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

**COMMENTS OF THE GOVERNMENT OF POLAND  
ON THE THIRD 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 21 May 2014)

**Notes to the Third Opinion concerning Poland**

of the Advisory Committee on the

*Framework Convention*

*for the Protection of National Minorities*

**Warsaw, May 2014**

## I. MAIN FINDINGS

### Legal and institutional framework

**Point 13.** Regarding doubts set forth in this point concerning the delays in the publication of data from the National Census of Population and Housing of 2011 (NSP 2011), it should be emphasized that the census is a major research undertaking, and development of the results acquired in the course of this study requires an adequate amount of work, and what follows – also a suitable amount of time. However, it should be noted that – despite the innovative methodology adopted for the implementation of the census in 2011, which requires the consolidation of data obtained from many diverse sources – the time which has passed from collection of the census data for the subsequent stages of the dissemination of census results fit into the European standards. The first preliminary results of the census, concerning mainly the state of the Polish population, were issued in December 2011, and the first preliminary data on nationality and ethnicity was published in March 2012 and included the initial structure of national and ethnic identification. Another preliminary updated and expanded data on nationality and ethnicity was published in July 2012 – as part of a report on the results of the national census – which, next to the structure of nationality and ethnicity of the population, presented the first data on the language of contacts at home. In September 2012, the regional census reports were published, showing analogous – as in the national report, data on nationality and ethnicity and home language for the provinces. In January 2013, the final results of the census were published, which concerned the structure of national and ethnic identification, taking into account, among other things, the complexity of national and ethnic identification (the presence of a given ethnic identification as a single or double – as the first or the second) and a list of communes in which the share of identification other than Polish is at least 10%. In April 2013, the census publication was issued which contained comprehensive data on nationality and ethnicity, language of home contacts, mother tongue and religion. The structure of nationality and ethnicity (including the complexity of identification) and the types of language used in contacts at home and mother tongue was presented in it in detail. Data on ethnicity is shown in territorial section (by provinces), as well as in relations with citizenship, language of home contacts and mother tongue. Moreover, the publication contains extensive correlation tables, which present various ethnic variables in relation to socio-demographic characteristics, such as the nature of the place of residence, sex, age, marital status, level of education. From August 2013, regional publications have been successively disseminated, which presented analogous – as in national publications, depictions of ethnic and linguistic variables – in relation to socio-demographic characteristics. Regardless of the published data relating to all kinds of national and ethnic identification and the type of language used for contacts at home and mother tongue, the Central Statistical Office (CSO) develops and transmits to the Ministry of Administration and Digitization for dissemination data on national and ethnic minorities and communities using regional languages. From January 2013, among others, data such as the number of national and ethnic minorities, their distribution by province, socio-demographic characteristics of minority communities, as well as data on minority communities by: the language used at home, the first and the second national and ethnic identification, the scope of using minority language has been developed and submitted for dissemination. Above all, a list of communes which meet the statutory criterion, i.e. those where the share of minorities among the total population amounts to at least 20%, including the number and percentage of the minority, was submitted for dissemination, which was necessary for the implementation of the Act of 6 January 2005 on National and Ethnic Minorities and Regional Language (Journal of Laws No. 17, item 141, as amended). Due to the specificity of national and ethnic minorities in Poland, characterized in general by a small number and a relatively large territorial dispersion, and at the same time

limited capabilities of the adopted census methodology in respect of development and presentation of adequately precise data on some rare phenomena for small territorial areas, it still has not been possible to prepare a full location of national and ethnic minorities, including a detailed territorial division of the country. Nevertheless, regardless of the published list of communes where minorities constitute not less than 20% of the population, the CSO is successively transmitting the required data to representatives of communes (including those from outside the list) which ask for such data. In conclusion, it should be noted that the CSO published, based on the 2011 census, data needed to reproduce the detailed national and ethnic structure of the country and the provinces, as well as the structure of the language. The results of the census showing relations of ethnic variables, as well as the socio-demographic characteristics of the minority and linguistic groups were also disseminated. Data needed to implement the statutory rights of minorities at the local level was disseminated and is subsequently made available. At the same time, it should be noted that the process of a more detailed elaboration, analysis and sharing of the results of the 2011 census regarding a number of topics is still ongoing. A census paper devoted especially to the nationality and ethnicity, language of home contacts, mother tongue and religion is being developed. With regard to concerns about the quality of data in the context of the used methodology of the census, first of all, it should be straightened out that even though it included the use of information from registers and information systems, the data on nationality, language and religion was obtained only on the basis of the initiated surveys, that is, based on direct interviews, telephone interviews and Internet self-register. It should be acknowledged that the new solutions adopted in the implementation of the census in 2011 (the use of a mixed method), consisting in the combination of data from registers and information systems of public administration with the sample survey, are much more complicated to read than the traditional method of complete census. However, the adoption of new methodological solutions was supported by many reasons, among them – on the one hand – the shortcomings of the traditional method, such as high cost of research and systematic errors burdening the quality of results which are hard to eliminate, while on the other hand – more and more common use and positive experience of countries using new methods, based on the existing data sources and the sample method. In addition, it should be noted that the new methodological approach to census applied by the Polish public statistics and the results obtained on its basis meet with a positive reception of objective experts (including EKGONZ experts), so that this method is recommended for use in future censuses.

## **Culture**

**Point 14.** Referring to the doubts expressed in this point, it should be reminded that the Joint Commission of the Government and National and Ethnic Minorities has no legal status to directly influence the allocation of grants awarded annually under the Act on National and Ethnic Minorities and Regional Language. In accordance with Article 18(3) of the above-mentioned Act, the exclusive holder of the funds for the implementation of tasks aimed at maintenance and development of cultural identity of national and ethnic minorities, and the preservation and development of a regional language is the minister responsible for religions and national and ethnic minorities (currently, the Minister of Administration and Digitization). In accordance with Article 23(2)(4) of the Act, the Joint Commission has the right to express its opinion on the amount and the principles of division of funds allocated in the state budget to support activities aimed to protect, preserve and develop cultural identity of minorities and preserve and develop regional language. In a situation where members and presidents of organizations applying for grants sit on the Joint Commission awarding the Commission powers to assess projects and influence the decision on granting or refusing to grant a subsidy would be a breach of the principle fundamental for a democratic state of equal

treatment of all stakeholders. However, it should be noted that the *Information about the detailed rules of procedure for awarding a grant for the implementation of tasks aimed at protection, preservation and development of cultural identity of national and ethnic minorities, and preservation and development of regional language*, developed annually, which contains all the rules and criteria taken into account in the process of awarding grants, is consulted every year and evaluated by the Joint Commission of the Government and National and Ethnic Minorities. Since 2011, independent experts recommended by the Joint Commission have sit on the committee evaluating applications, appointed on the basis of this *Information*. Since 2013, these experts have represented half of the composition of the evaluation committee. Therefore, one cannot agree with the thesis about the lack of transparency in awarding the subsidies. As regards the accusation of insufficient financial resources allocated for preservation and development of cultural identity of minorities, and preservation and development of regional language, it should be noted that the government administration endeavours to make the amount of funds allocated for this purpose as large as possible. As repeatedly mentioned, despite the economic crisis, the resources assigned to subsidies remain at a similar level. It will be possible to consider the increase in the amount allocated for subsidies only in case of improvement of the state budget condition. In relation to other doubts mentioned in this point, it should be noted that the Karaite and the Armenian minority communities, so far, have not applied for support to establish cultural centres, libraries and similar institutions – therefore, they could not have met with a refusal of cooperation in this regard from the administration. During the annual procedure for developing the *Information about the detailed rules of procedure for awarding a grant for the implementation of tasks aimed at protection, preservation and development of cultural identity of national and ethnic minorities, and preservation and development of regional language*, members of the Joint Commission of Government and Minorities, including those representing the Tartar, Karaite and Armenian minorities, did not report the need to include in the *Information* additional preferences for organizations applying for support representing less numerous minorities. In case such postulates are proposed, the government administration is ready to take up a dialogue with the Commission on the legal and practical possibilities of their implementation.

### **Intercultural dialogue and tolerance**

**Point 15.** Building a climate of tolerance and dialogue, and real and practical implementation of the principle of equal treatment – treated as processes – for years have been among the priorities of the Polish government and are treated as a permanent task, implemented with the use of different measures. A number of activities related to this area are provided for in the National Action Plan for Equal Treatment 2013-2016. Some of the are: the dissemination of content compatible with the principle of equal treatment in school curricula, and educational and didactic materials, preparing teachers to work in multicultural classes, actions to change the discriminatory image of groups exposed to unequal treatment in the mass media (e.g. by carrying out a broad public debate on this topic, organizing the coalition “Media of Equal Opportunities” and competitions for the best media initiatives suited to the principle of equal treatment). Actions in relation to the media and in cooperation with the media have already been carried out in recent years, and the resulting experience was taken into account in the creation of the National Action Plan for Equal Treatment. An example might be the project “Media of Equal Opportunities”, implemented by the Office of the Government Plenipotentiary for Equal Treatment from December 2011 to April 2013 under the European Union's PROGRESS Programme. The overall objective of the project was to introduce the perspective of equality to public debate language through educational and promotional activities targeted to individuals and communities responsible for and affecting its shape. Two

competitions were conducted within the project. The first one, addressed to experts and NGOs, selected the best reports, studies and analyses of messages and media language in the context of anti-discrimination, coaching manuals, training materials in the field of equal opportunities and counteracting discrimination in the mass media. The second competition, addressed to journalists and journalism students, selected the best ideas to promote equality and combat discrimination in three categories: pen (Internet), microphone and picture. The educational part of the project was a series of trainings aimed at journalists and students of journalism. Training, which was attended by 200 people, included the issues of equality and anti-discrimination, with a particular focus on the language of communications and hate speech. In relation to the issues raised in this point concerning activities of the Police towards events which may be hate crimes, it should be emphasized that all notifications of this kind are investigated thoroughly by the Police and actions provided for by the law are taken in connection with them. Additionally, numerous measures are undertaken with the aim of improving the competence of Police officers in the scope of conducting proceedings in cases relating to hate crimes. Strengthening actions of the Police as regards preventing violence motivated by race, ethnicity and nationality, and other causes is one of three courses of action contained in the *Directional Development Strategy of the human rights protection system in the Police for the period 2013-2015*. The circumstances which may affect the fact that not in all cases of this kind of events the Police manages to identify the perpetrators and bring them to punishment may be, as the Advisory Committee notes, that the numbers of hate crimes do not differ significantly from each other in annual statistics, and combined with about a million crimes per year, these figures constitute a statistical margin. A statistically small number of these crimes makes it difficult to build a bank of good detection practice. The fact that hate crimes are committed across the whole country, in comparison with the statistics of these acts, makes it difficult to specialize and guide police detectives, who often deal with this type of behaviour for the first time. Moreover, the difficulties relating to conducting proceedings in cases of hate crimes are not due to negligence on the part of the Police, but the modus operandi of the perpetrator. The perpetrators use such methods and techniques of committing crimes in which special emphasis is put on humiliating the victim or the entire social community, while choosing methods of committing these acts or selecting a place significantly hindering prevention and detection (posting content on the Internet, placing slogans and symbols of hate under cover of darkness, in underexposed spots, in buildings without physical or electronic surveillance, such as cemeteries, places of worship, places of memory, fences, facades of buildings, etc., acting in crowd – gatherings, matches). However, the Police have better and better understanding as to the forms and methods of committing crimes. With reference to the actions taken by the public prosecutor's office within the scope discussed in this point, it should be noted that for many years the public prosecutor's office has taken all kinds of measures to increase the effectiveness of law enforcement and improve the quality of preparatory proceedings in cases of hate crimes motivated by race, nationality, ethnicity, religion or because of no religious denomination. Since 2004, the Public Prosecutor's General Office has been monitoring all cases of crimes committed with racist motives. These cases are under superior official supervision or monitoring of superior public prosecutor's offices, whereas the appellate public prosecutor's offices are regularly (every six months) examining all the cases concluded with final rulings on refusal to initiate proceedings or discontinuation of proceedings, and sending information to the Department of Preparatory Proceedings of the Public Prosecutor's General Office on the cases conducted in organizational units of subordinate public prosecutor's offices. This data is then analysed in the Department of Preparatory Proceedings, which also prepares a general list of these cases, containing a summary indicating the way in which the public prosecutor's offices perform tasks imposed on them. The evaluation of information received along with comments and observations made by the Department of Preparatory Proceedings is in turn transferred to

appellate public prosecutor's offices for information of all units of public prosecutor's offices in the country in order to be used in the current work and training of public prosecutors. In 2011, as the result of investigation of records of criminal cases of crimes committed out of racist or xenophobic motives carried out in the Department of Preparatory Proceedings of the Public Prosecutor's General Office, a study on hate crimes was prepared. It contained a description of the national and international legal regulations, the scale of the phenomenon in Poland and methodological guidelines for public prosecutors conducting or supervising preparatory proceedings in cases of hate crimes. This study was sent to all appellate public prosecutor's offices with the order to transfer it to the subordinate units of the public prosecutor's offices in order to be used in the ongoing work by the public prosecutors. It was also published in the monthly "Prokuratura i Prawo," published by the Public Prosecutor's General Office. In the fourth quarter of 2011, the Department of Preparatory Proceedings of the Public Prosecutor's General Office also began investigating the practice of public prosecutor's offices in cases relating to racism on the Internet with the aim of identifying the most common errors in this category of cases and developing a methodology which will allow avoiding them. The investigation ended in May 2012, and a report summarizing it was sent on 28 June 2012 to all appellate public prosecutor's offices in the country in order to acquaint all the public prosecutors with its content and use the comments contained therein in the current work. The report indicated: what kinds of proceedings to take evidence prosecutors perform in these cases, what evidence is used to a small extent, and should be used, what can be the consequences of delay in bringing some of the evidence in the proceedings, problems and omissions in cases in which it was established that a greater number of people had access the computer. On 26 February 2014, the Public Prosecutor General issued guidelines for public prosecutors on conducting proceedings on hate crimes. The purpose of issuing these guidelines is the need to standardize the practice of conducting criminal proceedings on crimes committed to the detriment of a group of persons or particular person, because of his or her nationality, ethnicity, race, political or religious affiliation or because of no religious denomination, regardless of the legal classification of a criminal offence called hate crimes. In addition, the guidelines of the Public Prosecutor General are to eliminate the irregularities which occurred in the conducted proceedings in cases of hate crimes. It is worth emphasizing that the guidelines of the Public Prosecutor General in respect of preparatory proceedings are binding for all the bodies authorised to conduct preparatory proceedings, and not only public prosecutors.

**Point 16.** The content of school curricula is determined by the regulation of the Minister of National Education of 27 August 2012 on the core curriculum for pre-school and general education in particular types of schools (Journal of Laws of 2012, item 977). In its wide range, the core curriculum takes into account content of teaching concerning multiculturalism and acceptance of diversity. The objectives of teaching and educational objectives depend on the age of the pupils at a given level of education and their cognitive abilities. In accordance with the adopted priorities, the programme changes should lead to the preparation of the young generation for efficient functioning in the modern multicultural world, based on responsibility, solidarity and tolerance. According to the core curriculum, in the process of general education the school shapes pupils' attitudes conducive to their further individual and social development, such as: responsibility, self-esteem, respect for others, willingness to participate in culture and teamwork. In the process of education, the emphasis is placed on developing pupils' attitudes of respect for the tradition and culture of their own nation, as well as the attitude of respect for other cultures and traditions, and to combating all forms of discrimination. Acquainting the pupils with the elements of minority cultures and their contribution to Polish culture takes place, inter alia, during the art, music and social education classes (first educational stage – classes I-III of primary school), while teaching history and

society, music and art (second educational stage – classes IV-VI of primary school), history, civics, geography, music, art and culture (in secondary schools and high schools). Pupils at the second educational stage discuss issues relating to the Fatherland and “Little Homeland” during history and civics lessons, taking into account the historical and cultural tradition and socio-economic problems, as well as national and ethnic minorities living in Poland, their culture and traditions. The core curriculum for civics education at the third educational stage (secondary school) provides for familiarizing pupils with examples of communities, groups, and societies, norms of coexistence between people. Pupils should also be able to explain how divisions in a group and society are formed (e.g., into “ours” and “foreign”) and indicate possible ways of countering manifestations of intolerance. They should also be able to explain what it means to be a Pole (or a member of another national community) and what is the difference between citizenship and nationality, and moreover – taking into account the multinational traditions of Poland – explain the impact exerted by a common history, culture, language and tradition on shaping of a nation. It is planned to familiarize pupils with the content concerning national and ethnic minorities and migrants (including refugees) currently living in Poland, as well as their rights. The core curriculum of civics for the fourth educational stage (high schools) includes teaching about for the nation, homeland and national minorities. A pupil learns the factors favouring assimilation and preservation of national identity, gets to know national and ethnic minorities and immigrant groups living in Poland (number, history, culture, religion, etc.), their rights, the manifestations of xenophobia, anti-Semitism, racism and chauvinism, and methods of opposing these phenomena. He or she is also acquainted with national and social processes in the contemporary world, the reasons for the integration of nations in the western world, the different policy models of selected countries towards national minorities and immigrants, difficulties in integration of immigrants from non-European countries, examples, reasons and ways to resolve long-standing conflicts between nations. Pupils also discuss issues related to culture and cultural pluralism, including major features of culture of a given community, furthermore, circumstances which favour the occurrence of cultural pluralism of modern society and the consequences of this phenomenon. The core curriculum of history at the fourth educational stage (basic level) provides for matters related to the economy and society of the Second Polish Republic, including the social, national and religious structure of the reborn Polish state, and the reasons of social and national conflicts. As for the history lessons at the advanced level, students are introduced to the society, economy and culture of the Second Polish Republic, including the national and religious structure, and the politics of the Second Republic towards national minorities and its determinants. The core curriculum of history and civics – a complementary subject at the fourth stage of education, includes teaching content relating to familiarity and strangeness, the ideas of nationalism and racism in the nineteenth century, the multiculturalism of the society of the Second Polish Republic, contemporary multicultural societies. Matters related to the culture of minorities are also included in the core curriculum of the knowledge of culture. During lessons, students should develop the ability to actively participate in culture and co-create culture, as well as take care of the elements of cultural heritage. The core curriculum of this subject also emphasizes the relationship between cultures: of the minorities, local, regional, national and European, manifesting in specific works of art and cultural practices. Teachers of the above-mentioned subjects at various stages of education are required to include the content indicated in the core curriculum in school curricula, concerning national and ethnic minorities present in Poland and the community using the regional language. Knowledge about the history and culture of national and ethnic minorities is also disseminated through other activities undertaken or supported by the Ministry of Education. These include:

- organization of school contests, including contests of minority languages in Poland (Belarusian and Russian),

- organization of school competitions in the field of knowledge about individual minorities and knowledge about human rights,
- dissemination of knowledge about national and ethnic minorities through websites of boards of education in respective provinces and the Scholaris educational platform,
- organization of events and integrative meetings in schools referring to the tradition and culture of different communities present in the local environment,
- organization of national and regional conferences for teachers on multiculturalism and work with a pupil in a multicultural environment,
- publication and dissemination of methodical materials for teachers,
- dissemination of recommendations of bilateral commissions (Polish-Lithuanian, Polish-German, Polish-Ukrainian, Polish-Israeli) on the content of teaching history,
- support for initiatives aimed at development of intercultural dialogue, undertaken by non-governmental organizations (in particular organizations representing national and ethnic minorities in Poland),
- announcement of tenders for the assigned task relating to the issues of culture and traditions of minorities and widely understood multiculturalism.

With reference to another matter raised in this point concerning the cessation of broadcasting some radio and television programmes addressed to minorities in 2011, it should be recalled that Article 21(1a)(8a) of the Act of 29 December 1992 on Radio and Television (Journal of Laws of 2004 No. 253, item 2531, as amended) obliges public radio and television companies to “take into account the needs of national and ethnic minorities and communities using regional language, including to broadcast news programmes in the languages of national and ethnic minorities and a regional language”. However, the Act does not specify the quantitative indicators for the participation of these broadcasts in the programmes. At the same time Article 13(1) of the Act provides that: “a broadcaster shapes the programme on its own in respect of tasks referred to in Article 1(1) and is responsible for its content.” The National Broadcasting Council does not have the instruments to shape the programme of a broadcaster, it can only operate to the extent provided for by the legislator, i.e. at the stage of negotiating the financial and programme plans and through the control of implementation of statutory tasks. In addition, it should be clarified that after the cessation of broadcasting some television programmes focusing on minorities by OTVP Białystok mentioned by the Committee, the then Minister of Internal Affairs and Administration sent letters to the Director of the Department of TVP S.A. in Białystok on 29 August 2011 and 10 September 2011, asking for restoration of programmes for the Tartar, Russian, Roma and Lithuanian minorities. After the intervention of the Minister and other involved institutions broadcasting these programmes was restored. Programmes for the Roma and the Tartar minority were resumed in September 2012, the programme aimed at the Russian minority was back on the air in January 2012, and the Lithuanian minority programme disappeared from the air only for one month. Currently, the Regional Branch of TVP Białystok broadcasts six programmes addressed to national and ethnic minorities: „My Romowie“ (We, the Romani people) – a monthly programme devoted to the issues of Polish Romani, “Wieści Tatarskie” (Tartar News) – a magazine about the Tartars in the Podlasie region, “Rosyjski Ekspres” (Russian Express) – showing the life of Russians living in the region, “Tydzień Białoruski” (Belarusian Week) – a weekly programme featuring the most important events in the life of the Belarusian minority, “Przegląd Ukraiński” (Ukrainian Review) – an informational and journalistic magazine presenting cultural and social events in the life of the Ukrainian minority, and “Panorama Litewska” (Lithuanian Panorama) – a weekly magazine addressed to the Lithuanian minority. It should

also be mentioned that the authorities are not aware of any other cases of cessation of broadcasting regular radio programmes in minority languages by public broadcasters.

### **The Media**

**Point 17.** In the opinion of the Polish Government, one cannot agree with the thesis stated in this point that the authorities do not pay sufficient attention to promoting diversity and awareness of the contribution of national minorities to the Polish society. The grounds for formulating this thesis described in this point seem to have no confirmation in facts. Referring to the accusations of underfunding of programmes broadcast by public broadcasters addressed to national and ethnic minorities, it should be borne in mind that the National Broadcasting Council (NBC) is funding the production and dissemination of programmes for national and ethnic minorities broadcast in the public media in 100% from the service fees. The NBC created a funding mechanism for programmes for minorities. It has been functioning for several years, and broadcasters can report needs in this area in financial and programme plans for a given year. The National Council allocates service resources in the amount indicated by the broadcaster. The way of distributing these funds by the public media companies is different: in TVP S.A., the board decides about the distribution of amounts between local divisions of the company. In contrast, the service amounts for programmes for national and ethnic minorities broadcast in regional radio stations are assigned to each of the seventeen radio companies by the NBC. Therefore, this accusation seems groundless. One also cannot agree with the allegation relating to broadcasting programmes for minorities in adverse times.

### **Education**

**Point 19.** Regarding the matter raised in this point of not using the privileges existing in the system of education by the Roma minority, enabling learning their mother tongue or in their mother tongue of the national and ethnic minority, it should be made clear that this is solely due to cultural reasons, that is, a strongly rooted resistance among the Roma minority against any institutional form of teaching this language. With reference to the accusation raised in this point of not taking into account the differences resulting from the method of teaching language in the system of financing education (teaching in a language, teaching in two languages, additional subject), it should be said that this accusation ceased to be valid in relation to the change in the financing method of the education of national and ethnic minorities introduced in 2013. As a result of the changes in the algorithm of calculating part of general educational subsidy for local government units, currently, four weights apply in relation to minority pupils. Three weights (P9, P10 and P11) depend on the total number of pupils in school who participate in the minority or ethnicity language lessons. These weights also apply to pupils learning a regional language and Roma pupils, for which the school undertakes additional educational tasks. P12 weight is associated with the method of teaching a language and applies to pupils of branches and schools teaching in a language of national minority or ethnic minority or in a regional language, and to pupils of branches and schools where educational activities are conducted in two languages: Polish and a minority language or regional language, which is the second language of teaching. This weight does not depend on the total number of pupils in a school learning a minority or regional language, while it sums up with weights P9, P10 or P11. Values of the described weights and rules for their use to additional educational tasks are shown in the table:

Type of school	The total number of pupils learning a minority or regional language or a total number of the Romani pupils covered by additional educational tasks (U)	Weight
Primary school	$U > 84$	P9=0.2
Secondary and high schools	$U > 42$	
Primary school	$U \leq 60$	P10=1.5
Secondary and high schools	$U \leq 30$	
Primary school	$60 < U \leq 84$	P11=1.1
Secondary and high schools	$30 < U \leq 42$	
Primary school, secondary school and high school teaching in a minority language or in two languages (Polish and minority language)	Equal of all pupils learning in a minority language or in two languages, regardless of the intervals of the number of pupils in school presented above	P12=0.4

Prepared on the basis of provisions of the Regulation of the Minister of National Education of 18 December 2013 on the allocation of the part of general educational subsidy for local government units in 2014 (Journal of Laws of 2013, item 1687).

With reference to the allegations concerning the issue of textbooks for pupils belonging to minorities, it should be noted that, every year, the Ministry of National Education finances textbooks and auxiliary books for education of pupils to the extent necessary to maintain national, ethnic and linguistic identity. According to the Regulation of the Minister of National Education of 14 November 2007 on the conditions and manner of performing tasks by kindergartens, schools and public institutions allowing maintenance of a sense of national, ethnic and linguistic identity of pupils belonging to national and ethnic minorities and communities using a regional language (Journal of Laws No. 214, item 1579, as amended), teaching a minority language, a regional language, own history and culture, and geography of the country with whose area a national minority is identifying itself, is based on textbooks approved for school use by the minister responsible for education. The list of textbooks covered by funding is determined annually upon submission of offers by publishing houses, in editions appropriate to the demand reported by headmasters of schools where a national or ethnic minority language or a regional language – Kashubian is taught, confirmed by the superintendents of education, taking into account the financial capacity of the ministry. From the school year 2009/2010, in connection with the gradual introduction of the programme reform in various classes in the subsequent stages of education, in accordance with the adopted principles, textbooks approved for school use by the minister responsible for education for the new core curriculum are funded, whereas in classes which have not been yet covered by the new core curriculum, textbooks approved for school use for the so-called old core curriculum, as defined by the Regulation of the Minister of National Education and Sport of 26 February 2002 on the core curriculum for pre-school and general education in particular types of schools (Journal of Laws No. 51, item 458, as amended). It should be stressed that the textbooks issued so far meant for teaching own history and geography of the country of origin of minorities, whose scope of content is not specified in the core curriculum, and auxiliary textbooks, such as glossaries of terms of given subjects, have not lost their relevance and can still be used in classes covered by the programme reform. The Ministry of National Education is funding all costs associated with the preparation, development and

release of textbooks and auxiliary books for teaching pupils declaring affiliation with national and ethnic minorities and a community using regional language. The purchased textbooks and auxiliary books are handed over to school libraries, intended for use by subsequent generations of pupils. Since 2010, electronic versions of selected titles, with the consent of the publishers, have been additionally published at the Scholaris educational portal. This allows teachers, pupils and others to use also the electronic version of these textbooks. Regarding the absence of textbooks for subjects taught in a minority language in schools where the minority language is the language of instruction or the second language of teaching, the solution to this matter is the possibility to translate textbooks for general education prepared within the framework of the “Digital School” programme. Currently, teaching these subjects is carried out in accordance with the effective core curriculum, using textbooks in Polish approved for school use and entered into the register of textbooks for general education. Due to the wide range of these textbooks in the publishing market and limitations following from copyrights, there is the problem of choosing a textbook for translation. The solution to this problem would be translation of e-textbooks. As a part of the “Digital School” programme, electronic textbooks for early childhood education, for Polish, history, history and society, civics, nature, biology, geography, physics, chemistry, mathematics, computer classes, information technology, education for safety (18 textbooks in total, including at least one educational stage for 14 subjects/classes), as well as 2.5 thousand complementary educational resources are being prepared. The e-textbooks (multimedia, including videos, interactive images and exercises), created as a part of the project, will be used for teaching in primary schools, secondary schools and high schools. They will be posted on a public open educational portal, as the so-called open content, which means that everyone will be able to freely copy, use or print them. The use of such textbooks will allow each pupil free access to educational content at any time and place. E-textbooks will be available in both online and offline versions on desktop computers and various mobile devices (tablets, netbooks, notebooks, e-book readers, etc.). Textbooks prepared as a part of the “Digital School” programme, in their substantive and educational scope, will meet requirements equivalent to those which apply to traditional textbooks, in particular, they will take into account all the objectives and content of education defined in the core curriculum. First versions of the mathematics textbooks were made available in September 2013. Until September 2015, all planned textbooks should be prepared and made available. Thanks to making textbooks available on the principles of full openness, everyone will be able to modify them freely, including, for example, translating them into minority languages, which will solve the problem of lack of textbooks for subjects taught in minority languages.

**Point 20.** The education system ensures each child, including the Roma child attending kindergarten, school or institution, support in development and psychological and educational assistance, according to his or her educational and development needs. These objectives are implemented, among others, by:

- adaptation of content, methods and organization of education to the mental and physical capacity of pupils,
- the possibility to use the psychological and educational help and special forms of didactic work,
- enabling education in all types of schools for children and youth with disabilities, according to individual developmental and educational needs and predispositions,
- care of disabled pupils, i.e. enabling implementation of individualized learning process, forms of teaching, curricula and revalidation activities.

In the context of providing support in the educational process for the Roma pupils appropriate to meet their needs, mention should be made of the opportunities offered by the education system, which include:

1. the possibility of organizing remedial classes in Polish and other subjects – bodies managing schools, in which remedial classes in Polish and other subjects are organized for Roma pupils, receive additional funds from the state budget provided under the part of general educational subsidy;
2. hiring assisting teachers and assistants of Roma education – since 2002, the bodies managing schools have been receiving increased funds in the part of general educational subsidy for the implementation of these activities,
3. activities related to the implementation of the government *Programme for the Roma community for 2004-2013* and the planned continuation of these activities in the next government programme;
4. a new form of organizing and providing psychological and educational assistance and teaching pupils with special educational needs, introduced in 2010, emphasizing individual approach to a child in need of assistance in developing abilities and interests or overcoming difficulties, and ensuring provision of this aid as early as possible and closest to the educational environment of a child<sup>1</sup>.

Psychological and pedagogical assistance involves identifying and meeting individual development and education needs of a pupil and recognizing individual mental and physical capacity of a pupil, in particular arising from specific talents, disability, social maladjustment, the risk of social maladjustment, specific learning difficulties, problems with language communication, chronic disease, crisis or traumatic situations, failures in education, environmental negligence related to the living conditions of a pupil and his or her family, a way of spending leisure time, environmental contacts, and finally the adaptation difficulties related to cultural differences or a change in the educational environment, including those related to the previous education abroad. In case of a Romani child facing difficulties in functioning at school, his or her needs should be identified as early as possible, which in turn will provide a basis for giving him or her appropriate support in kindergarten, school or institution he or she is attending. The entities indicated as those which can initiate the provision of psychological and pedagogical help to a child include – besides the psychological and pedagogical counselling centre, the pupil, his or her parents, a teacher or a specialist who is conducting classes with the pupil or the teacher's help – include also assistant of the Roma education. The psychological and pedagogical counselling centre takes any actions on the request and with the consent of a parent (child's legal guardian). The centre issues opinions and certificates solely on the request of parents (legal guardians of the child) or an adult student. Both the choice of diagnostic methods, and the way of diagnosing a Romani child should include language difficulties, if the Romani child using the Romani language at home as the mother tongue does not know Polish at a level sufficient for effective verbal communication. The problem of adequate assessment of development and education needs of Roma children and providing them with adequate support is in the area of special interest of the Ministry of National Education, cooperating in this field with the Ministry of Administration and Digitization and the Centre for Education Development. On the initiative of the Ministry, the textbook entitled *Standards of diagnostic, certifying and rehabilitation conduct towards children and adolescents*, which describes the procedures of diagnostic and

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<sup>1</sup> Regulation of the Minister of National Education of 17 November 2010 on the principles of providing and organizing psychological and pedagogical assistance in public kindergartens, schools and institutions (Journal of Laws No. 228, item 1487).

certifying conduct in case of mental disability to a mild, moderate or severe degree, was prepared. This publication was sent to every psychological and pedagogical counselling centre. The Minister of National Education also asked the superintendents of education to provide special supervision of certifying activity of the psychological and pedagogical counselling centres towards the Romani children. In December 2010, a survey was conducted in psychological and pedagogical counselling centres in order to gather information on diagnosing Romani children. The survey included 16 psychological and pedagogical counselling centres in 15 provinces, which issued certificates about the need for special education for Roma children. In the school year 2009/2010, the psychological and pedagogical counselling centres covered by the survey issued a total of 2,541 certificates about the need for special education, of which 23 related to Roma children (representing 0.9%). The survey results indicate that psychological and pedagogical examination, in principle, does not require the presence of third parties. Only children in the preschool and early school age with anxiety or autism were accompanied by mothers during the examination. In a situation where the child's parents cannot read and write, Roma education assistants and family help fill in the applications for issuing certificate about the need for special education. Participation of parents in the meetings of certifying teams is sporadic, even though they are notified of their place and time. The obtained information indicates that in order to issue a certificate or an opinion for children and young people of Roma origin their specific characteristics resulting from biculturalism and bilingualism are taken into account. In order to diagnose the child's intellectual functioning level, the counselling centres use non-verbal and culturally neutral tests (e.g. TMR, Leiter scale, Columbia Mental Maturity Scale). When there are no contraindications resulting from a low language efficiency of a child, in the examination the WISC-R is used as a whole or just its non-verbal (performative) part is used, which limits verbal contact with a pupil to giving simple instructions. In order to assess the social functioning level of a child and his or her resourcefulness, among others, the Adaptive Behaviour Scale is used. In examinations of children in preschool age, among others, a set of tests to assess mental and physical development of children aged 5-6 is used. It should be emphasized that the Roma children returning from abroad aged 14 and 15 are tested in the centre typically three times in order to objectify the diagnosis. The Ministry of National Education has also taken a number of measures for the dissemination of knowledge about the diagnosis of Roma children and providing them with a support in the education system adequate to their needs. In the period from 25 March to 15 April 2011, five regional consultation and information meetings were organized with the representatives of the psychological and pedagogical counselling centres as a part of the project "Increasing the effectiveness of education of pupils with special educational needs." During these meetings matters related to issuing certificates for Roma children by counselling centres were discussed. In particular, attention was paid to the need for using non-verbal and culturally neutral tests, taking into account the degree of mastering Polish in examinations of Roma children. In 2012, at the request of the Ministry of National Education and in cooperation with the Ministry of Administration and Digitization, the Centre for Education Development organized a seminar (April 2012) and a conference (27-28 September 2012), devoted to the issues of functioning of a multilingual and culturally different child, including a Romani child, in the education system. Psychologists from the Jagiellonian University and the Psychological Test Laboratory of the Polish Psychological Association, among others, were invited to cooperate in the organization of these projects. The aim of the conference addressed to the representatives of the province governors, employees of psychological and pedagogical counselling centres, Roma assistants, teachers and headmasters was to develop and disseminate procedures for identifying the needs and capabilities of bilingual and culturally different pupils in schools and counselling centres, and to prepare personnel of the education system to build a local strategy of supporting foreign and culturally different pupils. On 11

and 12 December 2012, also two nationwide conferences addressed to the employees of the psychological and pedagogical counselling centres, which presented the problem of issuing certificates and opinions and a culturally neutral diagnosis, taking into account the needs of multilingual children, were held. Moreover, in December 2012, the province governors received a letter of the Minister of National Education and the Minister of Administration and Digitization, in which the Ministers requested them to continue the above-mentioned activities through the organization of regional meetings in cooperation with the plenipotentiary for national and ethnic minorities and superintendents of education. The objective of the meetings, addressed to employees of psychological and pedagogical counselling centres, teachers and Roma education assistants, was to disseminate the problems of recognizing the needs and abilities of multilingual and culturally different children in kindergartens, schools and institutions of the education system, as well as to develop local strategies for providing adequate support in the education process for these children and young people and their families. In November 2013, the Centre for Education Development issued a publication entitled “Selected issues of psychological and pedagogical diagnosis of children and adolescents in the context of multiculturalism and multilingualism”. It contains materials prepared by a team implementing a research project entitled “Cognitive and language functioning of Roma children attending special and mass schools – social contexts.” The publication is addressed mainly to psychologists working in the psychological and pedagogical counselling centres, dealing with diagnosing development and education needs of multilingual and culturally different children, and is intended to help ensure reliability and cultural neutrality of the diagnostic process. The publication is also available on the website of the Ministry of Administration and Digitization: [www.mac.gov.pl](http://www.mac.gov.pl).

### **Promotion of full and real equality of the Romani**

**Point 21.** In addition to the comment relating to this point, it should be said that the planned continuation of activities in the Programme for the Roma Community in Poland provides, among other things, for a pro-vocational component. Despite the wide range of implemented activities consisting in the organization of training to raise qualifications and professional skills, individual support in searching for work, organization of work placements, taking actions by assistants or social and professional consultants, the thesis that the professional activation mechanisms used so far are characterized by a very limited effectiveness is still valid. The genesis of this state of affairs is low education and – consequently – the lack of professional qualifications and professional experience. The condition for changing the low participation of the Romani in the labour market is to raise the general level of education at least to vocational education.

## II. FINDINGS FOR EACH ARTICLE

### ARTICLE 3 of the Framework Convention

#### Subject scope of applying the Framework Convention

**Point 24.** Polish citizens who wish to nurture and develop their commitment to the region of residence, to cultivate local traditions or culture have full, inalienable right to do this. Of course, this also applies to the residents of Silesia. Persons wishing to cultivate and develop dialects and local dialects of Polish used by them, including the Silesian dialect of the language, also have every right to do this. It should be recalled that the Act of 7 October 1999 on the Polish language (Journal Laws of 2011 No. 43, item. 224, as amended) in Article 3(1)(4) states that the protection of the Polish language involves promoting respect for regionalisms and dialects, as well as preventing their disappearance. The authorities of the Republic of Poland are open to a dialogue with people interested in cultivating, within the existing legal order (including decisions of the Supreme Court and the European Court of Human Rights), own regional identity to enable them fuller use of the legal regulations existing in this field.

**Point 25.** With reference to this point, it should be noted that the dialect of native inhabitants of Silesia is considered by linguists to be a dialect of Polish, including many local dialects – “since linguistically Silesia is divided into south and north, sometimes also the Middle is distinguished, or into the Cieszyn, Upper and Opole”<sup>2</sup>. Silesian dialect is relatively diverse. Until now, an over-dialectal variety (koiné) of neither the Silesians in general, nor the Upper Silesians has arisen. In the opinion of the authorities, support for actions aimed at imposed standardization of the Silesian dialect would be an artificial and unjustified process, since it could threaten the richness and diversity of the Silesian local dialects, towards which the authorities are obliged to take measures to counteract their disappearance. It should also be noted that users of the Silesian local dialects interested in their protection are constantly emphasizing that their actions are intended to prevent the disappearance of the abundance of Silesian dialects. Regarding the matter raised in this point of the use of certain linguistic rights by persons using the Silesian dialect of Polish language, it should be noted that the issues relating to the rights of users of local dialects and dialects of Polish are not included within the scope of the *Framework Convention for the Protection of National Minorities* (Journal of Laws of 2002, No. 22, item 209).

**Point 26.** It should be firmly emphasised that in the Interpretive Declaration submitted along with the ratification document of the *Framework Convention for the Protection of National Minorities* (Journal of Laws of 2002, No. 22, item 209) the Republic of Poland stated that in the absence of an appropriate definition in the document, by the term “national minorities” used in the *Convention* is understood national minorities inhabiting the territory of the Polish Republic, whose members are Polish citizens. The list of national and ethnic minorities living in Poland is determined in the Act of 6 January 2005 on National and Ethnic Minorities and Regional Language. As it follows from the above, the issues relating to other groups of Polish citizens or people who do not have Polish citizenship cannot be included in Poland within the scope of use of the *Framework Convention for the Protection of National Minorities*.

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<sup>2</sup> *Encyklopedia języka polskiego*, ed. S. Urbańczuk and M. Kucala, third edition amended and supplemented, Wrocław 1999

**Point 29.** As already mentioned in the comment on points 24 and 25, the authorities of the Republic of Poland are open to a dialogue with people interested in cultivating, within the existing legal order, own regional Silesian identity to enable them fuller use of the legal regulations existing in this field. The authorities are also open to dialogue with the users of the Silesian dialect of Polish, aimed at increasing the degree of dissemination of respect for regionalisms and local Silesian dialects, as well as preventing their disappearance. In the opinion of the government administration, there is no need to artificially support the efforts aimed at imposed standardization of the Silesian dialect. It would be an artificial and unjustified process, threatening the richness of the Silesian dialects of Polish. That matter should be left to the users.

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

**Point 36.** In connection with the position expressed in this point, please refer to the comment on point 13.

**Point 37.** In connection with the position expressed in this point, please refer to the comment on point 13.

**Point 38.** In connection with the position expressed in this point, please refer to the comment on point 13.

## **ARTICLE 4 of the Framework Convention**

### **Legal and institutional framework for non-discrimination**

**Point 44.** With regard to the competence of the Human Rights Defender as an independent body for equal treatment in disputes between private parties, it is worth noting that this problem was assessed by the European Commission (EU-Pilot 3276/12/JUST). The Commission considered Polish explanations to be satisfactory, and powers of the Defender in horizontal disputes to be sufficient for full implementation of Directives 2000/43/EC, 2004/113/EC and 2006/54/EC.

**Point 45.** Referring to the position of the Committee of Experts submitted in this point, it should be noted that support of the government for the Human Rights Defender and the Government Plenipotentiary for Equal Treatment in performance of tasks associated with the implementation of the principle of equal treatment is very important. An important element in ensuring a secure and permanent institutional situation is a statutory authorization of the Government Plenipotentiary for Equal Treatment under the Act of 3 December 2010 on the implementation of certain provisions of the European Union in the field of equal treatment (Journal of Laws No. 254, item 1700, as amended). Under this Act, the Chancellery of the Prime Minister was obliged to provide substantive, organizational, legal, technical and office support for the Plenipotentiary. It is also worth noting that the Plenipotentiary is actively using the law to carry out programmes and projects co-financed by the European Union, and the Chancellery of the Prime Minister provides resources necessary to finance own contribution to these projects.

### **Promotion of full and real equality of the Romani**

**Point 47.** With reference to the information contained in this point, it should be explained that one event showing discriminatory practices used against Romani pupils has been noted so far. In 2008, a separate entrance to school in Maszkowice was created for students receiving education in the so-called Roma classes. This problem was solved. From this point, no such events have been noted.

**Point 49.** In connection with the position expressed in this point, please refer to the comment on point 20.

**Point 50.** With reference to the comment made in this point, it should be noted that the below-average education results of Roma children are affected by many factors: the attitude of Roma parents to the education of children, difficult living conditions of Roma families, migration of Roma families combined with the continuation of education in a different education system or lack of continuation of education in the country of current residence and the consequences of such change in case of return to the country, the difficulties in using Polish by Roma children in the first years of school education or return of a child to Poland from another educational system, and others. Among the activities undertaken by the Polish authorities for the Roma community, the priority activities are these, which are designed to equalize educational opportunities and improve learning results of Roma children and youth. Financial support for Roma families (including equipping pupils with textbooks and stationary, etc.), a system of scholarships for Roma students, organizing remedial classes of Polish and other school subjects, help and care on the part of Roma education assistants, publishing educational materials addressed to Roma parents – these are all activities which cause a slow but steady improvement in the learning results of Roma pupils. The effects of these actions are monitored and published on the website of the Ministry of Administration and Digitization. In connection to this matter, it is particularly worth noting the numerical and graphical comparisons of achievements of Roma students in individual provinces, included in the reports from the subsequent years on the implementation of the government *Programme for the Roma Community in Poland*.

**Point 52.** With respect to information contained in this point, it should be noted that information regarding specific cases of discrimination in access to services, including social housing, has never been reported. The lack of notification also applies to complaints against public officers.

**Point 53.** In connection with the position expressed in this point, please refer to the comment on point 20.

**Point 54.** Referring to the recommendations contained in this point, it should be noted that the authorities established for this purpose are thoroughly examining and verifying all complaints of alleged discrimination for any reason, including ethnicity and nationality. In case of confirmation of the legitimacy of such complaint, actions determined by law are taken. At the same time, in connection with the position expressed in this point, please refer to the comment on point 52.

**ARTICLE 5 of the Framework Convention****Legal guarantees and support for the preservation of culture of persons belonging to national minorities**

**Point 61.** As already mentioned in the comment on point 14, in accordance with Article 18(3) of the Act on National and Ethnic Minorities and Regional Language, the exclusive holder of the funds for the implementation of tasks aimed at maintenance and development of cultural identity of national and ethnic minorities, and the preservation and development of a regional language is the minister responsible for religions and national and ethnic minorities (currently, the Minister of Administration and Digitization). Thus, the Minister bears full responsibility for the proper expenditure of public funds allocated for this purpose in the budget of the State. In accordance with §10 of Ordinance No. 4 of the Minister of Administration and Digitization of 27 December 2011 concerning the rules of procedure for awarding grants for the protection, preservation and development of cultural identity of national and ethnic minorities, preservation and development of a regional language and civic integration of the Roma minority (Official Journal of the Min. of Adm. and Dig. of 2012, item 4), on the basis of the minutes of the meetings of the committee formed to evaluate applications, a proposal for the allocation of grants, which shall be approved by the Minister, who, as already mentioned, is the holder of the allocated funds, is being prepared. The Commission is then performing an auxiliary function to the Minister, who awards grants for specific tasks, concludes contract on their implementation and is responsible for the proper implementation of the State policy in this regard. Referring to the accusation of insufficient budget allocated for the preservation and development of cultural identity of minorities, and preservation and development of regional language, it should be reminded that the government administration endeavours to make the amount of funds allocated for this purpose as large as possible. As repeatedly mentioned, despite the economic crisis, the resources assigned to subsidies remain at a similar level. It will be possible to consider the significant increase in the amount allocated for subsidies only in case of improvement of the state budget condition. Regarding the matter raised in this point of the possibility of multi-annual funding of the projects implemented for the minorities, it should be noted that, from 2015, a new section has been introduced to the *Information about the detailed rules of procedure for awarding grants for the implementation of tasks aimed at protection, preservation and development of cultural identity of national and ethnic minorities, and preservation and development of regional language*, which is the implementation of the postulate concerning the introduction of multi-annual contracts. It is proposed to start from allowing conclusion of such contracts for publication of weeklies and fortnightlies, and in subsequent years, if the solution passes the test, extending it to other types of tasks.

**Point 62.** In connection with the position expressed in this point, please refer to the comment on point 14.

**Point 64.** As already mentioned in the comment on point 14, in the opinion of the Polish Government, the process of awarding grants submitted every year in accordance with Article 18 of the Act on National and Ethnic Minorities and Regional Language is a clear process, subject to full control of social factors. Any rules and criteria taken into account in the process of awarding grants are consulted and evaluated every year by the Joint Commission of the Government and National and Ethnic Minorities. Since 2011, the committee appointed on the basis of *Information about the detailed rules of procedure for awarding grants for the implementation of tasks aimed at protection, preservation and development of cultural*

*identity of national and ethnic minorities, and preservation and development of regional language*, evaluating applications, has included independent experts recommended by the Joint Commission. Since 2013, these experts have represented half of the composition of the evaluation committee.

## **ARTICLE 6 of the Framework Convention**

### **Tolerance and intercultural dialogue**

**Point 68.** In addition to the information contained in this point, it should be noted that the Sejm of the Republic of Poland, in order to emphasize the tragic fate of the victims of World War II, still strongly present in the consciousness of Polish citizens due to losses suffered by Poland during this war, on 28 July 2011, adopted a resolution on the establishment of 2 August the official Day of Remembrance of the Annihilation of the Roma and Sinti.

**Point 69.** In connection with the position expressed in this point, please refer to the comment on point 16.

**Point 70.** With reference to the allegations made in this point, it should be firmly emphasised that the issues relating to migrants and foreigners in Poland are not included within the scope of the *Framework Convention for the Protection of National Minorities*. In the Interpretive Declaration attached to the *Convention*, the Republic of Poland stated that by the term “national minorities” is understood national minorities inhabiting the territory of the Republic of Poland, whose members are Polish citizens. However, in order to dispel doubts of the Committee regarding the issues raised in the comment, it should be noted that the problem of an illegal settlement of around 80 Romanian Roma people in Wrocław is the subject of work of the relevant authorities (among others, the Ministry of Administration and Digitization, the Office for Foreigners, the Ministry of Labour and Social Policy, the Ministry of National Education, the Human Rights Defender, the Lower Silesian Governor's Office and the Police authorities). Despite the difficult situation (occupation of land belonging to the City Hall, resulting in a lawsuit for eviction, lack of residence registration), local authorities provide the necessary assistance, including:

- in connection with the epidemic of measles in 2013, vaccination of children was carried out,
- a trash container and portable toilets were set,
- water is being supplied,
- Wrocław City Hall declared to transfer residents of the camp to container buildings in another district of the city.

One of the formal obstacles is the lack of registration of stay of foreigners, which makes it impossible – in accordance with the existing legal order – to provide benefits from social assistance. However, the involvement of several non-governmental organizations led to effective aid in the form of providing food, clothing, fuel and petrol for the power generating unit during winter, conducting informal education of children, ensuring the possibility of free use of bath, hairdresser and laundry. The group of Roma was also put through an examination and physiotherapeutic treatments. In addition, the procedure for registration of residence of one of the families was initiated, providing it with: health insurance, the necessary bank account and work for two of its members (according to the information as of 21 March 2014, this procedure will be completed positively). The family was also offered a temporary (until

achieving a relative economic autonomy) apartment. Effective cooperation with the Consulate of Romania, which enabled the quick completion of missing documents in the registration process, should be emphasized. In cooperation with local authorities, one of the NGOs prepared an aid project, which is currently in the tender procedure for subsidizing the integration activities.

**Point 72.** In connection with the position expressed in this point, please refer to the comment on point 16.

**Point 73.** In connection with the position expressed in this point, please refer to the comment on point 15.

**Point 74.** The Republic of Poland is undertaking a number of measures to prevent and combat all forms of discrimination, including discrimination based on race, ethnicity or nationality. The authorities are also implementing numerous actions aimed at social integration of immigrants and refugees. As already mentioned in the comment on point 70, in Poland, these issues are not, however, covered by the scope of the *Framework Convention for the Protection of National Minorities* and, as such, should not be the subject of the *Third opinion on the implementation by Poland of the provisions of the Framework Convention for the Protection of National Minorities* of the Advisory Committee of the Council of Europe for the Framework Convention for the Protection of National Minorities.

#### **Efforts to counteract ethnic hostility or violence**

**Point 79.** The comment on point 79 refers to the activities of the Monitoring Team on Racism and Xenophobia of the Ministry of the Interior. It is worth noting that in December 2011, based on the Monitoring Team on Racism and Xenophobia existing since 2004, a Team for the Protection of Human Rights was created within the structure of the Department of Inspection, Complaints and Applications of the MI. One of the main tasks of this Team is to conduct monitoring of cases of hate crimes. It should be emphasised that the Monitoring Team on Racism and Xenophobia was monitoring only certain types of hate crimes – crimes committed out of racist, xenophobic, anti-Semitic motives and on the grounds of religion. Currently, the Team for the Protection of Human Rights is dealing with all kinds of hate crimes. These actions are justified by the results of research carried out by non-governmental organizations, as well as by the observations made by international organizations which Poland is a member of, which show that cases of hate crimes committed on grounds other than those dealt so far by the Monitoring Team on Racism and Xenophobia occurred in the Polish area. In addition to the statistical data quoted in the discussed point, it is worth mentioning that in 2013, the Team recorded a total of 175 events, which could be either hate crimes or incidents, of which 45 cases referred to the national and ethnic minorities (including: 25 cases related to anti-Semitism, 12 cases connected with the Roma community, 3 cases related to the German origin, 2 cases relating to the Russian origin, 2 cases were related to the Lithuanian origin, 1 case was connected with the Ukrainian origin). At the same time, data of the Team for the Protection of Human Rights of the DICA of the Ministry of the Interior does not confirm the information contained in point 79 of the opinion that, supposedly, the cases related to anti-Semitism or any other incidents resulting from hate were not investigated by the Police too often. In all cases registered by the Team the Police undertook actions provided for by the law. There are individual cases in which preparatory proceedings were not initiated, because the Police did not confirm that given event really took place (usually, these are situations where graffiti is painted on a facade or a tombstone, but it is removed prior to arrival of the Police, e.g. by the property owner), but even in these cases

the Police takes inspection measures in response to information about an incident. One should also bear in mind that small crime detection in relation to vandalizing and anti-Semitic graffiti on Jewish cemeteries is associated with evidence problems occurring in such cases. In general, the perpetrators of such crimes commit their acts at night or at such time that no third party could observe them, in places without monitoring. Detection of these crimes is highly dependent on the capabilities and operability of the Police authorities, which are conducting an investigation, and from their actions and findings.

**Point 80.** In addition to the information contained in point 80 on the implementation of the *Programme to combat hate crimes for officers of law enforcement authorities*, it should be noted that the number of trained officers reached 70 thousand at the end of 2013. Competence provided during the LEOP are complemented also by other initiatives, primarily educational, conducted in the Police, such as training, didactic studies, meetings with representatives of groups at risk of discrimination, human libraries and others. Police officers are trained to prevent and combat hate crimes starting from the selection to the service. In 2010, the rules for the selection to the Police were changed by adding elements into the conversation with the candidate which allow for a more detailed examination of attitudes among the candidates for the Police in terms of social prejudices and stereotypes which, after joining the service, could lower motivation and effectiveness of the fight against discrimination of social minorities. Then, during an over six-month basic course, police officers receive basic knowledge on the fight against and prevention of hate crimes. The anti-discrimination education of officers at the basic level is supported by a methodical handbook entitled *To serve and protect*, handed over to the police schools in 2011, which illustrates the teaching staff methods available to prevent any possible intolerant attitudes of officers. Police officers are also given a police anti-discrimination handbook entitled *Firstly, human. Anti-discrimination measures in the Police units*, including, among others, information on the specifics of individual minority groups and tips for Police officers on how they should behave in contacts with these people in order not to offend them. The handbook aims to increase knowledge and awareness of officers of issues related to the prevention of discrimination in professional environment of policemen. In addition, leaflets are distributed among the officers, which contain the most important definitions and rules of conduct related to the issue of hate crimes, as well as a catalogue of symbols of hate, the most frequently found in Poland. A mandatory workshop entitled *Human Rights in Police Management* is organized for the executive staff in the Police. Moreover, thanks to the active collaboration with NGOs, numerous non-discrimination workshops for officers are organized throughout the country. The impact of these activities on the fight against and prevention of hate crimes is more and more visible and manifests itself in:

- constantly increasing number of revealed hate crimes related, among others, to an increase in knowledge about the methodology of conducting investigations in cases of hate crimes and the proper legal qualifications of acts committed out of hatred,
- visibly greater number of indictments, proving an increase in the skills of collecting strong evidence material in such cases,
- fewer complaints about the intolerant behaviour of officers.

As a part of the initiatives undertaken by the Police aimed at preventing hate crimes, it is worth mentioning the establishment of the Police Platform against Hatred at the General Police Headquarters in January 2014. The platform was created on the initiative of the Plenipotentiary of the Police Chief Commanding Officer for the Protection of Human Rights in order to develop optimal forms and methods of preventing the so-called hate crimes.

**Point 81.** Within its statutory competence, the National Broadcasting Council constantly counteracts the presence of xenophobic and racist content in the radio and television programmes. The Council controls both TV and radio programmes for compliance with the provisions of Article 18(1) of the Act on Radio and Television, i.e. whether they do not contain any “content discriminatory on grounds of race, sex or nationality”. In 2011, the National Council noted the presence content discriminatory in respect of race in a programme of the Eska Rock station (the programme “Poranny WF”, broadcast on 25 May 2011). For this reason, the President of the National Broadcasting Council imposed a fine on Eska Rock S.A. in the amount of PLN 50,000 (about EUR 11,725)<sup>3</sup>. The company was fined for similar actions for the second time. The presence of racist content was noted in a programme of Eska Rock, broadcast between 6 October and 20 December 2011, for which a fine was imposed by the President of the NBC on the licensee in the amount of PLN 50,000. For the third time, the same company was fined for the presence of offensive statements (discriminatory on grounds of gender and nationality) in relation to women of Ukrainian nationality in Eska Rock (the programme “Poranny WF” broadcast on 12 June 2012). The President of the NBC imposed a fine in the amount of PLN 75,000 (around EUR 17,590). In 2013, the NBC did not receive complaints regarding violations of Article 18(1) of the Act on Radio and Television.

**Point 82.** With regard to the information contained in this point, it should be emphasized that the case of denial of access to public services, referred to in this point by the Advisory Committee, was the only case which has taken place so far.

**Point 84.** In the case described by the Advisory Committee, the District Public Prosecutor suffered consequences in connection with the irregularities occurring in the challenged judgement. Immediately after the media information about the above judgement, the case was controlled by the District Public Prosecutor's Office in Białystok, and as a result of the control, which regarded the issued decision to be unjustified, the case was taken up again and continued. However, it should be noted that in 2004 the previous National Public Prosecutor's Office introduced rules of procedure in cases of crimes committed out of racial, national, ethnic, religious motives or because of no religious denomination, which are to eliminate incorrect, unfounded judgements made in these cases on the refusal to initiate proceedings or their discontinuation. The principle of examination of all final decisions to discontinue or not to initiate proceedings made by the appellate public prosecutor's offices was introduced. As a result of these actions, in case of finding irregularities, recommendations on the need to complete the proceeding and validate the mistakes are issued. This issue is raised in the context of numerous training conducted regularly by the National School of Judiciary and Public Prosecution for judges, public prosecutors and legal interns. Nevertheless, the Public Prosecutor's General Office, recognizing the need to supplement the training offer for public prosecutors conducting this type of proceeding, as a part of vocational training for public prosecutors, which was carried out using video-conferencing facilities, organized training devoted to the subject of crime resulting from hatred. These trainings were conducted, among others, by Prof. Zbigniew Ćwiakalski, PhD., Elżbieta Radziszewska, the then Government Plenipotentiary for Equal Treatment, and Prof. Włodzimierz Wróbel. A relatively high percentage of cases in which wrong substantive decisions were taken in cases finished by public prosecutors with decisions not to initiate proceedings or discontinuation of proceedings, prompted the Public Prosecutor General to issue a command to appellate public prosecutors on 1 July 2013. They were obliged to designate, within the jurisdiction of each regional public prosecutor's office, one district public prosecutor's office (in exceptional cases

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<sup>3</sup> Euro exchange rate (4.2645 PLN per 1 EUR) on the basis of Table of exchange rates No. 053/C/NBP/2014 of 17 March 2014, in force since 18 March 2014.

two) which will be responsible for conducting preparatory proceedings in cases of hate crimes, committed in the area covered by the prosecutor of a given regional public prosecutor's office. They were also obliged to indicate in the selected district public prosecutor's offices two public prosecutors to conduct such criminal proceedings. In September and November 2013, the appointed public prosecutors were trained in the Public Prosecutor's General Office. Successive training for public prosecutors in the form of workshops is also planned.

**Point 85.** In connection with the position expressed in this point, please refer to the comment on point 15.

**Point 86.** In connection with the position expressed in this point, please refer to the comment on point 80. It should be also firmly emphasised that all cases of incitement to racial and ethnic hatred in the media are, in accordance with applicable law, prosecuted by the relevant authorities appointed by the Police and public prosecutor's offices.

**Point 87.** Referring to the recommendations presented in this point, it should be noted that as a part of the vocational training for public prosecutors appointed to conduct preparatory proceedings in crimes committed on national, ethnic, racial, religious grounds or because of no religious denomination, organized by the Public Prosecutor's General Office on 24 and 26 September 2013, a training on hate crimes committed in football stadiums and the capabilities to identify the perpetrators of these crimes was conducted. Due to the increasing number of crimes committed by hooligans, aggressive members of groups manifesting relations with a given sports club, who show a lack of respect for social norms and other persons, committing together, usually in public, various types of crimes, in August 2013, the Public Prosecutor General ordered that while applying for punishment for this kind of perpetrators of crimes against life and health, as well as against police officers or security personnel members, but also against the security of mass events, one should be particularly insightful in assessing the degree of social harm of acts they are accused of. He pointed out that usually it should be considered high, because of the manner and circumstances of committing the act and the motivation of the perpetrators. Often, this type of crimes are of hooligan nature, within the meaning of Article 115 § 21 of the Criminal Code. This usually speaks for formulating requests for imposition of a sentence of imprisonment without conditional suspension of its execution, if only the offence is punishable by such penalty. He also pointed out that if the court does not share the public prosecutor's request, imposes different kind of punishment or conditionally suspends the execution of the sentence of imprisonment, such decision should be challenged by an appeal. In addition, the Public Prosecutor General ordered that in case of preparatory proceedings against indicated perpetrators committing the above-mentioned categories of crimes during the probation period, for which the previously given imprisonment sentence was suspended, the competent court should be informed about a gross breach of the legal order, at the same time requesting the execution of the sentence based on the content of Article 75 § 2 of the Criminal Code, even though a final sentence has not been passed yet. The analysis of reports concerning crimes committed for racist reasons shows that in 2012 out of 473 proceedings conducted in the public prosecutor's offices in relation to crimes on racist grounds 37 proceedings were related to crimes resulting from behaviour of fans and athletes at sporting events, whereas out of a total of 835 proceedings conducted in 2013, relating to crimes on racist grounds – 33 cases concerned crimes resulting from racist behaviour of fans and athletes. In 2012, 3 cases resulted in indictments, and 4 cases in 2013. Moreover, it should be noted that the Ministry of the Interior, in partnership with other entities, is implementing a number of measures for combating racism and intolerance in sport. The Minister of the Interior is the coordinator of the *Government programme to reduce crime*

*and antisocial behaviour "Safer Together"*, whose main objective is to support the statutory activities of the government administration and local government for public safety and order. The main objective of the programme is to reduce the scale of the phenomena and behaviours which arouse general opposition and insecurity. The priority objectives of the programme include: increasing the sense of security among residents, preventing crime and antisocial behaviour, improving the image of the Police and increasing public confidence in the service, activating local partnerships of various entities working to improve public safety and order. As a part of the *Safer Together* programme, since 2009, contests have been organized for local government units (communes and districts) with the aim of promoting activities for enhancing the safety of sporting events through education of children and youth. Between 2009 and 2012, these were the contests entitled *Safety of Sports Events*. In 2013, the Ministry of the Interior announced a contest *I support safely*, continuing the contests *Sports Event Security*, for a project promoting the principles of safe supporting, popularizing the principle of fair play, especially among children and adolescents. The contest was nationwide, and its objective was to select and finance projects which promote the principles of safe support. The total amount of PLN 150 000 was allocated for the prizes. While assessing the works, the contest board paid special attention to such issues as: popularizing knowledge about the legal consequences arising from the improper behaviour at sporting events, as well as shaping habits of proper behaviour during support. 20 projects were submitted to the contest. Mention should also be made about the project *I am Fair*, implemented jointly by the City of Łódź and the University of Łódź, along with partners: the Ministry of the Interior (formerly the Ministry of Internal Affairs and Administration), and the Ministry of Sport and Tourism, as well as with: the Polish Olympic Committee, sports clubs: ŁKS and RTS Widzew, City Police Headquarters, Municipal Police, "Red Card to Racism" Association, "Never Again" Association. This project is a continuation of a pilot programme implemented in the school year 2009/2010 in four primary schools in the City of Łódź area. The main objective of the project is to propagate the idea of fair play, as an educational component of fight against racism, xenophobia and anti-Semitism, and to promote greater understanding and tolerance for other people, cultures and religions among the first grades of secondary schools. Within the first edition of the project, a conference for teachers of secondary schools in Łódź was organized. The conference was combined with workshops for teachers, the effect of which is development of a united front of activities in schools and the creation of basis to develop own educational projects. Participation in the workshop was equivalent with obtaining a certificate of school coordinator of the project *I am Fair*. Diagnostic tests (before and after the project) were conducted in relation to the fair play attitude among the first-graders from the proposed secondary schools (excluding special schools) in respect of the very idea through respecting it in life, sport and as audience. In addition, a meeting of 800 students was organized with sportsmen: footballers of two Łódź clubs: ŁKS and RTS Widzew, and with the Olympians, athletes, rugby and basketball players. Educational projects in schools were also implemented. Within the second edition of the project, a competition for schools was announced, whose aim was to propagate the idea of fair play, as an educational component of fight against racism, xenophobia and anti-Semitism and to promote greater understanding and tolerance for other people, cultures and religions in sport and in life every day. 25 secondary schools from Łódź entered the competition. Each school established a Team implementing the school educational project *I am Fair*, composed of a maximum of ten pupils of first grades and two teachers. In December 2012, a monograph *Safer Together* was published from the funds of the programme, along with research results entitled *Fair play in education of cultural reception of a sporting spectacle (on the example of the Łódź project "I am Fair")*.

## **ARTICLE 8 of the Framework Convention**

### **An individual's right to manifest religion or belief**

**Point 89.** In addition to the information contained in this point, it should be noted that, according to the state as of 26 March 2014, on Polish territory, 174 churches and other religious organizations have a regulated legal situation on the following basis: the Catholic Church on the basis of an international agreement and the Act; 14 churches and other religious associations under the Act, and 159 churches and other religious organizations on the basis of registration of churches and other religious organizations maintained by the minister responsible for religious denominations and national and ethnic minorities.

**Point 90.** Referring to the matters raised in this point in relation to the Property Commission, it should be noted that the Property Commission was dismissed with the effect from 1 March 2011 pursuant to Article 2(1) of the Act of 16 December 2010 amending the Act on the relationship between the State and the Catholic Church in the Republic of Poland (Journal of Laws of 2011 No. 18, item 89). With reference to the statement that other petitions were transferred to the judicial system, it must be noted that the said transfer was not obligatory. According to Article 4(1) of the aforesaid Act, participants of regulatory proceedings, in which the adjudicating panel or the Property Commission in its full composition did not agree on a decision before the entry into force of this Act could, within six months from the date of receipt of a written notice about it, referred to in Article 64(1) of the Act on the relationship between the State and the Catholic Church in the Republic of Poland (Journal of Laws No. 29, item 154, as amended), apply for resuming suspended judicial or administrative proceedings, and if it was not initiated – apply to the court for adjudication of claims. When the court is examining the case it shall apply the provisions of Article 63(1) to (3) of the Act on the State's relationship to the Catholic Church in Poland. In case of failure of submitting application to a court in this period, the claim expires. However, according to Article 4(2) of the above-mentioned Act of 16 December 2010, in case of failure to examine applications for the initiation of regulatory proceedings, filed under Article 62(3) first sentence of the Act on the State's relationship to the Catholic Church in Republic of Poland and Article 2 of the Act of 11 October 1991 amending the Act on the State's relationship to the Catholic Church in the Republic of Poland (Journal of Laws No. 107, item 459), the provisions of paragraph 1 apply to the participants of regulatory proceedings, except that the date indicated therein was calculated from the date of entry into force of the Act of 16 December 2010. Referring to the accusation made in this point in relation to “delaying” the process of regulating properties other churches and religious associations by the Polish Government, it should be noted that, in the opinion of the Polish Government, it is completely unfounded. Four regulatory commissions, referred to in the article, operating under the acts governing the relations of the State with churches and religious associations, namely: the Regulatory Commission (for the Evangelical Church of the Augsburg Confession in the Republic of Poland), the Regulatory Commission for the Polish Autocephalous Orthodox Church, the Regulatory Commission for Jewish Communities, and the Inter-Church Regulatory Commission act on the basis of consensus and mutual understanding of the representatives of various churches and religious organizations, sitting in them in an equal number, and the Minister of Administration and Digitization. Neither party to the process of regulation – neither church and union nor governmental – can by oneself accelerate or delay the regulation process pending before the Commissions. The time of the regulation process of individual cases is related only to the degree of complexity of the case, the requirements of the regulation process recorded in each of the Acts and the possibility of obtaining evidence confirming the validity of the claim.

**Point 91.** With reference to the issue raised in this point of the so-called “ritual slaughter”, it should be noted that the Ministry of Agriculture and Rural Development is informing on its website that as of 1 January 2013, in accordance with the Act of 21 August 1997 on the protection of animals (Journal Laws of 2013, item 856) and with the Council Regulation (EC) No. 1099/2009 of 24 September 2009 on the protection of animals at slaughter (Official Journal EU L 303, 18.11.2009, p. 1), it is possible to slaughter animals according to specific methods prescribed by religious rites after meeting all of the following conditions:

- 1) slaughter takes place in a slaughterhouse,
- 2) the slaughtered animal was previously stunned in accordance with stunning methods set out in Annex I to Council Regulation (EC) No. 1099/2009,
- 3) the provisions of this Regulation are properly applied.

It should be noted that, in accordance with Article 35(1) of the Act on the protection of animals, killing, putting to death animals or slaughtering an animal in violation of Article 34(1) (concerning the obligation to stun animals before killing) is a criminal offence subject to a fine, restriction of liberty or imprisonment up to 2 years

**Point 95.** Referring to the recommendation included in this point, it should be mentioned that on the initiative of the Council of Ministers a bill amending the Act on the protection of animals was proceed in the Sejm, allowing the possibility of performing a ritual slaughter while banning the use of cattle restraint systems in the reverse position (the so-called rotating cages), which was turned down on 12 July 2013. Moreover, on 30 August 2013, the Union of Jewish Communities in the Republic of Poland submitted a request to the Constitutional Tribunal for a declaration that Article 34(1) and (3) and Article 35(1) and (4) of the Act on the protection of animals, which do not allow particular forms of animal slaughter prescribed by religious rites are incompatible with Article 53(1), (2) and (5) in conjunction with Article 31(3) of the Polish Constitution in connection with Article 9(1) and (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 (Official Journal of 1993, No. 61, item 284, as amended). Therefore, the Constitutional Tribunal should decide what is the relation between the freedom of religion guaranteed by the Polish Constitution, including the right to slaughter animals according to specific methods prescribed by religious rites arising from this freedom, and of the aforesaid Act of 21 August 1997 on the protection of animal rights. On 5 March 2014, the Speaker of the Polish Sejm received civic bill amending the Act on the protection of animals, which allows the slaughter of animals performed according to specific methods prescribed by religious rites.

## **ARTICLE 9 of the Framework Convention**

### **Press and radio and television broadcasts in minority languages**

**Point 98.** In addition to the information included in this point, it should be explained that the Regional Division of TVP in Białystok, beside the weekly programmes in Belarusian and Lithuanian, also broadcasts regularly programmes in Ukrainian (Ukrainian Review) and Russian (Russian Express). The division of TVP in Olsztyn broadcasts 2 times a month a magazine in Ukrainian (Ukrainian News). Furthermore, since 2008, regularly, twice a month a programme in Kashubian “Tedë jo” has been broadcast by the Regional Division TVP Gdańsk. These programmes can be also viewed during revisions and on the Internet.

**Point 99.** In addition to the information specified in this point, it should be noted that regular programmes in German are broadcast by Polish radio stations in Opole and Olsztyn. Programmes in the Roma language can be heard on the air of radio stations from Opole and Koszalin. Programmes addressed to minorities in Ukrainian are broadcast by radio stations of Polskie Radio in Białystok, Koszalin, Olsztyn, Szczecin, Rzeszów, Kraków and Wrocław. Broadcasts in Kashubian are available on the air of Polskie Radio Gdańsk and Polskie Radio Koszalin.

**Point 102.** With reference to the issues raised in this point concerning the cessation of broadcasting of some radio and television programmes addressed to minorities and financing programmes targeting minorities broadcast by public broadcasters, comments on point 16 and point 17 should be recalled. Regarding the thesis included in this point that the way of allocating funds by the Board of Telewizja Polska S.A. threatened the existence of television programmes focusing on minorities, once again, it must be recalled that the National Broadcasting Council is funding in 100% from the service resources the cost of production and dissemination of programmes for national and ethnic minorities broadcast in the public media. In accordance with Article (21)(1a)(8a) of the Act of 29 December 1992 *on radio and television*, the tasks of public radio and television, arising from performance of the public mission, must take into account the needs of national and ethnic minorities and a community using regional language, including broadcasting information programmes in the languages of national and ethnic minorities and regional language. Public broadcaster – such as Telewizja Polska S.A. – is therefore required to implement this task as a part of its statutorily specified activities. The allocation of resources within the company Telewizja Polska S.A. is its internal matter and has no impact on the necessity of the public television to carry out its statutory obligations, financed from service resources.

**Point 103.** As regards the selection of members of programme councils, the National Broadcasting Council takes into account all of the candidates, including those from communities of national and ethnic minorities, as long as such candidates apply. Currently, the programme councils of public broadcasting companies include seven representatives of national minorities (the Programme Council of Radio Białystok, the Programme Council of Radio Koszalin, the Programme Council of Radio Olsztyn, the Programme Council of Radio Opole, the Programme Council of Radio Rzeszów, the Programme Council of Radio Szczecin, the Programme Council of OTVP Białystok). It is worth noting that the number of these people is greater than in the previous term (only two).

**Point 104.** Referring to the allegations expressed in this point, please refer to the comment on point 17. It should also be noted that the change of transmission time of *Telenowyny* was caused by the reorganization of regional programmes of TVP and the creation of an independent channel – TVP Regionalna. At the request of the Association of Ukrainians in Poland, the Management Board of Telewizja Polska S.A. set new transmission times for premiere and revision of this programme, which are consistent with the suggestion of the Association.

**Point 105.** In connection with the position expressed in this point, please refer to the comment on point 103.

**Point 106.** In Poland, the communities of national and ethnic minorities have airtime in both public radio and television. The programmes addressed to them are broadcast at times suggested by minority unions or associations. Moreover, the National Broadcasting Council

supports the creation of such programmes by completely covering their costs from public funds (service fee).

## **ARTICLE 11 of the Framework Convention**

### **Names in minority languages**

**Point 121.** With reference to the comment stated in this point, it should be noted that in the second half of 2012, the Polish authorities carried out an information campaign targeted at the Lithuanian minority in Poland and the employees of the registry offices, promoting awareness about the right to use the spelling of first names and surnames in the minority language and the possibility to change them in documents to the version compatible with spelling in the minority language. The Polish authorities do not share the position of the Advisory Committee that a small number of individuals who change their names to the version compatible with the pronunciation and spelling of the mother tongue results from “the lack of awareness among persons belonging to national minorities about their rights in this regard, burdensome of administrative requirements or reluctance of some of these people to become publicly recognizable as persons belonging to minorities”. This thesis seems to have no confirmation in facts. In case of the Puńsk commune, in which the absolute majority of the population are representatives of the Lithuanian minority, one can speak neither of low awareness of rights in this respect, nor the fear of becoming a publicly recognized as a representative of a minority. In the opinion of the authorities, the administrative procedure associated with the change of names is not burdensome, and the low level of interest in such a possibility results rather either from the lack of interest of persons belonging to the Lithuanian minority to exercise such powers or from “practical” reasons – the change in spelling of one's first name and surname in the marital status files is related to the need to adequately correct, for example, acts of ownership, business records, etc.

**Point 122.** The Polish state ensured to its citizens belonging to national and ethnic minorities the right to use and spell their first names and surnames in accordance with the principles of minority language (Article 7(1) of the Act on National and Ethnic Minorities and Regional Language). It defined the rules of transliteration of names written in an alphabet other than the Latin alphabet (Regulation of the Minister of Internal Affairs and Administration of 30 May 2005 on the transliteration of first names and surnames of persons belonging to national and ethnic minorities written in an alphabet other than the Latin alphabet (Journal of Laws No. 102, item 855). It made it possible to change the name to the version compatible with the pronunciation and spelling of the mother tongue in administrative mode, based on the Act of 17 October 2008 on the change of first name and surname (Journal of Laws No. 220, item 1414). In the opinion of the Government of the Republic of Poland, there is no need to conduct special tests to verify why individuals belonging to minorities use or do not use the regulations described above. It should be noted that, so far, neither the socio-cultural organizations of national and ethnic minorities, nor the representatives of minorities who sit on the Joint Commission of the Government and National and Ethnic Minorities, nor individual citizens originating from these communities have reported any problems or difficulties associated with the possibility to use and spell their names in accordance with the principles of minority language. However, in this context it is worth pointing out that the right to decide about the change of the name is an individual right of every citizen and the state should not interfere in it.

**Point 123.** The authorities of the Republic of Poland share the concern of the Advisory Committee expressed in this point and are planning, in the near future, to carry out next information campaign encouraging to use and spell own names in accordance with the principles of minority language, in particular in the register of civil status and identity documents.

### **Topographical indications in minority languages**

**Point 129.** In connection with the position expressed in this point, please refer to the comment on point 15.

**Point 131.** In connection with the position expressed in this point, please refer to the comment on point 15.

## **ARTICLE 12 of the Framework Convention**

### **Intercultural dimension of education**

**Point 135.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 137.** In connection with the position expressed in this point, please refer to the comment on point 16.

**Point 138.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 139.** In connection with the position expressed in this point, please refer to the comment on point 16.

**Point 140.** In connection with the position expressed in this point, please refer to the comment on point 16.

### **Access to education for the Romani**

**Point 141.** With reference to the recommendations presented in this point, it should be mentioned that in the school year 2009/2010, Roma classes were still functioning in two primary schools (in Maszkowice and Ełk). Their pupils included those who, because of age, should be thought on the higher levels of education and those for whom the education requirements were reduced, as well as pupils with great educational negligence, who did not receive the promotion to the next grade due to lack of progress or low attendance. Since the school year 2010/2011, the so-called “Roma classes” do not exist. It should be emphasized that the genesis of the so-called “Roma classes” was a bottom-up initiative, which stemmed from the desire to supplement education of children and youth who have never implemented the school obligation, and because of the age did not want to attend integrative classes. This model, despite all the shortcomings and legitimate allegations of a low level of education, was the only chance for the youth delayed educationally (e.g., due to emigration). Thanks to these classes, about 800 children received any education. While resigning from it, due to its numerous flaws, the introduction of alternative, more modern solutions was ensured.

**Point 142.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 144.** The Ministry of National Education collects statistical data on pupils as a part of the Education Information System. Data on nationality of a pupil is the so-called sensitive data, and therefore the question about the nationality or ethnicity of a pupil does not appear in the statistical forms. It should be recalled that, in accordance with Article 4(2) of the Act on National and Ethnic Minorities and Regional Language, nobody can be obliged, other than pursuant to the Act, to disclose information about own affiliation to a minority or to reveal own origin, minority language or religion. However, the Ministry of National Education collects general data on the number of pupils whose parents voluntarily submitted applications to ensure that their children receive education of a language serving preservation of their national, ethnic, linguistic and cultural identity. In case of Roma pupils, for whom – as a result of the position taken by the Roma community in Poland – education of Romani language is not organized in the school system, statistical data provided by schools refers to the number of pupils for whom schools undertake additional educational activities (these include, among others: employment of Roma education assistants, assisting teachers, remedial, compensatory, logaedic classes, etc.), financed from the part of general educational subsidy.

**Point 145.** Regarding the issue of over-representation of Roma pupils in special education system, please refer to comment on point 20. According to the authorities, it seems that the causes of this phenomenon have been well identified. In addition to the remarks, it must be noted that these causes can be divided into two types: system ones, which are constantly addressed by top-down actions, such as: training of personnel of psychological and pedagogical counselling centres, promoting the use of culturally neutral tests, developing specific diagnostic tools, etc. – such actions have been taken since 2011. It is more difficult to change the cultural causes, related to the belief of some parents belonging to the Roma minority in the “positive aspects” of placing their child in a special school (better equipped facility, less numerous classes, better preparation of teachers, lower requirements, “family traditions”, the system of accompanying financial benefits), which determines the attractiveness of these schools for some Roma parents. Considering the above, measures aimed at changing the attitudes of parents were undertaken. In 2012, two teachers (one of Roma origin) with a long-time experience in working with Roma children were instructed (in 2012) to develop an educational brochure addressed to parents. The brochure is written in a language adapted to be received by a person with no education or little education. It encourages to pre-school education and describes the role of kindergarten in development of various skills useful in the subsequent stages of education. The second major theme of the brochure is a description of the negative consequences for the future of children, resulting from their placement in the special education system. The brochure takes into account the Romani culture code (Romanipen), but at the same time points to the lack of contradiction between maintaining the Romanipen and being an educated Roma. The brochure was published in three languages: Polish and dialects of two largest groups of Roma: a dialect of Polish Roma and a dialect of Bergitka Roma.

**Point 146.** Data collected in 2012 indicates that out of 94 Roma education assistants employed 44 people (47%) are hired under employment contracts for an indefinite period, 40 people (42%) – on the basis of employment contracts for a specified period, and 10 people (11%) under commission contracts. The employer is the self-government, as a body running the school. The government administration is constantly encouraging self-governments to hire assistants under employment contract for indefinite period, among others, by creating a

financial system which allows their employment under the part of general educational subsidy, transferred by the Ministry of National Education for self-governments. It should be noted, however, that despite this form of employment of half of the working assistants, the number of employed assistants was growing steadily, and for a few years, has remained on a similar level of about 90-100 people in the country. Sharing the concern of the Advisory Committee about the low level of education of people belonging to the Roma minority (according to the National Census of Population and Housing of 2011, 82.32% of people belonging to this minority have education lower than secondary, while this rate for the total population of Poland amounts to 46.27%), the authorities wish to record positive educational trends which can be observed in the Roma community. The most important of them is a systematic increase in the number of Roma pupils fulfilling the school obligation – currently, it amounts to 84% (there are places where all children belonging to the minority attend school).

**Point 147.** The authorities agree with the thesis included in this point concerning the low level of knowledge of the history and culture of the Roma among teachers. Over the period of implementation of the *Programme for the Roma community in Poland for the years 2004-2013*, the Roma issues became the subject of popularization in the environment of public officers (officials in contact with this community, police officers, social workers, NGOs, etc.) – and, above all, teachers working with Roma students. This is done both in the framework of activities of the aforementioned *Programme*, and other tools, such as the so-called Roma component, funded by the European Social Fund, and in the teacher training system, in the process of self-improvement of teachers during the so-called training teachers' meeting in schools, etc. This process applies to both popularization of the Roma history, and the phenomenon of cultural distinctness and its implications for functioning in the modern world, and, more broadly – also to the issues of multiculturalism, bilingualism, equality, non-discrimination, etc.

**Point 148.** In connection with the position expressed in this point, please refer to the comment on point 20.

**Point 149.** Referring to the comments raised in this point, it should be noted that the rate of abandonment of school education, higher in the Roma community than in other groups, is mainly the result of high mobility of the Roma (migration of entire families) and the customary marriages of underage Roma acceptable in some groups of Roma. Measures to prevent the phenomenon of quitting school by Roma pupils have been taken for many years under the governmental *Program for the Roma community in Poland for the years 2004-2013*, whose objectives and implementation method of individual tasks were consulted with the representatives of the Roma community. These measures included all forms of material assistance to Roma families (including the financing of school kits for Roma pupils, regardless of their age), a system of scholarships, assistance and care on the part of Roma education assistants, ensuring remedial courses for Roma pupils, if necessary, as well as organizing educational activities in community centres. These activities are planned to be continued in the draft governmental project of the *Programme of integration of the Roma community in Poland for the years 2014-2020*.

**Point 150.** Roma children are covered by the access to preschool education on general rules applicable to all children of Polish citizens. The core curriculum of preschool education indicates that the task of a teacher is the analysis and diagnosis of capabilities and developmental needs of children, and adjustment of the programme of preschool education according to its results. Kindergarten is also required, if necessary, to take additional

measures aimed at sustaining and developing a sense of ethnic identity of Roma children. It may also hire a Roma education assistant, who provides help to children in contacts with the preschool environment. The measures described above result from the provisions of § 7 of the Regulation of the Minister of National Education of 14 November 2007 on the conditions and manner of performing tasks by kindergartens, schools and public institutions allowing maintenance of a sense of national, ethnic and linguistic identity of pupils belonging to national and ethnic minorities and communities using a regional language (Journal of Laws No. 214, item 1579, as amended). Because the stay of a child in a kindergarten is connected with costs incurred by parents, the *Programme for the Roma community in Poland for the years 2004-2013* provides for the possibility of refunding the Roma parents 100% of the stay of their children in kindergartens. Data of the Education Information System indicates an increase in the participation of Roma children in pre-school children from 83 children in 2006 to 286 in 2012.

**Point 151.** An important role in promoting the Roma tradition and culture in the school environment is played by the Roma education assistants employed in schools and assisting teachers (i.e., teachers who know the methodology of working with multicultural groups, working with Roma children, treating them as foreign language and bicultural children at an early level of education). The information provided by school superintendents shows that schools attended by Roma children take a lot of actions to present the Roma traditions and culture (art, music and dance competitions, staging Roma fairy tales, concerts, workshops in community centres, trips to museums or visiting places connected with the martyrdom of the Roma). Schools are more and more often cooperating with local Romani organizations in taking these actions. The improvement of the image is also affected by the prizes awarded under the *Programme for the Roma community in Poland* or in local competitions for gifted Roma pupils, who earn also the recognition of their own school environment thanks to their achievements. The element aimed, among others, at promoting Roma culture among non-Roma children and their families is also the organization of integrative rest for children funded by the *Programme* and the functioning of around 50 integration commune centres.

## **ARTICLE 14 of the Framework Convention**

### **Teaching minority languages and education in these languages**

**Point 157.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 160.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 161.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 162.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 164.** Teacher of a national or ethnic minority language or a regional language may be a person who meets the requirements prescribed by the regulation of the Minister of National Education of 12 March 2009 on the detailed requirements concerning teacher qualifications and on the definition of schools and cases when teacher with no higher education degrees or

teaching qualifications can be employed (Journal of Laws of 2013, item 1207). The provisions of § 13 of the above-mentioned regulation provide that the qualifications to teach or conduct classes in groups, divisions, kindergartens or schools allowing pupils maintain their sense of national, ethnic and linguistic identity are possessed by a person who has the qualifications required to take the position of a teacher in a kindergarten or in a given type of school, and moreover knows the language of the national or ethnic minority or a regional language in which he or she is teaching or lecturing. The knowledge of language is confirmed with a diploma of higher education in the field of philology with a specialization in a particular language, with a diploma of graduating from a teacher's college of foreign languages with a specialization corresponding to a given language or a certificate of knowledge of the language, referred to in the regulations issued pursuant to Article 11(3) of the Act of 6 January 2005 on National and Ethnic Minorities and Regional Language, or a certificate issued by a social organization of a national or ethnic minority, or a community using a regional language. Higher education institutions in Poland have majors in philology relating to the languages with the status of minority languages: Belarusian, Czech, Lithuanian, German, Armenian, Russian, Slovak, Ukrainian and Hebrew and Lemko. The Polish authorities take actions, with the involvement of financial resources, to support the maintenance and development of Lemko studies and studies of the Kashubian regional language. There are also advanced actions aimed at creating an ethnophilology, training teachers to teach both the minority language and culture, reinforcing the identity message in minority communities. Many teachers of minority languages hold diplomas of philological studies abroad, in countries where this language is the mother tongue, recognized in Poland.

**Point 165.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 166.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 167.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 168.** In connection with the position expressed in this point, please refer to the comment on point 164.

## **ARTICLE 15 of the Framework Convention**

### **Representation of minorities in selected bodies**

**Point 170.** With reference to the issue described in this point connected with the provisions containing facilitations relating exclusively to the electoral committees created by voters belonging to national minorities (Article 197 § 1 of the Act of 5 January 2011, the Election Code (Journal of Laws No. 21, item 112, as amended), it should be noted that, since the democratic changes which took place in Poland after 1989, voters belonging to ethnic minorities have never registered their separate electoral committees, and thus have never run for parliament in the elections. It could be due to a small number and dispersion of clusters of ethnic minorities. It should be recalled that, so far, only representatives of the most numerous national and ethnic minority – the German minority, which has regularly introduced its representative (or representatives) to the Parliament, managed to use the described regulations. In addition, it should be noted that ethnic minorities in Poland have the full right

to participate in public life of the country. In Article 3, the Act on National and Ethnic Minorities and Regional Language guarantees the same rights in relation to both national minorities and ethnic minorities. Therefore, the lack of reference to ethnic minorities in Article 197 § 1 of the Election Code has no practical consequences. The lack of the aforesaid clause does not prevent ethnic minorities from presenting their candidates in elections to the parliament and local governments. As a result of the elections to local governments held in 2010, two councillors belong to the Lemko minority sit on the boards of districts in the Lower Silesia Province and Małopolska Province, 8 candidates belonging to this minority were elected to commune councils in the Lower Silesia, Podkarpackie and Małopolska Provinces. In one of the communes in the Małopolska Province, a candidate belonging to the Lemko minority was elected a commune head. The need to supplement the record of Article 197 § 1 of the Election Code with rights of electoral committees established by organizations of ethnic minorities, so far, has not been reported by the socio-cultural organizations of these minorities, both in direct contacts and at the forum of the Joint Commission of the Government and National and Ethnic Minorities. In the opinion of the Polish Government this confirms the lack of justification for the need to extend the existing powers under the provisions of Article 197 § 1 of the Election Code. It should be noted that the solution adopted in Poland exceeds the European standards, since only a few countries of our continent decided to introduce electoral preferences for national minorities.

**Point 172.** With reference to the doubts raised in this point, it should be noted that during the elections to local governments in 2010, only the representatives of the German minority in the Opole Province registered their separate electoral committee. Representatives of other national and ethnic minorities, and some members of the German minority, were candidates on the lists of local electoral committees or committees established by national political parties. Information on the candidates elected in the elections to local governments in 2010 from the lists of the electoral committee of the German minority and candidates who publicly declared their relationship with minority groups (or had a recommendation of the socio-cultural organizations of minorities) was provided in the *Third Report of the Secretary General of the Council of Europe on the implementation of the Framework Convention for the protection of National Minorities by the Republic of Poland*. Information about other candidates taking part in the elections to local governments, obviously, could not be obtained or processed by the government administration. Such actions would break the law. It should be recalled that, in accordance with Article 4(3) of the Act on National and Ethnic Minorities and Regional Language, nobody should be obliged to prove own affiliation to a given minority.

**Point 173.** As already mentioned in the comment on point 170, in the opinion of the Polish Government, there is no real justification for the need to extend the existing powers under the provisions of Article 197 § 1 of the Election Code by rights for electoral committees created by ethnic minority organizations.

### **Consultative mechanisms**

**Point 175.** Referring to the statement expressed in this point, it should be noted that, although at the local level there actually are no formal consultative structures dealing with issues concerning the Roma minority (just as there are no such structures related to other national and ethnic minorities), in practice, there are consultation platforms including the Roma issues, operating at the regional level. Their operation is related to the functioning of plenipotentiaries of province governors for national and ethnic minorities, who are in a working contact with the local Roma communities and the local authorities. They also

organize (to a varying degrees and form) meetings in the province offices or in individual communes with the participation of local authorities and local Roma communities. The purpose of these meetings is, among other things, consulting activities, solving current problems, etc. These platforms are not formalized, however, they have taken place regularly since the beginning of the relief operations.

**Point 179.** In connection with the position expressed in this point, please refer to the comment on point 175.

**Point 180.** With reference to the concerns raised in this point, it should be firmly emphasised that in the Republic of Poland, in accordance with Article 10(2) of the Polish Constitution (Journal of Laws No. 78, item 483, as amended), the legislative power is vested in the Sejm and the Senate, the executive power in the President of the Republic of Poland and the Council of Ministers, and the judiciary power in courts and tribunals. Therefore, giving the Joint Commission of the Government and National and Ethnic Minorities decision-making powers would conflict with the provisions of the Constitution. It should be also recalled that Article 23(1) of the Act on National and Ethnic Minorities and Regional Language establishing the Joint Commission states that “a Joint Commission of the Government and National and Ethnic Minorities shall be established as an advisory-consultative organ to the Prime Minister”. Questions concerning the role of the Joint Commission in the process of granting subsidies for the maintenance and development of cultural identity of national and ethnic minorities and preservation and development of a regional language have already been explained in comments to points 14 and 64.

**Point 181.** Referring to the accusation made in this point, it should be emphasized that the limitation of time available for consultation on selecting a representative to the Joint Commission of Government and National and Ethnic Minorities by a given minority (90 days) does not have substantive justification. The highly atomized (e.g. organization of the Roma minority is more than 120) and often antagonized environments of individual minorities, especially those living in dispersion, shortening the time would hinder reaching agreement by minority organizations and indication of the number of candidates for members of the Joint Commission provided for by the Act, so that there was no need for the Minister to indicate them (in case failure to reach agreement by a given minority he/she is obliged to present own candidate for expressing an opinion). The problem of lack of a representative of a given minority was solved by changing the applicable procedures – currently, the representative of the minority is dismissed from the composition of the Joint Commission only after the selection of his or her successor, so the dismissal and the appointment are performed at the same time. Therefore, there is no possibility of vacant posts of representatives of a given minority or community in the Joint Commission.

**Point 182.** In connection with the position expressed in this point, please refer to the comment on point 180. It should also be emphasised that the Polish Government, particularly the Minister of Administration and Digitization who is the minister responsible for religious denominations and national and ethnic minorities, treats with due solemnity any opinions, guidelines and recommendations developed by the Joint Commission of the Government and National and Ethnic Minorities and its teams. The Commission's position is as far as possible taken into account in all the actions undertaken by the Government for Polish citizens belonging to minorities.

**Point 184.** Polish authorities have taken a number of efforts to make the procedure of election of members of the Joint Commission of the Government and National and Ethnic Minorities more participatory, effective, transparent and faster. During work of the Joint Commission, the government gathered and presented the minority side the rules and procedures which are in force and used within this scope. Moreover, the planned amendment of the Act on National and Ethnic Minorities and Regional Language (working group starts working in May 2014) includes clarification of the existing regulations in this regard.

### **Participation of national minorities in economic and social life**

**Point 185.** It should be noted that the recommendation included in this point is implemented by the Team for Roma Affairs of the Joint Commission of the Government and National and Ethnic Minorities, mentioned by the Advisory Committee, as well as by the working meetings at the local and regional level, mentioned in point 175.

**Point 189.** Referring to the recommendations of the Advisory Committee included in this point, it should be noted that the instrument of social inclusion of Roma, also in the areas listed by the Advisory Committee, is the *Programme for the Roma community in Poland for the years 2004-2013*. In 2011, it underwent an independent evaluation, and the conclusions drawn from it are included in the next government document, which is a continuation of integration activities until 2020. The new strategy, entitled: *The programme of social inclusion of Roma in Poland for the years 2014-2020*, was prepared on the basis, inter alia, of statistical data, derived from the censuses of 2002 and 2011, and a 10-year experience of implementing the previous *Programme*, which allowed precise development of indicators and specification of monitoring mechanisms in the new strategy.

## **ARTICLE 16 of the Framework Convention**

### **Changes of borders of polling districts**

**Point 192.** It should be recalled that, in accordance with Article 462 § 2 of the Act of 6 January 2011 of the Election Code, joining districts in constituencies cannot affect social ties linking voters belonging to national or ethnic minorities, residing in the territory of the combined districts. According to Article 463 § 1 of the aforesaid Act, division into constituencies, their numbers, boundaries and the number of councillors elected in the constituency is determined, at the request of the Marshal, by the provincial assembly. In accordance with Article 460 of the Election Code, elections to provincial assemblies are held under the supervision of the State Election Commission and election commissioners. Control over the correctness of dividing into constituencies falls within the competence of election commissioners. Before each election to the governing bodies of local government units, the election commissioners shall check the legality of the unit's division into constituencies. In case of non-compliance with the law, they call on the appropriate councils (assemblies) to make changes. Communities of national and ethnic minorities had reservations about the division of the Podlasie Province into constituencies in the recent elections to local governments. Before the elections to local governments scheduled for 2014, it will be necessary to lay out the constituencies in accordance with the provisions of the Election Code currently in force. The Minister of Administration and Digitization took action to provide for the compliance of the division into constituencies with the provisions of Article 462 § 2 of the Election Code. In December 2012, the Minister sent a letter to the Chairman of the National

Electoral Commission on the reservations regarding the previous division of the Podlasie Province into constituencies. The Minister's letter was forwarded to the Electoral Commissioner in Białystok to take it into account while conducting the analysis of legality of division of the Podlasie Province into constituencies before the elections in 2014. In a letter of 2 October 2013, the Minister of Administration and Digitization also reminded all province marshals about the need to comply with the provisions of Article 462 § 2 of the Election Code while creating constituencies in the elections to local governments planned for 2014. According to information submitted to the MAD, the Podlasie Province Marshal developed a draft division of the province into constituencies in the elections to local governments planned for 2014 in line with the provisions of Article 462 § 2 of the Election Code. It is expected that in May or June a bill on this issue will be voted on the forum of the Provincial Assembly.

## **ARTICLE 17 of the Framework Convention**

### **Cross-border contacts**

**Point 194.** With reference to the position of the Advisory Committee presented in this point, it should be added that from 1 January 2014 it is possible to cross the border on foot in the border crossing-point in Kuźnica Białostocka-Bruzgi, which is possible thanks to the modernization of infrastructure of the border checkpoint carried out in 2013 from funds allocated by the Team for the Development of the State Border from the dedicated reserve of the state budget. The completion of the new road infrastructure in Połowce border crossing, taking into account a separate line for pedestrians, is scheduled for the first quarter of 2015.

**Point 195.** Referring to the issue raised in this point of the opening of the next border crossings, which would enable persons belonging to national minorities the establishment and maintenance of cross-border contacts, it should be emphasized that this matter is the subject of regulation of bilateral treaties and each time requires conducting negotiations and concluding an agreement with the other party. The authority competent to initiate negotiations on opening and closing of border crossings on the Polish side is the Minister of the Interior. The Ministry of the Interior, subject to the availability of funds, seeks to increase the availability of the external border of the European Union. In recent years, three new border crossing-points were created on the Polish-Ukrainian border. On 2 December 2013, a road border crossing Budomierz-Hruszew was put to use, while in the second quarter of 2014, it is planned to launch a road border crossing Dołhobyczów-Uhrynów. On 19 September 2012, an agreement on the creation of a road border crossing Malhowice-Nizankowice was concluded. The Podkarpatie Province Governor is planning to develop a project documentation of the crossing in 2014. All three new border crossings were created in the formula of a joint border crossing with the infrastructure located entirely on the Polish territory. In addition to the construction of new border crossings, a number of measures aimed at modernization of existing border crossings and improvement of the border control procedures and organization of traffic are also undertaken.

### III. CONCLUSIONS

**Point 206.** In connection with the position expressed in this point regarding the publication of the results of the National census of population and housing of 2011, comment on point 13 should be recalled. Regarding the issue of the possibility of fostering regional identity of inhabitants of Silesia and the Silesian dialect of Polish language, comments on point 24 and point 29 must be recalled.

**Point 207.** Regarding the issue raised in this point related to the statements of a racist and xenophobic nature appearing in the media, comment on point 81 should be recalled. With reference to the allegations made in this point in connection with response of the Police to reported events which may be hate crimes, comment on point 15 should be recalled. Moreover, it should also be noted that the monitoring of cases of crimes committed on racial, national, ethnic or religious grounds, or because of no religious denomination conducted by Public Prosecutor's General Office (formerly the National Public Prosecutor's Office) since 2004, formed the basis for making conclusions about a noticeable upward trend in the proceedings conducted by the public prosecutor's offices in this category of cases in our country. However, their number, compared to the total number of preparatory proceedings conducted in our country, is minute. Only to give an example, it can be mentioned that in 2012, the public prosecutor's offices received 1,150,499 cases, whereas only in the first half of 2013 – 549,410 cases. When it comes to crimes committed on racist grounds, the data is as follows. Between 2000 and 2003, the public prosecutor's offices noted a total of 35 proceedings, 24 cases in 2004, and 29 new proceedings in 2005. In 2006, the organizational units of public prosecutor's offices conducted in total 48 new cases, while in 2007, 41 new cases were conducted. Altogether, in 2008, 98 new proceedings were carried out, and in 2009, 124 new cases were recorded. In 2010, a total of 146 proceedings concerning new events were conducted, and in 2011 – 272 related to new incidents. In 2012 – 362 cases concerning new events, and in 2013 – 719 proceedings related to new events. Due to the fact that most cases of hate crimes or incidents on this ground are publicized in the media, one may have the impression that the number of such crimes is much higher. These events always meet with a firm response of the public prosecutor's offices, which is the immediate implementation of appropriate preparatory proceedings and ordering the relevant entities of the Police to make intensive efforts to find those responsible for this type of incident. The conducted criminal proceedings are also always analysed for the possibility of taking non-criminal activities by the public prosecutor's office associated with the request for delocalization of organizations based on anti-Semitic or racist ideas. The increased number of preparatory proceedings carried out in this category results, among others, from the greater legal awareness of citizens, who respond to all forms of discrimination around them and, in connection with this, report crimes. Many of these proceedings are associated with the reaction of the prosecuting authorities and law enforcement agencies to the media reports on various incidents on discriminatory grounds. The existence of specific legal regulations allowing the prosecution of certain behaviour does not automatically lead to detection in this category of crimes. This fact is largely dependent on the capabilities and operability of bodies such as the Police or the National Security Agency, which conduct investigations, and on their actions and findings. Thanks to a variety of activities undertaken by the public prosecutor's offices since 2004, aimed at combating racist crimes, increasing efficiency, detection of perpetrators of this kind of behaviour and immediately bring them before the courts, the awareness of public prosecutors regarding the social harm of crimes committed out of these reasons has definitely increased. The cases of unfounded discontinuation or refusal to initiate preparatory proceedings, because of insignificant social harm of such acts, i.e. on the basis of Article 17 § 1 point 3 of the Code of Criminal Procedure, have been virtually eliminated. Data of the

Public Prosecutor's General Office indicates that, between 2007 and 2013, public prosecutors did not discontinue any preparatory proceedings on this basis, and only in 2011, in two cases of this kind. Public Prosecutor's General Office considers detection of perpetrator in this category proceedings to be unsatisfactory, and therefore draws the attention of subordinate units to this issue, committing them to become more involved in these proceedings. However, the law enforcement authorities face here a number of obstacles of an evidence nature, making it impossible to determine these people. One of the main obstacles in this regard is the inability to obtain evidence due to the refusal of applications for international legal assistance by some countries, on whose territories servers and administrators of websites showing content indicating a breach of Polish penal provisions on the promotion of fascism or incitement to hatred based on national, ethnic, racial and religious grounds are located. In this category of procedures, it is often not possible to determine the IP number of the Internet user who places content conflicting with the Polish law in cyberspace, because they often use foreign servers, domains registered outside the borders of our country, where making findings is impossible or very difficult. Moreover, even the determination of the IP number in case of the use of computers available to more people does not mean determination of the specific person making questionable entries. Also in cases related to incidents committed by the so-called stadium hooligans, evidence difficulties occur very often, e.g. in relation to the lack of monitoring, thanks to which it would be possible to record such behaviour and which would allow individualization of people committing them. However, neither the public prosecutor's office nor the Police have the capabilities connected with installing appropriate technical devices at the stadiums and their proper use. Often the difficulties in proving perpetration arise from the lack of proper knowledge of the Police of certain environments, which would allow for the possibility of designating potential perpetrators and verification of evidence in this regard. The public prosecutor, however, has no influence on taking specific actions by the Police, which are not related to the supervision over a specific investigation conducted by a given Police unit. While comparing data from a number of years, it should be noted that the amount of indictments has been increasing. And so:

- between 2000 and 2003, 7 indictments,
- in 2004 – 6,
- in 2005 – 7,
- in 2006 – 12,
- in 2007 – 19 indictments and 2 cases were sent to the Court under an expedited procedure,
- in 2008 – 28 indictments,
- in 2009 – also 28 indictments,
- in 2010 – 30 indictments,
- in 2011 – 40 indictments and 3 requests for conditional discontinuance of preparatory proceedings,
- in 2012 – 75 indictments and 1 request for conditional discontinuance of proceedings,
- in 2013 – 111 indictments and 5 request for conditional discontinuance of proceedings.

The above data indicates that each year more and more people are held criminally responsible for the crimes motivated by hatred of race, nationality, ethnicity, religion or no religious denomination.

**Point 208.** With reference to the issue raised in this point of the cessation of broadcasting of some radio and television programmes addressed to minorities, comment on point 16 should be recalled. Moreover, it is worth adding that the Polish electronic media also broadcast

programmes about national and ethnic minorities in Polish. Their aim is to integrate Poles with minority communities by promoting their history, culture and traditions.

**Point 209.** In connection with the position expressed in this point, please refer to the comments on points 16, 17, 103, 104, 106 and 208.

**Point 210.** In connection with the position expressed in this point, please refer to the comment on point 19.

**Point 211.** In the opinion of the Polish Government, one should fully agree with the statement that full and effective representation and participation of minorities at all levels requires constant reinforcement. The authorities are open to a dialogue with the representatives of the minorities with a view to find the most effective solutions supporting these processes. In connection with the position expressed in this point relating to the need to take into account the positions and opinions of the Joint Commission of the Government and National and Ethnic Minorities in the activities of the Government, comments on point 180 and point 182 should be recalled.

**Point 212.** In connection with the position expressed in this point, please refer to the comment on points 20 and 145.