of residents taking part in social consultations.

**Point 146.** In addition to information presented in this point, it should be mentioned that, as of 25 September 2009, 21 municipalities have been entered in the *Official Register of Municipalities on whose Territory Names in a Minority Language are Used*. Names in German, Lithuanian, Kashubian or Lemko are additionally used there.

**Point 148.** In connection with the opinion expressed in this point, see related comments to point 145.

**Point 150.** In accordance with Article 9 (1) of the Act of 29 August 2003 on Official Names of Places and Physiographic Objects (Journal of Laws No. 166, item 1612, with subsequent amendments), the Register of Official Names of Topographical Indications will be drawn up

by the Minister competent for matters of public administration within 10 years of the entry into force of the said Act.

**Point 152.** Article 12 (4) of the Act on National and Ethnic Minorities and on Regional Language clearly indicates that additional names may be introduced in the entire municipality. None of the provisions of the said Act suggest that boards with additional names of places and physiographic objects in minority languages may only be displayed along local roads. When asked about the interpretation of these provisions, the Ministry of the Interior and Administration recommended that road administrators should not introduce any restrictions, as it would be contrary to the applicable law.

**Point 153.** In connection with the opinion expressed in this point, see related comments to point 150. In addition, there have been no reports that the lack of the official register of names limits the right to use additional names.

**Point 154.** In connection with the opinion expressed in this point, see related comments to point 152. In addition, this issue has been examined by the Joint Commission of Government and National and Ethnic Minorities. It was also discussed by representatives of the Ministry of the Interior and Administration during a training organized in 2008 for employees of voivodship offices who deal with issues of national and ethnic minorities.

## **ARTICLE 12**

### **Intercultural dimension of education**

**Point 157.** With reference to the critical remarks contained in this point, it should be mentioned that from the 2009/2010 school year onwards essential changes in school curricula will be introduced. Pursuant to the provisions of the regulation of the Minister of National Education of 23 December 2008 on the core curriculum for pre-school and general education in particular types of schools (Journal of Laws of 2009, No. 4, item 17), a new core curriculum will apply in schools. As a result of this change, school curricula have been revised to incorporate extended modules on national and ethnic minorities in Poland, their history, culture, traditions and rights to which they are entitled. In particular, the above topics have been incorporated in the subject *history and society* at the primary school level and the subjects *history* and *civic education* at the lower and upper secondary school level. Moreover, the new core curriculum comprises additional information on human rights, which is essential for educating the young generation in the spirit of respect for other cultures and traditions and for counteracting racial discrimination. A textbook is approved for school use only after experts confirm that it is consistent with the core curriculum. This means that textbooks for the subjects *history and society* for pupils of primary schools and the subjects *history* and *civic education* for pupils of lower and upper secondary schools must contain modules on the history, culture and traditions of national and ethnic minorities in Poland.

**Point 158.** In connection with the opinion expressed in this point, see related comments to point 157.

### **Roma children in educational establishments**

**Point 162.** We agree with the opinion of the Advisory Committee that one of the factors which hinder the integration of Roma is their stereotypical and prejudiced portrayal among the non-Roma majority. Yet it should be explained that, within the framework of instruments that are available in Poland, steps are taken to provide teachers and the public at large with

reliable knowledge about Roma. Within the framework of the *Programme for the Roma Community in Poland*, a postgraduate course “The Situation of Roma in Poland – history, law, culture and ethnic stereotypes” was organized in 2004 at the Pedagogical University of Cracow (Uniwersytet Pedagogiczny im. KEN). The course is assumed to equip students with key skills that are needed to develop and implement strategies and programmes aimed to improve the situation of the Roma community. It is also expected to provide teachers and educationalists with instruments for effective work with Roma youth. The course participants have an opportunity to acquire and deepen their knowledge about the Roma society (its history, culture and specific characteristics of the community) and its situation in the contemporary world. The course is addressed to teachers and school guidance councillors, employees of central, voivodeship and self-government offices, as well as researchers and NGO activists and journalists of all types of media. Between 2004 and 2009, three such two-term courses were organized for the total of about 90 students (including a few students of Roma origin). During this course, some classes are taught by Roma too. Moreover, trainings for Roma educational assistants are financed every year under the *Programme* to help them develop and upgrade their skills. An important element of the above-mentioned activities is the publication of educational packages and textbooks for professionals working with children and youth of Roma origin. It should also be reiterated that, following the amendment of the educational laws in 2008, school curricula have been revised to incorporate information on national and ethnic minorities living in Poland, their history, culture, traditions and rights to which they are entitled. Pursuant to the provisions of the regulation of the Minister of National Education of 23 December 2008 on the core curriculum for pre-school and general education in particular types of schools (Journal of Laws of 2009, No. 4, item), the above topics have been mostly included in the curriculum for the subject *history and society* at the primary school level and *history and civic education* at the lower and upper secondary school level. In addition, the new core curriculum comprises information on human rights, which is essential for educating the young generation in the spirit of respect for other cultures and traditions and for counteracting racial discrimination. At the same time, it should be pointed out that, in accordance with Article 18 of the Act on National and Ethnic Minorities and on Regional Language, grants are awarded each year from the budget of the Minister of the Interior and Administration for the completion of tasks intended to foster knowledge about minorities. The co-financed tasks include also those which contribute to the dissemination of knowledge about the Roma minority.

**Point 163.** The reaction evoked by all types of discrimination proves that the Polish society does not consent to it. Such a reaction could also be observed in the case of the Roma pupils in Maszkowice. It became the topic of a wide social debate and was investigated by the Parliamentary Commission for National and Ethnic Minorities, central administration offices and the authorities of the Małopolskie Voivodeship. Meetings were held at the Voivodeship Office in Cracow to discuss this matter and other problems affecting the Roma community in Maszkowice. The problems of the Roma in Maszkowice are the subject of particular concern of the Ministry of National Education, which cooperates in this regard with the Ministry of the Interior and Administration, the Ombudsman’s Bureau and the self-government of the Małopolskie Voivodeship. Several meetings have also been held to discuss the above matter with representatives of administration (Ministry of National Education, Ministry of the Interior and Administration, the School Inspectorate), the local authorities and the Roma. Inquiries have also been made by the Ombudsman.

**Point 164.** As has already been mentioned at a press conference on the functioning of “Roma classes” in Poland organized by the Minister of the Interior and Administration in November 2008, a strategy was adopted on the elimination of Roma classes, in agreement with school heads, teachers and representatives of the local governments concerned. It was assumed that in the school year 2009/2010 there would be no intake of pupils to Roma classes, while the

already existing Roma classes would be gradually discontinued. Roma pupils who start their schooling will learn in the same classes with their non-Roma peers. Schools have been obliged to ensure appropriate psychological and educational assistance for Roma pupils who require special support because of their poor command of Polish or because of school adaptation problems. In addition, the Minister of National Education, in the letter of 20 August 2008, requested school superintendents to take measures to discontinue the still remaining Roma classes. The Minister recommended that the opportunities offered by the multiannual governmental Programme for the Roma Community in Poland, and the possibility of refunding costs (by increasing the educational subsidy) of additional educational tasks undertaken by the school for Roma pupils, should be used to provide educational support for Roma pupils of compulsory school age who learn in the same classes with their non-Roma peers. If such a need arises, the school should provide them with individual supplementary tuition in Polish and other subjects, tailored to their needs and possibilities. The issue of elimination of Roma classes was also discussed during a meeting of the directorate of the Ministry of National Education with school superintendents before the beginning of the 2008/09 school year. In the school year 2008/2009, there were 6 separate classes for pupils of Roma origin in only three educational establishments (primary schools in Ełk, Maszkowice and Nowy Sącz). In the school year 2009/2010, such classes exist in only two schools: Maszkowice and Ełk (according to the data contained in the *Programme for the Roma Community in Poland*, in 2003, there were about 200 pupils in a dozen or so "Roma classes"). Such classes are attended by Roma children and youth who, on account of their age, should be at a higher level of their schooling and children with respect to whom the educational requirements have been lowered, as well as children who lag behind in their school work or who repeat classes because they do not make any progress or have a very low attendance rate. The Minister of the Interior and Administration monitors, on an ongoing basis, the process of discontinuing "Roma classes" and the integration of children from these classes into the mainstream school system.

**Point 165.** In connection with the opinion expressed in this point, see related comments to point 162.

## ARTICLE 13

### Private education for national minorities

**Point 166.** One cannot agree with the statement that the establishment of the private school resulted from the closure of several small village schools in the municipality of Sejny. In reality, the Lithuanian minority had aspired for many years to establish a centre of Lithuanian education in Sejny and that ambition has been fulfilled. There are also provisions to that effect in the *Strategy for the Development of the Lithuanian Minority in Poland*, a document co-authored by representatives of the Lithuanian minority, government administration and the local authorities. As regards irregularities in the transfer by the local authorities of Sejny of budgetary funds for the functioning of the "Žiburys" School with Instruction in Lithuanian in Sejny, which are mentioned in this point, it should be explained that when the School was first opened (in December 2005) a problem arose with the transfer by the local authorities of budgetary funds for running the school. In accordance with the education laws, in the case of a non-public school with the status of a public school (and "Žiburys" has such a status), budgetary funds are transferred to the school's governing body through the intermediary of the relevant local government entity. The Bishop Antanas Baranauskas Foundation "Lithuanian House" in Sejny (the school's governing body) reported that the local authorities of Sejny had not transferred the full amount of funds received from the State budget. The



Ministry of the Interior and Administration repeatedly contacted the local authorities to intervene in this matter. This issue was also discussed during meetings held to monitor the implementation of the *Strategy for the Development of Education of the Lithuanian Minority in Poland*. As a result, there has been a decisive improvement in the timeliness of the transfer of funds and their amount. In December 2007, the authorities of Sejny transferred an extra amount to compensate for the difference between the funds transferred to the town of Sejny from the State budget for the functioning of the Primary School and the Lower Secondary School "Žiburys" in Sejny and the funds that the School had actually received that year. In 2008, funds from the subsidy were transferred to the Bishop Antanas Baranauskas Foundation in a timely manner and in the full amount and the Lithuanian minority organizations minority made no complains in this regard. In 2009, these funds have also been transferred in a timely manner and in the amount consistent with the applicable provisions. All actions with respect to this school have been regularly consulted with the Lithuanian minority organizations. At present, the school receives the same amount of funds as public schools, increased by 150% per pupil. In spite of this, the funds transferred as the educational subsidy are insufficient to cover the yearly costs of running the school. Also in the case of all other schools, both the educational portion of the general subsidy forwarded to self-government entities for running public schools and the grant transferred through the intermediary of the local government entities to the governing bodies of non-public schools are insufficient to cover the full costs of running these schools. Local authorities supplement these amounts from their own budgets, whereas legal or natural persons who run non-public schools introduce tuition fees or try to obtain funds from other sources, e.g. by looking for sponsors. To support the activities of the school, by decision of 18 February 2009, the Minister of the Interior and Administration awarded a specified-user subsidy for the Bishop Antanas Baranauskas Foundation "Lithuanian House" in the amount of 129 404 PLN (totalling 113 875.72 PLN in 2007 and 123 500 PLN in 2008). As concerns the objection that the method of calculating funds is not transparent, it should be pointed out that both the school authorities and the Lithuanian minority organizations in Poland have been informed many times by representatives of the Ministry of National Education and the Ministry of the Interior and Administration about the rules for calculating the amount of the educational subsidy. Therefore, one cannot agree with the opinion that the rules are unclear. These rules apply to all educational establishments in the whole country.

**Point 167.** As has already been mentioned in the comments to point 166, this issue has been satisfactorily resolved and there are no longer any doubts associated with it. To avoid similar problems in the future, the Polish authorities continue to monitor the transfer of funds from the subsidy to the school.

## **ARTICLE 14**

### **Minority language teaching**

**Point 171** To clarify the information contained in this point, it should be explained that, in accordance with the ordinance of the Minister of National Education, the authorities which run schools for national minorities (local government entities) receive educational subsidy from the State budget increased by 20% or by 150% for pupils from classes and schools for national and ethnic minorities, the communities using the regional language and for Roma pupils for whom additional tuition is provided by the school. The subsidy is increased by 150% in the case of primary schools in which the total number of pupils attending classes for a national or ethnic minority or for a community using the regional language or for pupils of

Roma origin does not exceed 84 and in the case of lower and upper secondary schools with no more than 42 such pupils. The subsidy was first increased by 50% (from 2002), then by 100% (from 2005) and finally by 150% (from 2006) in line with the requests of national and ethnic minorities.

**Point 174.** The choice of the upper secondary school is left to the complete discretion of the pupil and his or her parents. A class with instruction in a minority language can be organized when there are at least fourteen pupils interested in learning it. If there is a smaller number of pupils interested in learning a minority language, the teaching of that language can be organized in an inter-grade group or in an inter-school group (three interested pupils are enough to organize such a group). The teaching of a minority language may be organized even when the number of applications is smaller, because the school still has a number of organizational options at its disposal. The possibility of obtaining an increased subsidy by the governing body (in the case of public schools) or a grant (in the case of non-public schools) for teaching the language of a national or ethnic minority is not limited by the 14-pupil criterion either. The number of pupils for whom upper secondary schools provide classes in a minority language may be lower. In such a case, the grant and the subsidy are calculated per each pupil who attends these classes. The problem of decreasing number of pupils who wish to continue learning a minority language relates mostly to the German minority. This issue was described in the *Strategy for the Development of Education for the German Minority in Poland*, signed by the Minister of the Interior and Administration and the Minister of National Education in 2007. It was regarded as one of essential problems that had to be taken into account in planning educational activities for the German minority in Poland.

**Point 175.** The situation described in this point, relating only to pupils from the German minority, results from the fact that German has a double status in the Polish education system: it is one of modern foreign languages and it is also the officially recognized language of the German minority. The introduction of the second modern foreign language as a compulsory subject for all pupils of lower secondary schools is intended to improve their language competence. To assess the results of teaching modern foreign languages and thus to evaluate the effectiveness of particular schools in this regard, an exam is carried out according to the same criteria for all pupils of lower-secondary schools in the whole country. German may be learnt as a modern foreign language which is a compulsory subject, with an exam in German taken in the third part of the lower secondary school exam. Even when a pupil belonging to a national minority learns German as a modern foreign language, it does not limit his or her rights associated with maintaining his or her national, linguistic and cultural identity as a member of a national or ethnic minority. Such a pupil may submit a written request for additional classes provided by the school to help him or her to maintain his or her national identity. German as a minority language is taught outside regular school hours, according to curricula and textbooks which satisfy the requirement of consistency with the core curriculum in the section relating to the language of a national or ethnic minority. When the school provides additional classes to teach a language of a national or ethnic minority, its governing body is entitled to receive an increased subsidy, appropriately calculated per each minority pupil who has submitted a written application in accordance with the provision of § 2 of the Regulation of the Minister of National Education of 14 November 2007 on conditions and manner of the performance by kindergartens, schools and public establishments of tasks intended to maintain the national, ethnic and linguistic identity of pupils belonging to national and ethnic minorities and the community using the regional language (Journal of Laws of 2007, No. 2007, item). A school where a part of pupils who learn German as a modern foreign language have applied in writing for additional classes in German as a minority language to support their national identity, should plan school classes in such a way so as to enable these pupils to learn both these subjects - the compulsory one and the additional one.

**Point 176.** Both curricula and textbooks for learning a language of a national or ethnic minority or the history and geography of its country of origin are written by teachers from the communities concerned. The Minister of National Education only prepares a core curriculum, according to which curricula and school books are written, whereas it is the task of the school to prepare a set of school curricula. The Ministry of National Education encourages school communities to be actively involved in the preparation of curricula and school books and provides funds for their production and publication. School books for national minorities are given to pupils free of charge.

**Point 177.** As it has been explained in the commentary to point 176, it is the task of teachers from the Kashubian community to prepare curricula and textbooks for learning the regional language - Kashubian. Just as in the case of national and ethnic minorities, the Ministry of National Education provides funds for their production, publication and distribution pursuant to agreements concluded with the Kashubian-Pomeranian Association. The University of Gdańsk has launched a new course of study, set to begin with the winter term of the academic year 2009/2010: Polish philology with Kashubian specialisation, which will probably significantly increase the number of teachers of the Kashubian language and improve their professional qualifications.

**Point 178.** As has already been mentioned, beginning with the academic year 2009/2010, the University of Gdańsk has launched a new course of study – Polish philology with Kashubian specialisation, which will have a significant effect on increasing the number of qualified teachers of the Kashubian language.

**Point 179.** Education laws do allow schools to organize teaching in the Romani language. The lack of instruction in this language is mainly due to the fact that the Roma appear to be uninterested in the organization of teaching of the Romani language in the public education system. During one of the meetings of the Team for Roma Affairs of the Joint Commission of Government and National and Ethnic Minorities, representatives of this community objected to the introduction of the Romani language in schools, justifying it with cultural reasons. Nonetheless, the government administration intends to continue encouraging Roma to agree to the introduction of their language into the education system. However, as it is pointed out by representatives of the administration, this process cannot take place without the approval of the Roma themselves. Another problem is associated with the current shortage of qualified teachers of this language. There are also difficulties with the standardisation of the Romani language, which additionally hinders the introduction of teaching of that language in public schools. Prompted by a concern that the Romani language should be preserved and bearing in mind the need to provide support for initiatives promoting instruction in and of the Romani language in schools, in 2008 the Ministry of the Interior and Administration and the Ministry of National Education appointed a group of experts to deal with issues of the Romani language. The outcome of their work is the preparation of a standard Romani alphabet and the publication of spelling books for Roma children in the dialects of the Polska Roma and of the Bergitka Roma. Due to financial constraints, the activities of the group were suspended in 2009. In addition, a project “I know, I read, I understand – a method of teaching Roma children to read” will be implemented in 2009 and 2010 within the framework of Sub-action 1.3.1 of the Operational Programme Human Capital – *Projects for the Roma Community*. Under this project, an educational package for teaching the Romani language (in two dialects) is to be prepared for supporting teachers and Roma educational assistants and a training cycle on methodology of teaching the Romani language to children is to be organized. In addition, within the framework of the *Programme for the Roma Community in Poland*, funding is provided for the already-mentioned postgraduate course *The Situation of Roma in Poland – history, law, culture and ethnic stereotypes* (see points 162 and 165). It has been decided that

in the academic year 2010/2011 the course will be extended to incorporate a study module on the basics of the Romani language in the Bergitka Roma dialect.

**Point 180.** The Polish laws do not set any limits on the demand for instruction in and of a language of national and ethnic minorities. The annually collected statistical data show that there is a growing demand for teaching of languages of particular minorities (German minority, Kashubian community) or that it remains stable despite the continuing demographic decline. The above is also confirmed by the increased amount of the educational portion of the general subsidy for organizing school classes in minority languages, which has been growing from one year to the next. The issues associated with the organization of teaching of languages of national and ethnic minorities are regularly examined by the Joint Commission of Government and National and Ethnic Minorities.

**Point 181.** As mentioned before, the issues associated with the organization of instruction in and of a language of national and ethnic minorities are regularly discussed by the Joint Commission of Government and National and Ethnic Minorities.

**Point 182.** The rules for designing curricula and writing school books for national and ethnic minorities and the Kashubian community, and State aid for the preparation of adequate teaching facilities, have been outlined in comments to points 176, 177 and 178. It should also be added that the Ministry of National Education not only provides funds for the production, printing and distribution of curricula and school books for pupils from particular minorities, but also for thematic dictionaries and learning aids for pupils and methodology handbooks for teachers.

**Point 183.** With reference to the statement contained in this point, it should be clearly emphasised that there is no Kashubian minority in Poland. The list of national and ethnic minorities has been set out in Article 2 of the Act on National and Ethnic Minorities and on Regional Language. On the other hand, in accordance with Article 19 of the said Act, the Kashubian language - the only language with the status of a regional language - does enjoy legal protection in Poland.

**Point 184.** The competent departments have for a long time endeavoured to maintain the Lemko philology department at the Pedagogical Academy in Cracow (currently renamed as the Pedagogical University in Cracow), to open a Kashubian philology department at the University of Gdańsk and to provide methodology courses for German philology students at the University of Opole to prepare them for teaching German as a national minority language. These issues have been discussed in the Joint Commission of Government and National and Ethnic Minorities and during meetings between representatives of central offices and representatives of higher education institutions and teachers' centres. At present, most of the above-mentioned issues are close to a satisfactory resolution. As follows from information in our possession, the University of Gdańsk has launched a new course of study, set to begin with the winter term of the academic year 2009/2010: Polish philology with Kashubian specialization. Since 2007, the Ministry of the Interior and Administration has been providing support for the Russian philology programme with Lemko-Rusyn language at the Pedagogical University in Cracow, pursuant to the provisions of Article 18 of the Act on National and Ethnic Minorities and on Regional Language. As concerns the creation of a course of study for teachers for the schools of the German minority, it should be noted that the State Higher Vocational School in Nysa is now considering the feasibility of postgraduate studies for teachers of "German language as a national minority language", set to begin from the academic year 2009/2010. Whether this new course of study will be established or not depends on the number of students interested in such studies (candidates are currently being recruited).

**Point 185.** As has already been mentioned in comments to point 179, a team was set up in 2008 to work on the codification of the Romani language and to prepare a spelling book in the two Romani dialects (in the language of Roma from the Polska Roma group and the Bergitka language of Carpathian Roma). The aim of the team's activities is to prepare for the production of the teaching facilities required to introduce the teaching of the Romani language as soon as the Roma community in Poland expresses interest in the organization of such teaching in the public education system.

## ARTICLE 15

### Minority representation in elected bodies

**Point 191.** One cannot agree with the view presented in this point that the smaller number of Members of the *Sejm* elected from the lists of committees of national minorities may lead to further marginalisation of minority issues in public debate. According to the Ministry of the Interior and Administration, the fact that Members of the *Sejm* belonging to minorities are given top places on electoral lists of national political parties (Civic Platform, Democratic Left Alliance) may be an indication that the issues of national and ethnic minorities have been incorporated in the political programmes of these parties. It should also be observed that only the number of MPs elected from the lists of the German minority has decreased in comparison with the 2005 parliamentary elections (although a candidate representing the Ukrainian minority did win a seat in the *Sejm*). The German minority is the only minority that has benefited and still benefits from the provisions of the Act of 12 April 2001 on Elections to the *Sejm* of the Republic of Poland and to the Senate of the Republic of Poland, which exempt electoral committees set up by national minorities from the 5% electoral threshold. The same provisions were in force both in 2005 and 2007 and a smaller number of votes obtained by the electoral committee of the German minority, which prevented an additional candidate from winning a seat in the *Sejm*, merely reflects the preferences of voters. In the opinion of the Polish authorities, the recently adopted regulations enable communities of national and ethnic minorities to compete for seats in the *Sejm* and the Senate under preferential conditions, which are nonetheless consistent with the spirit of democracy. This does not mean, of course, that the authorities are not open for a dialogue with communities of national and ethnic minorities to ensure their representation in the *Sejm* of the Republic of Poland.

**Point 192.** Following the 2007 elections, in the *Sejm* of the Republic of Poland there is one Member representing the Ukrainian minority, elected from the list of the Civic Platform electoral committee. Also in 1993 and 1997, a seat was won by a candidate of the Freedom Union representing the Ukrainian community. It seems that political parties are trying to win votes of the Ukrainian minority by offering its representative high places on their electoral lists. At the same time, it should be added that the authorities are open for a dialogue with representatives of the Ukrainian minority on introducing solutions which are acceptable to that minority in this respect without contravening the applicable laws and the "spirit of democracy". The issue of the electoral law and provisions that would reinforce the representation of national and ethnic minorities in the *Sejm* was discussed at the 18th session of the Joint Commission of Government and National and Ethnic Minorities, which took place on 23 September 2009.

**Point 193.** One should fully share the concern of the authors of the Opinion that there are no representatives of the Roma minority in elected authorities. In the 2006 local elections, candidates representing this minority stood for election to some municipal authorities of the Mazowieckie, Małopolskie, Opolskie and Dolnośląskie voivodeships from lists of different electoral committees. However, no seat was won by candidates associated with this minority.

In the opinion of the Ministry of the Interior and Administration, this situation is caused by the low level of citizens' awareness of the Roma minority and their insufficient interest in taking part in elections. It should be emphasized that measures are instituted within the framework of the *Programme for the Roma Community in Poland* to increase the participation of the Roma community in the civil society. However, government administration bodies have no influence on whether or not the Roma exercise their passive electoral rights at the local or central level.

**Point 194.** The Polish authorities are open for a dialogue with representatives of national and ethnic minorities to ensure their greater participation in the political life of the country. The Joint Commission of Government and National and Ethnic Minorities does provide a ground for conducting such a dialogue. It should be added that during the 18th session of the Commission on 23 September 2009, the rules for elections to the *Sejm* and Senate of the Republic of Poland, municipal councils, poviats councils and regional assemblies (voivodship sejmiks) were discussed in the context of political aspirations of the communities of national and ethnic minorities.

### **Consultative mechanisms**

**Point 199.** The amount of funds allocated for actions supporting the maintenance and development of the cultural identity of national and ethnic minorities and the preservation and development of the regional language depends exclusively on the budgetary possibilities of the State. Every year, the Minister of the Interior and Administration, as the minister competent for matters of religious denominations and national and ethnic minorities, requests that an appropriate reserve of funds be set aside for this purpose in the State's draft budget for the next year. It is essential to note that, as observed by the authors of the Opinion, this amount increased significantly with the entry into force of the Act on National and Ethnic Minorities and on Regional Language. As regards the opinion of minority representatives which is referred to in this point, it should be clearly emphasized that the amount of funds allocated each year for actions supporting the maintenance and development of the cultural identity of national and ethnic minorities and for the preservation and development of the regional a language is by no means correlated with the amount of funds provided to support the Polish minority and people of Polish ancestry living outside Poland.

**Point 201.** As already mentioned, measures are taken within the framework of the *Programme for the Roma Community in Poland* to increase the participation of the Roma community in the civil society. Every year, funds are provided for Citizens Advice Bureaus, which exist in several voivodeships, and for assistance in setting up new establishments of this type, as well as for organizational and technical support for Roma organizations. Financial resources are also allocated under the *Programme* for the organization of consultative meetings with the Roma community, local authorities, non-governmental organizations, municipal guards and the Police.

### **Effective participation of Roma in social and economic life**

**Point 202.** In the opinion of the authorities, funds that are currently allocated for the fulfilment of tasks associated with maintaining and development of the cultural identity of national and ethnic minorities and with preservation and development of the regional language allow the minorities to cultivate and develop their identity and culture. If financial resources permit it, the bodies responsible for matters of national and ethnic minorities and the regional language will be trying to gradually increase these funds.

**Point 204.** Sharing the concern of the Advisory Committee that the health situation, living conditions and access to the labour market for Roma must improve, every year, the Minister of the Interior and Administration monitors the implementation of the *Programme for the Roma Community in Poland*. After five years of its implementation, the *Programme* is bringing gradual improvement not only in the area of education, but also in the exercise by the Roma of their right to housing, employment, access to health care and social assistance. Some measures aimed to improve welfare conditions have been described in the comments to point 59, such as the actions taken by the government administration to improve the living conditions of the Roma in Poland, especially in the settlements inhabited by the Roma community in the Małopolskie voivodeship. The difficult living conditions of the Roma have an effect on their health. The actions taken to ensure health prophylaxis in a broader sense include, among other things, the employment of community nurses or co-financing their work. Community nurses provide direct health care and medical advice and distribute medicines and personal hygiene products purchased from grants. The number of community nurses is steadily increasing - 6 nurses were employed in 2005, 13 in 2006, 14 in 2007 and 35 in 2008. Apart from the above-mentioned activities, important supplementary measures are taken, such as: prophylactic examinations, preventive vaccinations and the so-called “white days” during which advice can be obtained free of charge from different medical specialists. The number of Roma covered by prophylactic examinations and preventive vaccinations has remained stable countrywide – 1107 people were examined in 2005, 1056 in 2006, 1441 in 2007 and 1258 in 2008. The difficult living conditions and the resultant problems are caused, among other things, by unemployment. This problem affects a decisive majority of the Roma community in Poland. In addition to the educational activities which are to support Roma in accessing employment in future, direct measures are also taken under the *Programme* to enable Roma to integrate into the labour market. With a view to promoting labour participation of the Roma community, as envisaged in the *Programme*, a number of initiatives have been carried out in cooperation with county (powiat) labour offices to facilitate the creation of jobs and employment of people of Roma origin, for example, by subsidizing their jobs. Important supplementary activities in this area include further vocational training or retraining and career counselling. Appropriate actions which promote real equality of both persons belonging to the Roma minority and those belonging to the majority, in all spheres of economic and social life, are also taken within the framework of programmes co-financed by the European Union. In 2008, the so-called “Roma Component” was launched as part of the Operational Programme Human Capital, for which 12 million PLN is to be allocated every year (with the total of 22 million EUR allocated for the years 2007-2013). It is assumed that the actions instituted under the Operational Programme Human Capital will be complementary with the *Programme for the Roma Community in Poland*. The “Roma Component” comprises projects in the field of education, employment, social integration and health, which are aimed to foster the social and vocational activity of the Roma community and to help its members to overcome their difficult situation and to integrate into the labour market.

**Point 205.** In connection with the opinion expressed in this point, see related comments to point 204.

**Point 206.** It should be explained that the *Programme for the Roma Community in Poland* 2004-2009 is being implemented countrywide. In 2007 and 2009, the Ministry of Regional Development carried out an assessment of government strategic documents adopted by the Council of Ministers between 1989 and 2006, concluding that the *Programme* was one of the sectoral strategies whose implementation should fill the gaps in shaping the development of the country. It should also be reiterated that it is a comprehensive programme, covering issues associated with Roma education, improvement of their living conditions and welfare, health,

counteracting employment, safety, culture, dissemination of knowledge about the Roma community and civic education of Roma. It should be also added that projects carried out within the framework of the so-called “Roma Component” of the Operational Programme Human Capital implemented since 2008, which are co-funded under the European Social Fund, should be consistent with the *Programme for the Roma Community in Poland*. Moreover, the *Programme* provides Applicants with incentives to design local strategies for improving the situation of the Roma community. Some local government entities have drawn up long-term action programmes for the Roma community in their territories (for example, the municipalities of Tuchola and Opatów). Furthermore, being aware of the need to evaluate the usefulness, effectiveness and relevance of solutions proposed in the *Programme for the Roma Community in Poland*, the Minister of the Interior and Administration is planning to carry out a thorough review of the *Programme* in 2010. Agreeing with the opinion of the Advisory Committee that Roma representatives should be involved at different stages of the implementation of programmes aimed to improve their situation, it should be pointed out that the *Programme for the Roma Community in Poland* and Sub-action 1.3.1 of the Operational Programme Human Capital are implemented in consultation with representatives of the Team for Roma Affairs. Furthermore, in both the above-mentioned programmes, preference is given to projects which ensure the involvement of representatives of the Roma community at the stage of project design and implementation.

## **ARTICLE 17**

### **Transfrontier contacts**

**Point 208.** In connection with the opinion expressed in this point, it should be affirmed that the Polish authorities make every effort to enable persons belonging to national minorities to maintain transfrontier contacts.

## **ARTICLE 18**

### **Bilateral co-operation**

**Point 211.** As regards the opinion stated in this point, it should be strongly emphasized that the Polish authorities have never used the principle of reciprocity with respect to national minorities residing in Poland and have never made their approach in relation to these minorities conditional to progress recorded on similar issues in neighbouring countries.

**Point 212.** It should be pointed out that the Act on the Polish Card is not directed against any country, it makes no references and does not express any political intentions. Its only purpose is to facilitate contacts between Poles in the East and Poland. The aim of Act is to provide moral compensation for persons of Polish origin who found themselves beyond the eastern border of Poland and for a long time were deprived of the possibility of contacts with their mother country. It also aims to provide these persons with a wider access to Polish culture and education and to make it as easy as possible for them to visit Poland and to facilitate cooperation with Polish business, tourist, scientific and other entities. With the exception of the Republic of Belorussia, no country has made any complaints in connection with the entry into force of this Act and its implementation, although some doubts have recently been voiced in Lithuania. No objections have been made by Ukraine although three times more Polish Cards have been issued there than in Belorussia. The dialogue with Belorussia on the Polish Card has been systematically conducted at different levels since mid-2007 (political contacts, meetings of experts, etc.). The Belarusian party has been informed that the authorities of the Republic of Poland are ready to continue this dialogue until a consensus is reached. Poland is prepared to talk about the Polish Card with any interested country. Such talks have recently



been initiated with the Republic of Lithuania where doubts have been raised as to the character of the relationship with the Polish state which the Card creates. The Polish party is trying to explain that the Polish Card only confirms Poland's bond with Poles abroad, a significant part of whom have been scattered all over the world for over 200 years – due to historical, political and economic reasons. In its policy with respect to Polish nationals abroad, Poland has always emphasized, while cultivating their cultural, linguistic and emotional ties with the Mother Country, that persons of Polish origin should remain loyal citizens of the country of their settlement.

**Point 213.** It should be strongly emphasized that the Polish authorities have never used the principle of reciprocity with respect to national minorities residing in Poland and have never made their approach in relation to these minorities conditional to progress recorded on similar issues in neighbouring countries. According to the authorities of the Republic of Poland, the principle of reciprocity has no *raison d'être* in the exercise of the rights of national minorities and human rights by particular countries. Persons belonging to national minorities, as full citizens of the Republic of Poland, enjoy all the rights to which they are entitled in a democratic society, regardless of the approach of the authorities of other countries. Therefore, the principle of reciprocity is not used by the government of the Republic of Poland as an argument in talks on Polish minorities with the authorities of countries of their residence. The Ministry of Foreign Affairs of the Republic of Poland has never suggested to the respective authorities in Poland that they should discontinue supporting this or other national minority due to the difficult situation of Polish nationals residing in other country. Such actions would be illegal and contrary to the law applicable in Poland.

**Point 214.** In connection with the opinion expressed in this point, see related comments to point 212.

### III.CONCLUDING REMARKS

**Point 220.** It should be emphasized again that, in the opinion of the authorities, funds that are currently allocated for the fulfilment of tasks associated with maintaining and development of the cultural identity of national and ethnic minorities and with preservation and development of the regional language enable the minorities to cultivate and develop their identity and culture. If financial resources permit it, the bodies responsible for matters of national and ethnic minorities and the regional language will be trying to gradually increase these funds. As regards the objection that small organizations of national and ethnic minorities may find it difficult to apply for grants, it should be reiterated that, at present, a decisive majority of organizations applying for grants, including small organizations of national and ethnic minorities, have no problems with applying for funds correctly and with the settlement of awarded grants. The applicable procedures for the award of grants in accordance with Article 18 of the Act on National and Ethnic Minorities and on Regional Language are published every year by the Minister of the Interior and Administration in the *Information on detailed procedural rules in the award of grants for tasks intended to protect, maintain and develop the cultural identity of national and ethnic minorities and to preserve and develop the regional language*. Before the *Information* is published, it is discussed with the Joint Commission of Government and National and Ethnic Minorities and is approved by it. In response to the demands voiced in the Commission for Religious Denominations and National Minorities, in 2008, the Minister of the Interior and Administration issued a new ordinance on procedural rules in the award of grants for the protection, maintenance and development of cultural identity of national and ethnic minorities, preservation and development of the regional language and civil integration of the Roma minority (Official Journal of the Ministry of the Interior and Administration of 2009 No. 1, item 3, with subsequent amendments) simplifying the applicable procedures as called for by minority organizations. In addition, for

3 consecutive years, the Ministry of the Interior and Administration organized free trainings for organizations of national and ethnic minorities on applying for funds and their correct settlement. Each year, all documents relating to the rules for applying for grants and their settlement are published on the websites of the Ministry of the Interior and Administration. In addition, instructions for the correct completion of grant applications are available on the websites of the Ministry of the Interior and Administration. What is essential, to help national and ethnic minorities with applying for grants and their correct settlement, every year the Minister awards, in accordance with the provisions of Article 18 of the Act on National and Ethnic Minorities and on Regional Language, special grants for covering the costs of accounting and reporting procedures (from 2010 – also of legal service) of organizations of national and ethnic minorities and communities using the regional language, and for covering the costs of maintaining and renting their premises. What is worth noting, the grants awarded by the Minister for specific tasks may also be utilized by applicant organizations for covering the costs of coordination and of the accounting, reporting and auditing procedures associated with their projects.

**Point 221.** In connection with the opinion expressed in this point, it should again be noted that a larger number of racist and anti-Semitic offences recorded in statistical sources which had been reported to the Police both by non-governmental organizations and victims themselves does not necessarily mean that the number of such incidents has increased. It should be taken into account that the Police and the National Prosecutor's Office are now more sensitive to this type of phenomena. In addition, there is greater public awareness that racially motivated acts, as well as other forbidden acts, must be punished and that the rights of people belonging to national and ethnic minorities can be more effectively enforced. Furthermore, the increase in the number of cases reported to law enforcement authorities may be an indication of greater trust in them among people belonging to national and ethnic minorities. Nonetheless, one should agree with the opinion that each case of this kind should be strongly opposed and strictly prosecuted. As regards the fight with racist, xenophobic and anti-Semitic acts during football matches, which is mentioned in this point, see related comments to point 93.

**Point 222.** As has been emphasized many times before, in the legislation pertaining to national and ethnic minorities that has been adopted in Poland and in the day-to-day practice of institutions and offices taking action for their benefit, no reference is made to the principle of reciprocity in treating national minorities in Poland and the Polish minority in the neighbouring countries. In addition, people belonging to national and ethnic minorities and communities speaking the regional language are fully entitled to request the relevant institutions for an intervention if their rights are violated at local level. All voivodeship offices have designated persons who deal with issues of national and ethnic minorities (some of them in the rank of voivode's plenipotentiaries for national and ethnic minorities). All matters of this kind may be reported directly to the Department for Religious Denominations and National and Ethnic Minorities of the Ministry of the Interior and Administration. They can also be reported to the Joint Commission of Government and National and Ethnic Minorities of the Sejm of the Republic of Poland. With reference to the issue of the former "Ruska Bursa" building in Gorlice and the building of the former National Ukrainian Home in Przemyśl, as it has been already explained, on 9 September 2009, the property of "Ruska Bursa" in Gorlice was sold to the Ruska Bursa Association (its current user) without a bidding procedure and with a 99% bonus. The other party to the dispute (the Lemko Association) was provided with another building, purchased with the funds of the Ministry of the Interior and Administration. As regards the former Ukrainian National Home, after the adoption by the City Council in Przemyśl of the resolution of 3 September 2009, the matter is heading towards a satisfactory ending – this matter is described in points 49 and 70.

**Point 223.** In connection with the opinion presented in this point, one should invoke comments to points 59, 60, 164, 204 and 205, which outline the actions taken by the government administration to improve the situation of Roma in Poland. It must be also affirmed that measures will be continued in the forthcoming years to improve the social integration of the Roma community.

**Point 224.** One should again agree with the opinion that persons belonging to national and ethnic minorities and communities using the regional language are underrepresented among members of programming councils. It should be reminded that, as follows from the information obtained from the National Broadcasting Council, the Council intends to take steps to include representatives of communities of national and ethnic minorities in future programming councils, to which elections are to be held in 2010.

**Point 225.** With reference to the view presented in this point, see related comments to points 158 and 159, which describe changes associated with the teaching of the history, culture and traditions of national and ethnic minorities after the adoption of the core curriculum.

**Point 226.** In connection with the opinion expressed in this point, please see the comments to point 38, where it has been explained that the authorities are open for a dialogue on the history, culture and identity of inhabitants of Silesia. As regards the status of person who declared Silesian Nationality during the 2002 national census of population and housing, it should be reminded that this group cannot be treated as a national or ethnic minority, because it does not satisfy the conditions laid down in Article 2 of the Act of 6 January 2005 on National and Ethnic Minorities and on Regional Language. These conditions must be met for a given group of citizens of the Republic of Poland to be recognized as a national or ethnic minority. During the last 5 years, no new facts have emerged in that regard that would make it necessary to reconsider the status of this group of citizens.

**Point 227.** In connection with the statement expressed in this point, see the related comments to point 174, in which the issue of the decreasing number of pupils interested in continuing to learn a minority language at the lower secondary school level has been discussed.

**Point 228.** In connection with the view presented in this point, it should be observed again that the number of municipalities which apply for an entry in the *Official Register of Municipalities on whose Territory Names in a Minority Language are Used* or to the *Official Register of Municipalities where a Supporting Language is Used* depends on the wishes of the local authorities and local communities. The government administration encourages minorities to make full use in this regard of the relevant provisions of the Act on National and Ethnic Minorities and on Regional Language. It should be emphasized that in 2008, the Minister of the Interior and Administration announced an open competition for proposals of tasks promoting the use of minority languages in relations with municipal bodies or the use of the regional language as a supporting language and additional use of traditional place-names. Two projects (a photo exhibition and a symposium) promoting the use of additional names in minority languages were co-financed during this competition. As concerns the use of the supporting language, it should be noted that representatives of national and ethnic minorities and of the community using the regional language did not, neither as the Act on National and Ethnic Minorities and on Regional Language was being drafted nor during its present implementation, voice an opinion that the scope of use of the supporting language should be extended to the bodies and institutions referred to in this paragraph.

**Point 229.** With reference to the statements contained in this point, it should be emphasized that in the opinion of the Polish authorities the currently adopted legal provisions enable the communities of national and ethnic minorities to compete for seats in the *Sejm* on preferential conditions. Nonetheless, the authorities are open for a dialogue with representatives of the

Ukrainian minority on introducing solutions which are acceptable to that minority in this respect without contravening the applicable laws and the “spirit of democracy”.