



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**List of issues and questions in relation to the combined  
seventh and eighth periodic reports of Poland**

**Addendum**

**Replies of Poland\***

[Date received: 19 June 2014]

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\* The present document is being issued without formal editing.



**Legislative and institutional framework and access to justice**

**1. Please indicate whether the State party has adopted a comprehensive anti-discrimination law that contains a definition of discrimination against women in accordance with article 1 of the Convention, encompassing both direct and indirect discrimination and covering all areas of the Convention. Please indicate what procedures have been put in place for the effective implementation, monitoring and enforcement of anti-discrimination legislation. Please provide information on any instances in which the Convention has been invoked by individuals or directly applied or referred to in court proceedings in the State party.**

**Re 1**

Over the reporting period, the Polish legislator has established a comprehensive legal framework aimed at ensuring the broadest possible protection of women against discrimination. The statute-level legislation regarding equal treatment outside of the employment domain has been reflected in the Act of 3 December 2010 *on the implementation of certain provisions of the European Union on equal treatment* (Dz. U. [the Journal of Laws] for 2010, No. 254, item 1700, as amended, hereinafter: the Equal-Treatment Act). The entry into force of the Equal-Treatment Act has supplemented the already existing regulations on the principle of equal treatment. The Act specifies the areas and methods of counteracting violations of the principle of equal treatment not only with regard to sex, but also race, ethnicity, nationality, religion, faith, outlook, disability, age or sexual orientation.

Article 3 of the Equal-Treatment Act defines the notions of direct discrimination, meaning a situation in which a natural person, due to her sex, race, ethnicity, nationality, religion, faith, outlook, disability, age or sexual orientation is, has been, or would be treated less favourably than a person in comparable circumstances. It also defines indirect discrimination, meaning a situation where, for a natural person, due to her sex, race, ethnicity, nationality, religion, faith, outlook, disability, age or sexual orientation, as a result of a seemingly neutral decision, criterion or action, there is or might be unfavourable disproportion or particularly disadvantageous situation, unless that decision, criterion or action is objectively reasonable due to a lawful goal which is to be achieved, and the means to achieve that goal are appropriate and necessary;

The Act covers the following areas: access to the terms and conditions and the use of social welfare, access to housing services, acquisition of things, rights and energy, undertaking vocational education and training, conditions of undertaking and pursuing business or occupation, accession to and activity in trade unions, employers' organisations and professional self-governing bodies, access to and conditions of use of labour market instruments and labour market services. However, the Act does not consider sex as a protected circumstance in the area of educational services and healthcare.

The Act stipulates that if the principle of equal treatment is violated, the injured party shall be eligible for damages. In matters of violation of the principle of equal treatment, the provisions of the Civil Code are applicable, in the same manner as Article 300 of the Act "Labour Code" is applicable to employees. For proceedings pending in the above-mentioned cases, the provisions of the Act of

17 November 1964 — the Code of Civil Procedure — are applicable. The Act lays down different rules for the burden of proof. The entity which lays a charge of violation of the principle of equal treatment should provide a probable cause for the violation. When the probable cause for the violation of the principle of equal treatment is provided, the entity charged with the violation is required to demonstrate that it has not committed the violation.

The statute of limitations for claims arising from the violation of the principle of equal treatment is three years from the injured party learning about the violation of the principle of equal treatment, but no longer than five years following the event violating the principle of equal treatment. The Act provides that the rights stipulated therein do not bar the injured party from pursuing claims under other provisions. An additional protection has been granted to persons exercising their rights due to the violation of the principle of equal treatment. The exercise of these rights may not provide grounds for unfavourable treatment. An additional protection has been granted to the persons exercising their rights due to the violation of the principle of equal treatment.

The reference to Constitutional provisions and regulations prohibiting discrimination in employment are contained in the Report.

In addition, it should be emphasised that by the Act of 16 December 2010 *amending the Act on employment promotion and labour market institutions and some other acts* (Dziennik Ustaw No. 257, item 1725, as amended), paragraph 4d has been added to Article 33 of the *Act on employment promotion and labour market institutions*, under which the Starosta may not deprive of the unemployment status a woman in pregnancy and within 30 days of the childbirth for inability to work lasting for a continuous period of 90 days due to pregnancy- and childbirth-related reasons and stipulates that the unemployed woman may not herself apply for being deprived of that status.

On 17 June 2013, the provision of Article 33 has been amended by the Act of 28 May 2013 amending the Act - Labour Code and some other acts (Dz.U. item 675) to the effect that, although the provision of Paragraph 4d has been limited to women in pregnancy only, Paragraph 4g has been added, under which the Starosta may not deprive of the unemployment status:

- 1) a woman after childbirth,
- 2) an unemployed person (both woman and man) after taking a child for rearing and following the submission of a motion to the guardianship court concerning the adoption of a child or taking a child for rearing as a foster family, except for a professional foster family — due to the lack of capacity and willingness to take employment caused by fostering that child for the period for which they would be eligible, under specific regulations, for maternity allowance during maternity leave, holiday on the terms of the maternity leave, additional maternity leave, additional holiday on the terms of maternity leave, and parental leave, except for the case of applying by the unemployed herself for being deprived of that status.

In addition, as from 1 January 2009, Article 104a has been added to the *Act on employment promotion* (...), under which employers and other organisational units shall not pay Labour Fund contributions for their employees returning from the maternity leave, additional maternity leave or childcare leave within 36 months from the first month after return from maternity leave, additional maternity leave or

childcare leave. As of 17 June 2013, this provision has been extended, under Act of 28 May 2013 amending the Act — Labour Code and some other acts to the effect that employers and other organisational units shall not pay Labour Fund contributions for their employees returning from a holiday on the terms of the maternity leave, additional holiday on the terms of the maternity leave or parental leave.

On 1 July 2009, provisions have entered into force under which employers and other organisational units shall not pay contributions to the Labour Fund for 12 months starting from the first month following the date of the employment contract, for the persons (both women and men) who are more than 50 years old and within 30 days prior to employment have been recorded in the Register of the Unemployed kept by the powiat (district) labour office.

The duty to pay contributions to the Labour Found has been completely removed for the employees at least 55 years old (women) and at least 60 years old (men).

Similar regulations have been introduced also for the release from duty to pay contribution to the Guaranteed Employee Benefits Fund.

In addition, under Article 61 of the Act on employment promotion (...), the unemployed (both women and men) being single parents to at least one child up to 18 years old may be reimbursed by the Starost, upon documenting the costs incurred, for the costs of fostering a child or children up to 7 years old in a defined amount, but no higher than a half of the unemployment benefit, per each child for the fostering of which costs have been incurred, if the unemployed undertakes employment or other paid work or is seconded for internship, occupational adaptation for adults or training, and provided that she/he receives monthly income not exceeding the minimum wage. The same rules apply to the reimbursement of the cost of care of a dependent person.

Whereas, in accordance with art. 73(3) of the Act *on employment promotion* (...), if a woman gives birth to a child during the period of receiving an unemployment benefit or within a month after ceasing to receive the same, this period shall be extended by the time for which she would be eligible for the maternity benefit under specific regulations. In connection with the extension of the period for which the maternity allowance is available, the period of eligibility for the unemployment allowance has been also extended in such circumstances.

The primary goals and paths of equal treatment policy, including the policy of preventing gender-based discrimination, are laid down in the *National Action Plan for Equal Treatment 2013-2016*, developed by the Office of the Government Plenipotentiary for Equal Treatment. This Action Plan is a government strategy document used for the implementation of actions for equal treatment and non-discrimination. In accordance with Article 23 of the Act of 3 December 2010 implementing certain provisions of the European Union on equal treatment, the Plan shall lay down mid-term goals and tools of government policy for equal treatment and provides basis for the implementation of government tasks on equal treatment and non-discrimination. This document brings together in a single place, sorts out and structures key measures to ensure the realisation of the principle of equal treatment which have been or will be taken by various ministries and their subordinated agencies.

The actions mentioned in the Plan refer to the following areas:

- non-discrimination policy,
- equal treatment in the labour market and in the social security system,
- prevention of violence, including domestic violence, and enhancing the protection of its victims,
- equal treatment in the educational system,
- equal treatment in the healthcare system,
- equal treatment in access to goods and services.

In all these areas, proper consideration is given to the gender criterion, and actions have been provided for to prevent gender-based discrimination.

The Plan contains two extensive chapters on international and national regulations on equal treatment. They refer to key documents, legislation and definitions on equal treatment and non-discrimination.

The progress of work provided for in the Plan will be verified by the Council of Ministers on an annual basis.

It is worthwhile to note that on 18 December 2012, Poland has signed the Council of Europe Convention on preventing and combating violence against women and domestic violence, made at Istanbul on 11 May 2011. The Convention is the first regulation on the European level to comprehensively deal with the prevention and combating of violence against women as well as domestic violence. The Convention considers that there is a direct link between the achievement of gender equality and reduction of violence against women. Effective combating of violence against women requires, *inter alia*, changing the cultural and social patterns of behaviour of both men and women so as to eliminate prejudice, habits, traditions and other practices based on the idea of inferiority of women or on stereotypical roles of men and women. The Convention expressly encourages States to apply its provisions to all persons experiencing domestic violence.

The Government Plenipotentiary for Equal Treatment has been authorised by the Prime Minister to submit to the Council of Ministers a motion for Convention ratification. Intensive work has been ongoing since 2012 to prepare the motion. As a result of this work, on 29 April 2014, the Council of Ministers resolved to submit to the Parliament the bill ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence.

No cases are currently known on the Government level in which the Convention has been invoked by individuals or directly applied or referred to in court proceedings. To obtain such information, a longer time perspective is needed.

**2. In the absence of information in the State party's report, please indicate the number and outcome of complaints of alleged discrimination on the grounds of sex and gender lodged by women during the reporting period with the Human Rights Defender. Please indicate whether any redress was provided to victims in cases in which a violation was found. Please provide information about the steps taken to strengthen the mandate of the Human Rights Defender, in full compliance with the principles relating to the status of national**

**institutions for the promotion and protection of human rights (the Paris Principles), including the provision of adequate financial and human resources.****Re 2**

Since 1 January 2011, the Human Rights Defender has performed the tasks concerning the realisation of the principle of equal treatment under the Act of 3 December 2010 *implementing certain provisions of the European Union on equal treatment* (Dz.U. No. 254, item 1700, as amended). Consequently, the data on the number of complaints against gender-based discrimination refer to the period 2011-2013 and are not disaggregated by genders of the complainants. This type of information was also gathered in 2010 (the statistics are contained in the Appendix — tables no. 10-13).

In 2010, the Office of the Human Rights Defender examined 20 complaints against gender-based discrimination, of which 12 were accepted. In 5 cases, a solution was reached to the satisfaction of the complainant. In 2011, the Office of the Human Rights Defender examined 68 complaints against gender-based discrimination, of which 25 were accepted. In 5 cases, a solution was reached to the satisfaction of the complainant. In 2012, 61 complaints against gender-based discrimination were examined, of which 28 were accepted. In 9 cases, a solution was reached to the satisfaction of the complainant. In 2013, 50 complaints against gender-based discrimination were examined, of which 34 have been accepted. In 9 cases, a solution was reached to the satisfaction of the complainant.

Almost no complaints of sexual harassment in employment are filed with the Defender (in 2010 — 1 case, in 2011 — 2 cases and 1 case in 2013).

As regards the data on potential redress to the victims in instances in which discrimination has been confirmed, there have been no cases considered by the Defender under which redress is pursued by the complainant. According to the information provided to the Defender from the Ministry of Justice, a small number of cases are filed with courts claiming damages for the violation of the principle of equal treatment under Art. 13 of the Act implementing certain provisions of the European Union on equal treatment (13 cases in 2013) or claiming damages for the violation of the principle of equal treatment of women and men in employment under Art. 183d of the Labour Code (172 cases in 2013). One can, therefore, argue that the number of damages awarded is out of proportion to the actual scale of discrimination against women in Poland.

With reference to the question regarding the strengthening of the mandate of the Human Rights Defender in accordance with the rules regarding the status of national institutions for the promotion and protection of human rights (General Assembly Resolution [48/134](#) of 20 December 1993 — the Paris Principles), including the provision of adequate financial and human resources, it should be noted that the Human Rights Defender has been accredited to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights with status A, as an institution operating in accordance with the Paris Principles. This means that full autonomy and impartiality of the Defender has been acknowledged in the light of a universal international standard. However, given that the Human Rights Defender has been given multiple functions (the primary function resulting from the provision of Article 208 of the Polish Constitution, under which the Human Rights Defender shall safeguard the freedoms

and rights of persons and citizens, and functions as an independent authority for the realisation of the principle of equal treatment, the National Prevention Mechanism, independent authority for the monitoring of implementation of the Convention on the Rights of Persons with Disabilities, Independent Institution Examining Misbehaviour of the Police and Border Guards), the financial resources provided are not sufficient. As a result of parliamentary work, the budget applied for by the Defender is reduced year by year by amounts ranging from about PLN 1,000,000 to more than PLN 4,500,000 (over the period 2011-2014).

In practice, this means that not all responsibilities vested in the Defender are funded on a level sufficient for effective performance. The functions of the Human Rights Defender as, among other, an independent authority for equal treatment, are currently performed with limited financial, and hence personnel and physical, resources. The objections raised by the Defender in this regard are ignored.

**3. Please indicate how the State party is enhancing the awareness and knowledge of women, in particular those belonging to the most disadvantaged groups, such as women in rural areas and migrant, Roma and asylum-seeking and refugee women, about their rights under the Convention and the related national legislation.**

### **Re 3**

Roma women belong to a group most severely exposed to multiple discriminations on the grounds of ethnicity and gender. This discrimination is also intra-group in nature — due to cultural circumstances. One manifestation of it is the approval for early establishment of family (early motherhood). Despite that weddings between 12-year-old girls and 15-year-old boys happen sporadically, currently this is the case around the 15th year of age for girls, which practically prevents her from continuing education and eliminates her from the labour market.

The government “Programme for the Roma Community in Poland”, implemented in 2004-2013, has provided an opportunity to empower women through participation in occupational courses and apprenticeships, established jobs in e.g. community centres and an opportunity to take jobs as assistants for Roma education in schools, etc. The promotion of occupational activity of women and the achievement of a relative economic independence under the said programme has resulted in activity of women increasing more than the activity of men. Most of the employed assistants for Roma education are women — out of 91 employed assistants for Roma education (figures for 2012), 65 (71%) were women. In addition, most of the students covered by the scholarship system for tertiary students are women: out of 59 persons covered by the scholarship 39 (66%) were women (academic year 2012/2013). Another factor helping to combat discrimination against women is funding support to preschool education allowing women to take up employment. One more factor is the work of community nurses in the Roma community, who raise awareness of, among others: family planning, healthy lifestyle, hygiene, care for women in pregnancy and in the postnatal period, care for children, first aid. State measures provide for an active part of the Roma community in the decision making process through, among others, the system for consultation and monitoring. This has established a platform for the community’s activity, including in the framework of the Roma Team of the Joint Commission of the Government and National and Ethnic Minorities: out of 19 designated Roma

members of the Team, 6 (31%) are women. The experiences learned from the public authorities' cooperation also on the local level have indicated higher activity of women involved in the implementation of tasks as part of subsidies granted to Roma nongovernmental organisations. Thus, it can be argued that the framework established for social activation, such as the "Programme for the Roma Community in Poland" and other accompanying measures (e.g. so-called Roma Component of the Human Capital Operational Programme) have exerted a favourable impact on the empowerment of women in many areas: professional, social, civic and self-awareness. Through their activity, Roma women have been systematically empowered versus not only public authorities, but also inside their local communities.

The National Action Plan for Equal Treatment 2013-2016 also provides for preparing another edition of the Roma Community integration programme for 2014-2020.

It should be also mentioned that the Office for Foreigners, in partnership with the Halina Neć Legal Aid Centre has implemented a *Daj mi szansę [Give Me a Chance]* project. This initiative, scheduled for the period between 1 January 2012 and 31 December 2014, provides for legal and informative support to those seeking protection in Poland, as well for combating sexual violence on the grounds of sex in centres for asylum seekers. The tasks provided for implementation under the project are centred around the problem of integration of asylum seekers in Poland through better legal aid and support to persons with special needs. This project is aimed at increasing the chance for an effective integration of asylum seekers through providing to the foreigners, both to those staying at centres for asylum seekers and beyond, of information and legal aid about the procedure leading to the refugee status. This support facilitates the procedure, thus increasing the chances for its robustness, and also helps to rebuild the dignity and responsibility for one's own fate, which is usually shaken in those affected by oppression in their countries of origin. Of special importance is legal support to the victims of sexual violence and gender-based violence, who, confronted with a complex procedure, are often helpless without such aid, and not infrequently fall into social isolation which is difficult to overcome.

In addition to the above, information on the access to independent, qualified and free legal aid is provided to every foreigner seeking refuge in the territory of Poland in the brochure titled, *Informacje dla cudzoziemców ubiegających się o nadanie statusu uchodźcy w RP [Information for asylum seekers in Poland]*. To provide the broadest possible access to information, the brochure has been developed in several language versions.

Another initiative aimed at e.g. raising the awareness and knowledge of women from disfavoured groups has been the project *Rights of Migrants in Practice*, implemented since 2011 by the International Organisation for Migration in partnership with the Ministry of the Interior and the Main Labour Inspectorate. The project is aimed at facilitating integration of non-EU nationals through raising awareness on the rights and duties of foreigners in Poland, and taking measures to prevent manifestations of discrimination and exploitation of migrants in the labour market. The project is mainly addressed to the citizens of Ukraine, Belarus and Armenia, for whom special hotlines have been launched in their countries of origin, to be used by those interested in coming to Poland for work. There is also a hotline

in Poland, addressed to a broad audience — the foreigners already staying in Poland.

In addition, a website *www.migrant.info.pl* has been launched as part of the project. The website is regularly updated with the latest legislation and other news. The website is available in 7 languages: English, French, Armenian, Polish, Russian, Ukrainian and Vietnamese. The project has organised an information campaign as well as a number of discrimination prevention training courses for practitioners — employees or representatives of National Labour Inspection, NGOs, Border Guard officers, judges, assistant judges, trade unions, voivodeship offices. 318 persons have been trained since 2011. In addition, it is possible to provide direct support to migrants under the project.

Regarding rural women, it should be indicated that in 2010 women managed 448,120 farms, which is 29.7% of the total number of farms. These women can benefit from a broad range of professional training courses conducted by agricultural extension centres and other entities acting for the development of agriculture, agricultural markets and rural areas.

Currently, there are 25,800 active Rural Housewives Circles which bring together 857,000 rural women. The activity of the Rural Housewives Circles is focused on five areas:

1. Activities for healthcare, aid to old-aged people and people with disabilities;
2. Development of various forms of entrepreneurship among women, active forms of employment promotion;
3. Increased participation
4. of rural areas in culture, nurturing of traditions, folklore and folk art;
5. Running the rental of household appliances.

Rural Housewives Circles undertake numerous and varied actions for the development of local communities and regional development, promotion of rural areas, folk culture, as well as building social capital and support to disfavoured people.

The National Action Plan for Equal Treatment 2013-2016 has planned the following measures as the primary objectives in particular areas:

- raise the standards of medical care provided to women, taking into account the issue of cultural diversity,
- improve the solutions to support people who need help in getting housing, as well as those in difficult living circumstances due to their age, disability, illness, as well as persons with the refugee status,
- improve the quality of services provided by the institutions serving the foreigners,
- combating, through the media, discrimination on the grounds of gender, age, national and ethnic origin,
- Preparing a National Programme to Prevent Poverty and Social Exclusion 2020: New Dimension of Active Integration.

In addition, a number of actions are provided for in the Plan, under the objective: Popularization of knowledge on issues related to the prevention of violence in a manner which takes gender perspective into account:

- conduct, on the regional level, a series of debates on the cultural background of violence and on the ways to counteract violence against women and men, taking into account gender perspective,
- conduct training sessions on violence, under educational programmes addressed to men and boys, and to women and girls,
- disseminate the topic of preventing and combating sexual violence in the school upbringing curriculum and/or the prevention programme of schools and educational facilities,
- prepare and disseminate, using multiple media (including with the use of electronic media), educational resources addressed to a broad audience on the phenomenon of violence and how to prevent it,
- conduct a social campaign on the phenomenon of violence and how to prevent it.

Part and parcel of the individual objectives and actions is the promotional aspect aimed at publicising the activities, both on official websites of the entities responsible for individual activities, as well as through community conferences and meetings with NGOs.

The grassroots social movement The Congress of Women has played an immense role in the raising the women's knowledge and awareness of their rights. This movement has involved women of various social and political backgrounds, including from the government circles. Its status as a politically-relevant social force has been increasing year after year.

In addition, the official website of the Government Plenipotentiary for Equal Treatment includes the text of the Convention on the Elimination of All Forms of Discrimination against Women, as well as the text of the latest update report on the status of compliance with the Convention provisions.

#### **National machinery for the advancement of women**

**4. Please describe the impact of the Government Plenipotentiary for Equal Treatment and explain what legislative or policy initiatives for women's rights, gender equality and women's empowerment the Plenipotentiary has undertaken during the reporting period (CEDAW/C/POL/7-8, para. 15).<sup>1</sup> Please clarify whether the State party intends to establish a permanent governmental body responsible specifically for women's rights, gender equality and women's empowerment and to guarantee adequate funding and personnel resources for the implementation of gender equality under the National Action Plan for Equal Treatment.**

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<sup>1</sup> Unless otherwise indicated, paragraph numbers refer to the combined seventh and eighth periodic reports of the State party.

**Re 4**

There is no separate government authority in Poland responsible exclusively for gender equality policy. The Government Plenipotentiary for Equal Treatment has operated pursuant to the Act *on the implementation of certain provisions of the European Union on equal treatment* since that Act has become effective, i.e., since 1 January 2011 (from 2008 to the effective date of the Act, the Plenipotentiary acted based on an ordinance of the Council of Ministers). The Plenipotentiary is responsible for the implementation of government policy on equal treatment, including the counteracting of discrimination, in particular on the grounds of gender, race, ethnicity, nationality, religion, faith, outlook, age, disability, sexual orientation. The detailed scope of the Plenipotentiary's responsibilities is provided in the Report.

The Plenipotentiary has no legislative initiative on his/her own. He/she shall participate in the legislative process through government activities, monitor legislation in terms of adherence to the principle of equal treatment, puts forward proposals for solutions. Since April 2010 until the adoption of the Act *on the implementation of certain provisions of the European Union on equal treatment*, the Plenipotentiary led the work on that Act. In 2012 and 2013, the Plenipotentiary has, among others, actively participated in consultations regarding amendments to the legislation on maternity leave and introducing a new category of parental leave. She has also postulated to consider the possibility to assign, in the future, some proportion of the parental leave for the use by the father only. The Plenipotentiary has also proposed to the Minister of Labour and Social Policy to introduce feminine names of occupations to the Classification of Occupations and Specialisations. She has also requested the Central Statistical Office to incorporate the gender criterion — on a scale much broader than before — to the statistical data gathered, collected, analysed and published.

One important initiative of the Plenipotentiary has been to prepare the National Action Plan for Equal Treatment. The document, adopted by the government in 2013, covers the period of 2013-2016. The Plan is the first document to raise the problems of equal treatment of multiple groups exposed to discrimination. The document is drawn up in keeping with the principles of horizontal policy, both in terms of the content and the involvement of particular entities.

The Plan is described more broadly in answer no. 1.

The measures provided for by the Plan have been assigned to specific entities in accordance with the competencies relevant for these entities, and will be implemented as part of their budgets. The measures implemented with the use of the State budget will be funded from the resources specified in the Budget Act for the relevant year, without the need to apply for additional funds for that purpose from the State budget. In addition to the funds from the State budget, measures may be part-financed from EU funds.

5. In the light of the Committee's previous concluding observations (CEDAW/C/POL/CO/6, paras. 12 and 13), please clarify whether there is a national action plan for women that is being implemented or developed. Please provide information on how the implementation of gender mainstreaming strategies in all government ministries and agencies is ensured, including a coordination mechanism

between the Plenipotentiary and the ministries, and comment on strategies for gender mainstreaming at the national, *voivodeship* (regional) and municipal levels in all areas covered by the Convention (para. 17).

**Re 5**

Since the *National Action Plan for Equal Treatment for 2013-2016* defines the principal objectives and paths of equal treatment policy, including prevention of discrimination, including on the grounds of sex/gender, and the principal and detailed objectives in particular areas largely coincide with the problems addressed by the Convention, no work has been ongoing on a *National Action Plan for Women*. The *National Action Plan for Equal Treatment for 2013-2016* provides for a detailed objective — establishing an effective mechanism for collaboration as part of the government administration on the central and regional level. As part of implementation of that objective, Equal Treatment Coordinators are designated at all ministries and at selected subordinated units, and the previous Equal Treatment Coordinators designated under the project “Equal Treatment as a Standard of Good Governance” have been ranked as Voivode’s Plenipotentiaries for Equal Treatment. Such network of collaboration between the Plenipotentiary and Voivode’s Plenipotentiaries has provided the opportunity for gender mainstreaming both on the central and local levels.

**Temporary special measures**

6. In the absence of information in the State party’s report, please indicate what procedure has been put in place for the application of temporary special measures in accordance with article 4 (1) of the Convention. Please clarify which temporary special measures are in place to increase the employment of women, including disadvantaged groups of women, and the representation of women in decision-making positions and elected offices. Please explain what measures have been taken to enhance equal representation of women in management and supervisory boards of public and private companies. Please provide information on the nature, purpose and use of the gender index in workplaces, in particular in public administration (para. 28).

**Re 6**

To increase participation of women in public and political life, an Act amending the Electoral Law has been adopted in 2011. Pursuant to the said act, the electoral lists for the Polish and European Parliaments, as well as municipal, district and voivodeship councils, may contain no less than 35% of female and 35% of male candidates. The list may not be registered if this gender requirement is not complied with. A broader description is contained in answer no. 14.

Given the problems obtaining or maintaining a job by 50+ women, on 24 July 2007, the Ministry of Labour and Social Policy decided to assign reserve funds from the Employment Fund, at PLN 15 million, for the implementation of the Active Woman Programme. These funds were used for the implementation of women’s professional activation projects by district Labour Offices and projects submitted by district self-governments.

The principal objective of the Active Woman Programme has been to drive up the employment ratios among 50+ women and to help 50+ women to participate in

projects increasing their chances for getting or maintaining a job, or establishing their own businesses. The Programme has received PLN 15 million from the 10% reserve of the Labour Fund.

The National Action Plan for Employment 2012-2014 recognises women as a group for which labour market activation measures are provided for. The Plan provides for the implementation of a task called "Social and economic activation of women on local and regional levels". This task was implemented through the project called "Social and economic activation of women on a local and regional levels", the implementation of which started in 2008. The project was co-financed from the Human Capital Operational Programme. The principal objective of the project was to disseminate the idea of equal opportunities in access to employment and the methods aimed achieving that goal, among the workers of the labour market institutions and in the broad society, creating a favourable climate for the activity of women, including 50+ women. The project has been completed in 2013.

With reference to the question on the representation of women in management and supervisory boards of public and private companies, it should be emphasised that, in March 2013, the Minister of State Treasury has signed a document titled, *Good practices for ensuring balanced participation of men and women in governing bodies of companies with State Treasury shareholding*.

Guided by best practices of regulations developed in other European countries as well as the governance standards which apply to public companies and taking into account the instruments under the EU legislation intended to promote equal treatment and equal opportunities for men and women in work and employment (Directives 2006/54/EC and 2010/41/EU) as well as the draft directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures [COM(2012)614 final] being prepared by the European Commission, the Minister of State Treasury recommends the application of good practices in recruitment processes pertaining to the governing bodies of companies with State Treasury shareholding insofar as the application of such good practices is not inconsistent with the generally applicable laws. The application of the principle of balanced participation of men and women with respect to the composition of the bodies in question should ensure that the underrepresented gender attains at least a 30% average share among all members of supervisory boards selected and appointed by the Minister of State Treasury. The current assumptions are that in public and key companies, this ratio shall be reached by 2015. The application of the guidelines in question is particularly recommended for companies with State Treasury shareholding which are listed on the Warsaw Stock Exchange. The good practices described above provide standards the Minister of State Treasury shall adhere to, to the extent delineated by his/her competences, in making decisions on the staffing of supervisory and management positions in Companies with State Treasury shareholding in which he/she makes staffing decisions due to acting as the General Meeting or holding special powers. He/she also recommends good practices to supervisory boards of Companies with State Treasury shareholding in the process of selection of members of management boards of these companies. In addition, as part of the said measures, Order No. 6 of the Minister of State Treasury of 7 March 2013 has been issued, under which the document *Principles of corporate governance for companies with State Treasury shareholding* has been supplemented to include the following provision concerning how the corporate governance objectives should be

implemented: *selection of adequately prepared supervisory board members, having regard to balanced participation of men and women, for the purposes of ensuring the proper functioning of corporate governance.*

In addition, in the period 1/10/2013-30/09/2015, the Ministry of Labour and Social Policy, in partnership with the Office of the Government Plenipotentiary for Equal Treatment has been implementing a project “Equality between men and women in the economic decision-making processes as a tool of social change”, co-financed from the funds of the PROGRESS Community Programme.

The objective of this project is to promote the participation of women and men in economic decision-making processes.

The following actions will be performed within the framework of implementation of the project, among others:

- carrying out of a survey on a representative group of citizens pertaining to the current situation of women with respect to the economic decision-making process
- preparation of a report on the situation of women with respect to the economic decision-making process in Poland, with particular emphasis on the feasibility study on the application of gender balance policies at company governing bodies,
- development of a tool consisting of a guidebook and a training module, intended to allow managers and HR directors to advocate the promotion of women to top positions within their organisations,
- carrying out of a pilot programme with respect to the application of the tool referred to above as well as 10 seminars implementing its application in large companies,

The project also organised a Round Table of EU Ministers for Gender Equality at the 6th Congress of Women to facilitate the exchange of experiences of individual countries as well as to review good practices applied in the field of gender equality in the course of economic decision-making processes. In addition, a discussion panel was organised during the 6th Congress of Women, devoted to business networking with respect to promotion of gender equality in economic decision-making processes.

The National Action Plan for Equal Treatment for 2013-2016 aims at increasing the share of the underrepresented gender at Companies with the State Treasury shareholding, among all members of supervisory boards elected and appointed by the Minister of State Treasury. The Plan also provides for the promotion of the participation of women in economic decision-making process, i.e.:

- dissemination the Diversity Charter among business enterprises, institutions, universities, local governments and NGOs,
- mentoring,
- networking,
- a system of training courses.

The Minister of Labour and Social Policy has each year invited NGOs to participate in an open call for proposals for the NGO Initiative Competition for the best projects. In 2004-2014, the following areas have been prioritised, among others:

- Support the professional activity of women returning to the labour market following maternity/childcare leave or following a period of care for dependent persons;
- Equalise opportunities of women in social and economic life: Promotion of women's participation in public life;
- Increase the level of activity of women in the labour market;
- Decrease the wage gap between men and women;
- Prepare and carry out promotional actions for diversity and equality in local communities;
- Counteracting discrimination — initiatives on counteracting discrimination on the grounds of:
  - a. sex/gender
  - b. race and ethnicity
  - c. sexual orientation
  - d. denomination and religion
  - e. disability.

Information about the assumptions of the Gender Index study is provided in the Report. In 2010, a study was conducted in government institutions within the framework of the “Equal Treatment as a Good Governance Standard” project, implemented by the Government Plenipotentiary for Equal Treatment (co-financed under the Human Capital Operational Programme).

As a result of the gender index study, recommendations for various employment-related areas were developed and publicised. Despite that, as the studies have shown, some agencies attach greater importance to combating the problem of discrimination at work, and the resulting ranking in terms of indicators for equal treatment by sex, age or other dimensions of diversity is better, there is a scope in each of these agencies for taking action to improve the equality and diversity policy in such a way as to actually come closer to the standards set out by EU legislation.

In the recruitment area, there is a need to standardise recruitment interviews (on the model of standardisation of vacancy announcements) to eliminate questions concerning private/family life. Training of employees is also necessary, especially those responsible for recruitment, both in terms of the benefits of working in different teams, and discrimination prevention. Appropriate steps should also be taken to adapt workplaces to the needs of people with disabilities.

Regarding the access to promotion, internal mechanisms for the promotion of workers should be reviewed from the point of view of sex and age, and the introduction of programmes (such as mentoring, coaching) should be considered to facilitate promotion to executive positions for the workers of the group which is less

represented, e.g. women on top-level jobs. In particular, the aim should be to have at least a half of women ministers, i.e. to make the government gender-balanced.

Access to training is, in the view of workers, the area least liable to discrimination, nevertheless, it is recommended to monitor the participation in training courses organised and financed by the employer to ensure equal access to training regardless of sex and age.

In the payment for work area, it is recommended to conduct annual reviews of salaries on comparable positions by sex and age, and to implement a programme to evaluate jobs throughout the government administration according to the recommendations of Order No. 1 of the Chairman of the Council of Ministers of 7 January 2011 laying down the rules for the description and evaluation of Civil Service jobs.

In the area of protection against harassment and mobbing, it is recommended to make efforts to give a proper recognition to these issues and to create a climate encouraging employees to report instances of violating their dignity at work. Although anti-mobbing procedures have been introduced at some agencies and the concerns of workers about reporting their complaints have been alleviated, similar procedures combating sexual harassment are lacking.

In the area of work-life balance, the aim should be to create such conditions of work that would more than now facilitate the balance between these two important spheres. Relatively modest solutions offered by central administration offices should be expanded to include alternative forms of doing job and opening a kindergarten affiliated to the office.

In addition, the Ministry of Labour and Social Policy has collaborated with the academia to evaluate the tools for the elimination the wage gap between women and men, including to evaluate the results of the “Gender Index” project aimed at developing a model for an efficient company management taking into account the equality policy.

### **Stereotypes**

7. Please provide information on the impact assessment of the awareness-raising and educational campaigns described in the report aimed at addressing gender-based stereotypes, with emphasis on the projects undertaken during the reporting period in areas other than labour and occupation (paras. 38-41). Please also indicate ways in which these campaigns have addressed the elimination of stereotypes associated with multiple forms of discrimination faced by various disadvantaged groups of women and girls as a result of their ethnicity, age, disability or other characteristic.

### **Re 7**

Campaigns and other awareness-raising measures initiated at the Office of the Plenipotentiary for Equal Status of Women and Men have launched such measures over the subsequent years. The need for taking awareness-raising measures aimed at breaking gender-based stereotypes has been still shared. As a result of awareness-raising and educational campaigns concerning gender-based stereotypes, this topic has broken through to the broad discourse in the media. Gender-based stereotypes are discussed both by policy-making, scientific and artistic communities. The number of advertisement messages breaking gender-based stereotypes has increased,

including as a result of awareness-raising measures. With regard to women and girls with disabilities, there is a change of perception of one's own person, not only through the prism of disability. One example is the activity of women with disabilities who take part in campaigns aimed at emphasising sporting activity of people with disabilities and the beauty of women with disabilities.

The number of messages breaking the age-based stereotype has been also on the rise, and there is an observed activity of older people to change the way they are presented in the media, not only as those playing the roles stereotypically designated to them due to their old age (e.g. grandmother, babysitter), but also through their intellectual resources, social activity etc., which may be indicative of increased awareness within this group. It should be noted that the awareness-raising and educational campaigns described in the report seem to have failed to directly translate into increased awareness in breaking gender-based stereotypes in the Roma community.

More and more often, various entities, including government entities, commission public opinion polls concerning stereotypes and the role they play in social life.

Within the framework of the "Equal Treatment as a Good Governance Standard" project, implemented by the Government Plenipotentiary for Equal Treatment, co-financed under the Human Capital Operational Programme, in 2012 opinion polls were conducted, addressing, among others, stereotypes and beliefs of female and male Poles on the role of women in the family. These have shown that 56% of the respondents have opted for a partner-like model whereby spouses or partners remain professionally active, sharing their household and parental duties on an equal basis. This is testimony to changing awareness and convictions of female and male Poles on the roles of women and men. The same project has carried out a campaign, "Did you see it? Respond!" aimed at drawing the attention of the public to the phenomenon of discrimination — including, in particular, discrimination on the grounds of gender, age and disability. A TV advertisement spot was broadcast as part of the campaign, explaining which conducts are discriminatory, and encouraged to reacting.

**8. Please describe the intervention measures to eliminate the patriarchal and stereotypical portrayals of women in the media and advertisements (para. 62). Please provide information on any measures taken to counter, in accordance with article 5 of the Convention, campaigns such as those that reject the concept of "gender". Given the absence of information in the State party's report, please describe the steps taken to review textbooks and materials at all levels of education in order to eliminate references that maintain or reinforce patriarchal gender stereotypes (para. 152).**

#### **Re 8**

The Government Plenipotentiary for Equal Treatment takes action based on complaints and reports from private individuals, groups of citizens or NGOs. Regardless of these spontaneous complaints, the Plenipotentiary takes up some issues on her own initiative as well as based on media reports. The Plenipotentiary has many times intervened on media reports reinforcing stereotypical image of women and/or violating their dignity. She has organised national conferences addressing the issue of stereotypes, including a simplified and unfair image of

women in the media. In 2014, the Plenipotentiary has organised an international conference titled, “Equal Treatment in Advertisement”, with the participation of experts and NGO representatives. The conference was wholly devoted to the image of women in the media. In the years 2011-2013, the Government Plenipotentiary for Equal Treatment implemented a project called, “Media of Equal Opportunities”. The overall objective of the project was to introduce an equality perspective to the language of public debate through educational and promotional activities addressed to individuals and groups having an influence on the way this language is shaped and responsible for its development. The educational component of the project comprised a series of training programmes aimed at the representatives of nationwide, regional and local media: television and the radio, as well as at journalism students. Two hundred people were trained over a cycle of 8-hour-long meetings. The training courses covered broad topics of equal treatment, equal opportunities, and countering discrimination. Their purpose was to increase the level of knowledge and awareness in the area of preventing discrimination and making representatives of the media more sensitive to the problems faced by discriminated groups. The methodology of the training programme has been designed to take into account and disseminate information on the national and European policies and provisions pertaining to counteracting discrimination and to ensure that participants obtain the skills which allow them to create messages consistent with the principle of equal treatment.

In addition, an extensive communication has been posted on the official site of the Government Plenipotentiary for Equal Treatment explaining the notion of “gender”.

In order to promote equal opportunities in the labour market, in 2011, the Ministry of Regional Development prepared an advertisement spot whose main purpose was to give prominence to the fact that gender-based discrimination was still widespread in the Polish labour market, which manifested itself already on the recruitment stage. In a broader perspective, that spot was aimed at focusing public attention on the support to the work-life balance, available under the Human Capital Operational Programme, co-financed from the European Social Fund. That spot was broadcast at the turn of 2012 through various communication channels, including in subway stations and carriages, in selected TV stations, in cinema and on the Internet.

The results of the study “*Assessment of the effectiveness of informative and promotional campaign concerning the equality of gender opportunities*”, commissioned by the Ministry of Regional Development in 2012, have shown that, as a result of that spot and the campaign, more than one-third of those who have seen the broadcast have been encouraged to search for more information about the rights of female and male employees at work. In addition, there was a large group of those who declared that the advertisement encouraged them to take a closer look at the practices used at their workplace in this regard (49%), and almost ¼ of the individuals acknowledged after seeing the spot that it encouraged them to get information on the support offered in the area of equal opportunities of both sexes under EU programmes and funds.

In addition, the campaigns to promote sharing family responsibilities by men and women are described in answer to Question 9.

In the *National Action Plan for Equal Treatment for 2013-2016*, a priority goal has been identified — countering discrimination on the grounds of sex, age, nationality or ethnicity, disability or sexual orientation in the media, under which measures have been provided for, aimed at changing the discriminatory image of the persons belonging to the groups exposed to unequal treatment in media reports.

Regarding the question on textbooks, it should be noted that a precondition for a textbook to be admitted to use in education is a favourable review of experts. The experts who review textbooks assess if a textbook complies with the curriculum, is correct in terms of substance, teaching methods, upbringing and language. A textbook admitted to school use must also have content compliant with legislation, in particular with the Constitution, as well as with the international treaties ratified by Poland. Consequently, textbooks admitted to school use must comply with the principle of equal rights of all people.

To improve the content of textbooks in terms of equal treatment, the Minister of National Education, in cooperation with the Education Development Centre, organised training sessions for the reviewers of textbooks designed for general education, in order to sensitise them to discriminatory content. In spring and autumn of 2011, under a project called “Implementation of the curriculum of preschool and general education in different types of schools, with particular emphasis on the 2nd and 4th educational levels”, training sessions for textbook reviewers were held, which addressed, among other things, the topic of gender stereotypes in school textbooks, ways to prevent stereotyping, and the role of the reviewer in this regard. In December 2012, new training sessions for the reviewers of textbooks for general education were held. In addition, a letter to reviewers was posted on the website of the Ministry of National Education from the Minister of National Education, recommending them to analyse the content of textbooks with extra attention paid to equal treatment and countering discrimination on the grounds of sex, race, ethnicity, nationality, religion or denomination, political views, age, sexual orientation, civil and family status.

One priority objective defined in the area of education of the National Action Plan for Equal Treatment 2013-2016 has been to eliminate expressions of inequality and discrimination in the educational process. In pursuing this objective, the Plan stipulates that the causes underlying the perpetuation of content inconsistent with the principle of equal treatment in the educational process should be diagnosed, and equal-treatment content should be promoted and disseminated in school curricula and educational and teaching materials.

**9. Please indicate the steps taken to promote the sharing of responsibilities between men and women in the family, including information on the current duration of maternity and paternity leaves (paras. 189 and 194). Please indicate the training and educational measures in place for law enforcement officers and officials of public institutions assisting women who experience sexual violence, in particular rape, to prevent the stigmatization of victims and avoid stereotypes that may perpetuate violence against women.**

#### **Re 9**

In recent times, by subsequent amendments of the Labour Code, a number of changes have been introduced to parental rights aimed at promoting the sharing of

responsibilities between men and women in the family. In this regard, the following amendments should be mentioned in particular:

- Act of 28 May 2013 amending the Act — Labour Code and certain other acts (Dz.U. item 675) — entered into force on 17 June 2013, and
- Act of 26 July 2013 amending the Act — Labour Code (Dz.U. item 1028) — entered into force on 1 October 2013.

The former amending Act allows parents to use paid leaves for one year in connection with childbirth or for a period longer than one year in connection with the simultaneous birth of more than one child. In addition, that Act has allowed parents, to a much greater extent than before, to share their parental rights they have due to bringing up a small child. But, first and foremost, the Act has introduced a new institution, i.e., parental leave of 26 weeks, to be used directly following the maternity leave and additional maternity leave. Therefore, if a single child is born, there is one year of paid leave available: 20 weeks of the maternity leave, 6 weeks of the additional maternity leave, and 26 weeks of the parental leave. The latter amendment to the Labour Code has introduced the principle of non-transferability of some part of the childcare leave. This means that, out of 36 months of leave per child up to 5 years old, each parent is entitled to one month of leave. If he or she chooses not to use this entitlement, the leave is lost. Parent may share the remaining leave at 34 months as they arrange this between themselves.

The current duration of leaves related to parental functions is as follows:

- The duration of the maternity leave (obligatory leave) depends on the number of children born during a single birth, and is:
  - 20 weeks where a single child is born,
  - 31 weeks where two children are born during a single birth,
  - 33 weeks where three children are born during a single birth,
  - 35 weeks where four children are born during a single birth,
  - 37 weeks where five or more children are born during a single birth.
- Directly following the end of maternity leave, there is an additional maternity leave (optional) *ωιτη τηε φολλοωινγ δυρατιον*:
  - up to 6 weeks where a single child is born,
  - up to 8 weeks — in the remaining cases.
- Directly after the use of the full duration of the additional maternity leave, a parental leave is available (optional) at 26 weeks (regardless of the number of children born at a single birth).
- Leaves granted on conditions equivalent to a maternity leave and additional leave granted on conditions equivalent to a maternity leave have durations equivalent to the maternity leave and the additional maternity leave.
- A paternity leave with duration of 2 weeks is available to a working father bringing up a child, but it may be used:
  - either until the child is less than 12 months old, or

- within 12 months since a court decision on adoption is made and until the child is less than 7 years old or, in the case of a child with respect to whom a decision has been taken to defer compulsory school attendance — until the child is less than 10 years old.
- The childcare leave is available for the purpose extending personal care over a child. This leave lasts 36 months. This leave is granted for a period no longer than until the child is 5 years old. If, due to a health condition certified by disability certificate the child requires personal attention of an employee, regardless of the above-mentioned childcare leave in the basic duration, a childcare leave of up to 36 months may be granted, but for no longer than until the child is 18 years old.

Campaigns to promote the sharing of responsibilities by men and women in the family:

The Ministry of Labour and Social Policy has implemented a social campaign promoting the topic of the applicable legislation on employee benefits available to working parents in connection with childbirth. This social campaign was conducted as part of the project “Social and economic activation of women on local and regional levels” co-financed from EU funds under the European Social Fund. The project was implemented from 1 February 2008 and 31 December 2013. The overarching purpose of the Campaign was to disseminate information about:

- the applicable legislation on employee benefits available to working parents in connection with childbirth — extension of the maternity leave, information on a leave available to both parents, and full information about paternity leaves;
- the meaning of terms: paternity leave, parental leave;
- planning for a leave — when you can use it? What are the benefits for parents/employers?
- benefits from active involvement of fathers in childcare - greater occupational activity of women may only happen when fathers increase their involvement in childcare.

The campaign was addressed to women and men aged 20-39 involved in parental responsibilities, employers and general society. The following activities took place under the campaign:

- Two competitions have been carried out: one addressed to employers, called “A Father-Friendly Company” and the other addressed to parents, called “The Father and Child Moments”;
- Production of TV broadcasts representing good practices on equal opportunities in the labour market for both parents;
- Distribution of informative and promotional content (calendars, posters, leaflets, congratulations letters, etc.) and press content of popularising and educational nature at places frequented by people planning for parenthood;
- Publishing a number of informative articles in national and regional press
- Supplying 100,000 items of informative and promotional content to Civil Registries nationwide;

- Organising in 2013, at the National Stadium, of a conference called “The Congress of Fathers”: — the participants of the congress (representatives of NGOs, employers, employees, representatives of scientific community, business, politicians, parents) debated detailed practical solutions and possibilities for the realisation of the rights available to working parents in connection with childbirth and the benefits to parents and employers from parental leaves. During the Congress, the panellists reviewed the benefits from active involvement of fathers in childcare and the effective sharing of occupational and family roles of women and men. The debate also revolved around how to eliminate stereotypes, and a change of beliefs regarding social roles of women and men. Local and regional aspects of women’s occupational activity were presented (examples from small towns, case studies of women from local communities, etc.), demonstrating that a greater occupational activity of women can only be achieved with the increased involvement of fathers in childcare and maintained work-family balance. Polish and European good practices were also discussed.

To promote the sharing of responsibilities between men and women in the family, the Ministry of Labour and Social Policy has launched a website [www.rodzicielski.gov.pl](http://www.rodzicielski.gov.pl) with detailed information for mothers and fathers. In addition, there is a new capability for asking questions through the Internet portal.

The idea of reconciling the occupational and family roles of women and men was also promoted during an Expert Conference on “Mechanisms for reconciling professional and family roles for women and men as a chance to actively participate in the labour market”, accompanying the Informal Meeting of Ministers for Family and Gender Equality, held on 20-21 October 2011 in Krakow. The Ministry of Labour and Social Policy presented on that occasion a proposal for a logotype promoting the ideas of reconciliation of professional roles and partner-like sharing of responsibilities by both parents. Emperor Penguin has been chosen as the symbol of the above-mentioned ideas, because it exemplifies how they are implemented “in nature”.

#### Sexual violence

On 25 November 2009, representatives of various ministries, agencies and non-governmental organisations have signed a declaration of accession to the Platform for Action *Stop Sexual Violence in Poland*. The Platform Signatories, considering that sexual violence against women violates fundamental human rights, declared their willingness to build an inter-ministerial coalition to combat sexual violence. At the end of 2010, a *Procedure for the Police and healthcare facilities on how to treat a victim of sexual violence*, developed during the Platform deliberations, was presented, and this procedure has been subsequently accepted for implementation by the Police Commander in Chief. The proceeding with the victims of sexual violence has been split into two paths. One path applies both to adults and minors reporting to the Police. The other applies to those who report directly to a healthcare facility. In the latter case, the proceeding can vary, depending on whether the victim decides to report a crime or refuses to do so. The procedures describe, among other things, how to conduct the initial examination of a rape victim to collect evidence of crime for the purpose of criminal proceedings.

Nevertheless, it has to be mentioned that due to amendments to the Act of 6 June 1997, the Code of Criminal Procedure (Dz. U. No. 89, item 55, as amended),

which have become effective on 27 January 2014, the procedure had to be modified accordingly. The modifications concern the crimes of rape, abuse of the relationship of dependence or exploitation of a critical position and exploitation of helplessness of another person, intellectual disability or mental illness in order to bring about sexual intercourse or submission to other sexual activity, or active undertaking of such activity. They introduce new solutions concerning how to interview the victims of crimes against sexual freedom, aimed at minimising negative experiences and adapting the legal system to standards of protection of minor victims of crime, contained in the EU legislation. A new element introduced by these procedures is the equipment of the police in so-called forensic package used for securing the traces of sexual crimes and making it available to healthcare personnel where there is a need to examine the body of the victim of sexual violence and securing evidence for the purpose of criminal proceedings. An integral part of the forensic package is a *Report of the examination of a person being victim to a crime against sexual freedom and decency, a person suspected of such crime and a form of securing forensic traces*, developed at the Criminal Bureau of the Police Headquarters, the model of which was consulted and reviewed by the Ministry of Health and the Forensics Department of the Medical University in Wrocław.

On 25 October 2012, a contract was signed for the supply of 2000 forensic packages to secure traces of sexual crimes. In January 2013, the forensic packages were delivered to criminal service units of Police organisational units. Forensic packages in the coming years will be purchased according to the requirements reported by Police garrisons.

It should be noted that the Ministry of the Interior has played the role of a partner during the implementation of the project titled *The rights of victims of sexual crimes — new systemic approach, informing, training*, funded from the EU Progress programme, the aim of which is to support the development and coordination of EU policies, including with regard to the equality of women and men, and countering discrimination.

Under the project, the Ministry of the Interior will, among other things, participate in preparing workshops by developing some training materials, helping to recruit police officers to the mentioned training courses. The Ministry will also take action aimed at disseminating the activities implemented under the project, during conferences and meetings, and through the Ministry's website.

For many years, as part of national programmes for the combating and prevention of human trafficking, training courses have been carried out for law enforcement authorities and representatives of State institutions, in particular with regard to the identification of and support to the victims. The current *National Plan for 2013-2015* provides for training courses for, among others, police officers and border guards, labour inspectors, judges and public prosecutors, representatives of trade unions, consuls, workers of protected centres or custodies, spokespersons of law enforcement authorities, workers of social welfare, and workers of the Office for Foreigners.

At the same time, the Police Headquarters carried out the following initiatives regarding the combating of crimes against sexual freedom and decency:

- in 2013 — a conference on Crimes against sexual freedom — procedures for treating the victim and perpetrator of sexual violence, in particular the victim and perpetrator of rape,
- in 2012 and in 2013 — training workshops on Combating of crimes against sexual freedom and decency (three editions).

In addition, there are plans to carry out in 2014 training workshops on *Combating of crimes against sexual freedom and decency* (two editions).

Moreover, the Centre for Continuous Training and International Collaboration of the National School of Judiciary and Public Prosecution, implementing the programme of training activity defined for 2013 and having regard to the educational strategy under the National Programme for the Prevention of Domestic Violence, conducted training sessions devoted to the root causes and consequences of domestic violence. The training session entitled: “Criminal-law and psychological aspects of crimes related to domestic violence, sexual violence against women and crimes against sexual freedom and decency, involving minors as crime victims. Methodology of criminal proceedings in the said categories of crime” was held in 11 editions, in the cities where Appellate Prosecution Offices are headquartered and was addressed to groups 50 participants each, i.e., public prosecutors, assessor prosecutors, and assistants to prosecutors. The training discussed, among other things:

- sexual crimes against women, methodology of interviewing a woman victim of a crime, the problem of secondary victimisation of the victims of sexual violence,
- sexual violence against children, child as a victim of domestic violence, and crimes against sexual freedom and decency;

### **Violence against women**

**10. Please assess the effectiveness of the measures against violence against women, in particular the amendments to the Act on Counteracting Domestic Violence of 10 June 2010 and the National Programme for the Prevention of Domestic Violence for 2006-2016 (paras. 42 and 51). Please clarify whether domestic violence and marital rape are defined as specific criminal offences in the Criminal Code.**

#### **Re 10**

Several years after amending the Act on Counteracting Domestic Violence and the functioning of the National Programme for the Prevention of Domestic Violence, it has become clear that the decision to develop such documents, and most of all statutory regulations in this regard, has been correct and needed.

The structuring of the activities, and identification of responsibilities of particular levels of public administration has resulted, on the one hand, in increased responsibility, and, on the other hand, enables evaluation and better control.

Intensive measures resulting from the responsibilities imposed by the above-mentioned Act and the National Programme for the Prevention of Domestic Violence should be continued, and at the same time the public debate and the

opinions of experts directly working with the persons suffering and using domestic violence should be carefully listened to.

The measures implemented as part of the National Programme for the Prevention of Domestic Violence have a great importance for the development of future priorities in combating domestic violence. One of the key achievements realised so far both on the central and the local levels, is the undertaking of collaboration and assuming responsibility for these problems by various Ministries involved in the implementation of the Programme, but also by the services working directly in local communities. This is a precondition for effective implementation of the measures taken and allows to create optimum solutions for combating domestic violence.

The measures implemented under the Act and the National Programme for the Prevention of Domestic Violence have significantly affected social attitudes.

The fact that cases of domestic violence are reported is testimony to an increased awareness of this phenomenon. In addition, every reported case of domestic violence is an evidence that such practices are socially intolerable, and increases awareness that domestic violence is a crime.

The goals defined in the National Programme for the Prevention of Domestic Violence, namely:

- 1) decrease the scale of domestic violence;
- 2) increase the effectiveness of protection of victims of domestic violence, and increase the availability of support;
- 3) increase the effectiveness of intervention and corrective measures against individuals using domestic violence and general goals:
  - 1) systematic analysis of the phenomenon of domestic violence;
  - 2) raising social sensitivity to domestic violence;
  - 3) increasing the competencies of the services dealing with domestic violence;
  - 4) providing professional assistance to the victims of domestic violence;
  - 5) impacting on the perpetrators of domestic violence,

during the course of the National Programme for the Prevention of Domestic Violence for 2006-2013 should be considered as implemented, nevertheless, the initial work to create a domestic violence prevention system should be continued.

The funds set aside for the implementation of the Programme have been used for the performance of the tasks resulting from the Programme and have contributed to the achievement of the objectives contained in the Programme.

Implementation of the tasks defined in the National Programme for the Prevention of Domestic Violence is a process to be continued.

In addition, the amendments to the Act of 29 July 2005 on Counteracting Domestic Violence, which have entered into force on 1 August 2010, have contributed to the improvement of the domestic violence prevention system in Poland.

The amendments, including the possibility for the victim of domestic violence to obtain for free a medical certificate specifying the causes and types of bodily injuries related to the use of domestic violence, and the possibility of immediate taking of the child in collaboration with a social worker, police officer, as well as a doctor or a nurse if the child's life or health is at risk due to domestic violence, or the prohibition of the use of physical punishment against children, as well as the amendments governing the issues of collaboration within interdisciplinary teams based on the "Blue Cards" procedure, and the amendments to the Code, have allowed to take more effective measures addressed both to the victims and perpetrators of domestic violence. One important challenge in the implementation of the domestic violence prevention tasks is to continue the initiated solutions and at the same time to increase the competences of the services dealing professionally with these tasks.

Domestic violence and marital rape are not defined in the Polish Criminal Code as specific crimes. Depending on the form, domestic violence may meet the characteristics of various crimes itemised in the Criminal Code, the most common of which is the crime of harassment. Rape is a crime defined in the Criminal Code regardless of the victim or the perpetrator, which means that, in Poland, every rape, including marital rape, is punishable.

It should be also emphasised that the procedure for prosecuting the crime of rape has now been amended by the Act of 13 June 2013 *amending the Act — Criminal Code and the Act — Code of Criminal Procedure* (Dz.U. of 2013, item 849): this crime is now prosecuted by operation of law.

**11. In the light of the Committee's previous concluding observations (CEDAW/C/POL/CO/6, para. 19), please describe to what extent victims of domestic violence have access to means of immediate protection, including protection orders issued by the police (para. 47), sufficient numbers of safe shelters staffed by expert personnel and other services, free legal aid (para. 60) and alternative housing (paras. 47 and 48). Please provide updated data, disaggregated by type of violence and the relationship of the perpetrator to the victim, on reported and prosecuted criminal acts pertaining to violence against women, including domestic violence (CEDAW/C/POL/CO/6, para. 19).**

#### **Re 11**

##### Activities of specialized support centres for victims of domestic violence in 2006-2012

From 2006 onwards, a total of 36 support centres providing 24-hour aid to victims of domestic violence have been operating in Poland. In 2010, following an inspection conducted by the Voivode, one of these centres has been closed. Consequently, there are now 35 active specialized support centres for victims of domestic violence. Apart from catering to the most basic needs of the victims, specialized support centres provide professional medical, social, psychological and legal aid. Specialized support centres for victims of domestic violence operate on the basis of standards contained in the ordinance of the Minister of Labour and Social Policy dated 22 February 2011 on the standard for basic services provided by specialized support centres for victims of domestic violence, the qualifications of employees of such centres, specific paths of educational and correctional activities performed with respect to perpetrators of domestic violence as well as the

qualifications of persons tasked with the performance of educational and correctional activities (Dz.U. no. 50, item 159) — (prior to 2011, the applicable rules in this regard were contained in the regulation of the Minister of Labour and Social Policy of 6 July 2006 on the standard for basic services provided by specialized support centres for victims of domestic violence and the specific paths of educational and correctional activities (Dz.U. no. 127, item 890)). Specialized support centres for victims of domestic violence are due to comply with the applicable standards with respect to interventions, therapeutic and support activities and the provision of well-being services. The primary goal of these centres is to ensure the safety of victims of domestic violence and to provide them with professional aid and support. Those experiencing domestic violence can use these centres free of charge; for three months they are provided with shelter with the option of extending such stay. Individuals and families may use these centres in the entire territory of Poland, regardless of the region of Poland in which they previously resided.

It is worth noting that an undisputed advantage derived from the establishment of the aforementioned centres is increasing the availability of professional aid for victims of domestic violence as well as improving their safety and protecting them from further acts of violence. The specialist nature of the centres makes it possible for them to provide support even in the most complicated cases, including the provision of support to the victims of particularly drastic cases of domestic violence.

The support services of specialist centres is aimed at various categories of victims, including women, children, men, the elderly and persons with disabilities. Specialist centres perform therapeutic work aimed at children, who constitute a special category of victims.

The top priority for every support centre is to cooperate, within the framework of interdisciplinary actions, with services and organizations dealing with the issues of prevention of domestic violence in the given area. The running of specialized support centres for victims of domestic violence is the task of central government commissioned to the district level of administration. The funds for the operation of the centres are derived from the State budget. In order to protect a greater number of victims of domestic violence through the opportunity to use such centres, the draft National Programme for the Prevention of Domestic Violence for 2014-2020 provides for additional funds set aside for two new specialised support centres for the victims of domestic violence.

In addition, there are in Poland also other types of centres providing help to victims of domestic violence, i.e.

- support centres,
- crisis intervention centres,
- shelters for mothers with minor children, and pregnant women.

These centres also implement the tasks of municipalities and districts, and are also funded from the budgets of local governments.

The number of individuals using specialized support centres for victims of domestic violence is presented in Table 14 of the Appendix hereto.

In the past, the only preventive measure providing guarantees to the victim that he or she will have no contact with the suspect (accused person), was preventive arrest of the suspect. The situation has changed due to the *Act of 10 June 2010 amending the act on counteracting domestic violence and certain other acts*. By this amendment, the Code of Criminal Procedure has been supplemented with a new type of preventive measure, i.e. the order to leave the premises occupied jointly with the victim (Article 275a of the Code of Criminal Procedure). If there are grounds to apply such measure, the Police are required to immediately request the public prosecutor to use such measure. Such request should be examined by the public prosecutor within 48 hours since the arrest (Article 275a § 3 of the Code of Criminal Procedure). In general, this order may be imposed for no longer than three months. If, despite the lapse of such period, the reasons to apply it are still valid, the public prosecutor may move to the court with jurisdiction over the case for extending this measure for further periods no longer than three months (Article 275a § 4 of the Code of Criminal Procedure).

By the Act of 10 June 2010 *amending the act on counteracting domestic violence and certain other acts* (Dz.U. No. 125, item 842), the Police Act was supplemented with the provision of Article 15a conferring upon Police officers the right to apprehend the perpetrators of domestic violence who pose direct threat to human life or health, according to the procedure laid down in Article 15 of that act.

In 2013, according to the figures from the General Prosecutor's Office, the number of suspects against whom the above-mentioned preventive measure has been applied in the form of an order to leave the premises occupied jointly with the victim (Article 275a § 1 of the Code of Criminal Procedure) was 1500.<sup>2</sup> In 2012 — 1241, in 2011 — 849, and in 2010 — 209.

The protection of the victims, including the victims of domestic violence, is to be ensured also by probation and penal measures which may be imposed by the court.

Since 1 August 2010, i.e. since the effective date of the *Act amending the Act on Counteracting Domestic Violence and certain other acts*, provisions have become effective introducing new or amended penal measures applicable to perpetrators of domestic violence, i.e., the order to leave the premises occupied jointly with the victim (Art. 39(2e) of the Criminal Code ("CC") in connection with Art. 41a CC) and the prohibition of approaching the victim (Art. 39(2b) CC in connection with Art. 41a CC).

The data provided by statistical reports (first introduced since 1 January 2012) show that in 2013 courts of law adjudged the following penal measures, in the following number of cases:<sup>3</sup>

- duty to stay away from certain communities or places (Art. 39(2b) CC) — **64** (2012 — 42, 2011 — 31, 2010 — 16),

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<sup>2</sup> Figures from the Statistics Department, General Prosecutor's Office.

<sup>3</sup> Data from reports: MS-stat-Wydział Statystyki Sądy Rejonowe MS-S6 report on persons tried in the first instance according to subject-matter jurisdiction for 2012, and MS-stat-Wydział Statystyki Sądy Okręgowe MS-S6 report on persons tried in the first instance according to subject-matter jurisdiction for 2013.

- prohibition of contacting certain persons (Art. 39(2b) CC) — **573** (2012 — 330, 2011 — 161, 2010 — 81),
- prohibition of approaching certain persons (Art. 39(2b) CC) — **311** (2012 — 205, 2011 — 106, 2010 — 26),
- prohibition of leaving certain places of stay without consent of the court (Art. 39(2b) CC) — **12** (2012 — 12, 2011 — no case adjudged),
- order to leave premises occupied jointly with the victim (Art. 39(2e) CC) — in **288** cases (2012 — 167, 2011 — 110, 2010 — 20).

The Act mentioned hereinabove has also introduced a new probation measure, namely the prohibition of approaching the victim (Art. 72 § 1(7a) CC), as well as a separate consideration in Art. 72 § 1(6a) CC of a case of participation of the perpetrator in corrective and educational programmes.

On account of probation measures (Art. 72 § 1 CC), courts of law adjudged in 2013 to:

- abstain from abuse of alcohol or other intoxicants (Art. 72 § 1(5) CC) — **14,236** (2012 — 15,203, 2011 — 10,635, 2010 — 9,449),
- abstain from abuse of alcohol or other intoxicants (Art. 72 § 1(5) CC) — **2,642** (2012 — 2,564, 2011 — 2,263, 2010 — 1,914),
- participate in corrective and educational events (Art. 72 § 1(2b) CC) — **578** (2012 — 346, 2011 — 296, 2010 — 253),
- abstain from staying in certain communities or places (Art. 72 § 1(7) CC) — **245** (2012 — 316, 2011 — 317, 2010 — 170),
- abstain from contacting the victims or other persons in a specific way (Art. 72 § 1(7a) CC) — **1,149** (2012 — 1,040, 2011 — 592, 2010 — 554),
- abstain from approaching the victim or other persons (Art. 72 § 1(7a) CC) — **437** (2012 — 387, 2011 — 190, 2010 — 99),
- leave the residential premises occupied in community with the victim (Art. 72 § 1(7b) CC) — **445** (2012 — 536, 2011 — 406, 2010 — 279).

The court statistical forms for 2011 have for the first time taken into account the statistics of crimes which may be classified as domestic violence, according to Article 2(2) of the Act on Counteracting Domestic Violence, and include, among others:

Art. 148 § 1-4 CC — homicide;

Art. 156 § 1-3 CC — causing serious injury;

Art. 157 § 1 CC — causing moderate or light injury;

Art. 189 CC — deprivation of liberty;

Art. 190 CC — threatened assault;

Art. 191 CC — assault or threatened assault in order to force to a specific behaviour;

Art. 191a CC — fixation and dissemination of an image of a naked person;

Art. 197 § 1-3 CC — rape;

Art. 198 CC — sexual intercourse with a person having limited sanity;

Art. 199 CC — coercion of sexual intercourse with a subordinated person, in critical circumstances;

Art. 200 § 1 and 2 CC — paedophilia — doing; presenting content;

Art. 201 CC — incest;

Art. 202 § 1-4b CC — presenting pornographic content;

Art. 203 CC — coercing another person to practice prostitution;

Art. 208 CC — encourage minors to drink alcohol;

Modifications to the court forms have been introduced in the course of 2011, therefore the statistics regarding the above-mentioned crimes are available for the years 2012 and 2013. The data in this regard and the data concerning the number and sex of the victims of particular crimes classified as domestic violence according to Art. 2(2) of the Act *on Counteracting Domestic Violence* are presented in the Appendix, in tables no. 15-18.

In 2012, the Police started collecting data on the types of violence, related to the implementation of the *Blue Card* procedure. The available data indicate that during interventions related to domestic violence, in 2013 police officers usually were confronted with mental violence (61,392 cases) and physical violence (48,980). In 1240 cases, sexual violence was identified. 21,966 situations were classified as other behaviours. It should be emphasised that cases where domestic violence can be classified as violence of one type only are rare.

The number of cases of individual types of violence are presented in Chart 1 of the Appendix.

#### **Trafficking in women and exploitation of prostitution**

**12. Please assess the effectiveness of the National Action Plan against Trafficking in Human Beings (para. 69), providing in particular updated information regarding measures to prevent trafficking in women and increase protection to its victims. Please clarify whether the State party intends to establish an independent mechanism or body with a mandate to gather and disseminate information and develop measures against trafficking in women. Please provide information, disaggregated by sex, age and nationality, on the number of reported cases of trafficking in women, prosecutions, convictions and sentences imposed on perpetrators during the reporting period, including the number of women victims of trafficking with the purpose of sexual exploitation.**

**13. Please also indicate what instruments are currently in place through the National Consulting and Intervention Centre or other mechanisms to improve the early identification of women victims of trafficking and encourage victims to report such crimes to the police (para. 76). How many women victims of trafficking residing in Poland illegally have had their status legalized under the amended Act on Aliens? Given the lack of information in the State party's report on the prevalence of prostitution, please comment on the prevalence of**

**the phenomenon in the State party and on policies and measures adopted to prevent sexual exploitation of women and girls (para. 81) and on assistance provided to those who wish to leave prostitution.**

### **Re 12 and 13**

With reference to the question concerning the assessment of the effectiveness of the *National Action Plan against Trafficking in Human Beings*, the reasonableness of the tasks covered hereby, and the effectiveness of their implementation has been corroborated by, among other things, external evaluations of the Polish system for the prevention of human trafficking conducted in recent years by, among others, a UN Special Rapporteur on Trafficking in Persons, experts from the Council of Europe's Group of Experts (GRETA) or the University of Warsaw's Human Trafficking Research Centre. The number of victims covered by support programmes has been growing systematically. Also, the funds set aside by the government for these programmes (PLN 1 million in 2013, and a similar amount in 2014) have also been growing.

The structures of police services combating the trafficking in people are also being improved. A special Department for Combating the Trafficking in Persons has been established at the Police Headquarters in 2014.

In addition, the *National Action Plan* for 2013-2015 provides for conducting an analysis of the possibility and reasonableness of establishing in Poland an independent mechanism for gathering data and disseminating information.

It should be noted that, having regard to the good of the victims, their rights and dignity, the new Act on *Aliens*, which enters into force on 1 May 2014, contains a number of solutions aimed at simplifying the procedure of legalisation of stay of a potential victim to human trafficking in Poland and a more effective implementation of the provisions of EU Directives governing these problems.

The new Act will allow to better secure the rights and better protect the victims of human trafficking, through:

- 1) Introducing the possibility of granting a permit for permanent stay for the victims of human trafficking.

The permit for permanent stay will be granted to a foreigner for an indefinite period, if the person is a victim of human trafficking within the meaning of Art. 115 § 22 of the Criminal Code and meets all of the following conditions:

- a) has stayed in the territory of the Republic of Poland directly prior to applying for the permit for permanent stay for a period of at least 1 year, based on an permit for temporary stay for the victims of human trafficking.
- b) has collaborated with law enforcement authorities in criminal proceedings for the crime referred to in Art. 189a § 1 of the *Criminal Code*,
- c) will have reasonable concerns about returning to the country of origin, confirmed by the prosecutor conducting the proceedings for the crime referred to in Art. 189a § 1 of the *Criminal Code*.

- 2) Simplifying the procedure governing the legalisation of stay of victims of human trafficking through determining that the stay of the alien in the territory

of the Republic of Poland as part of so-called *time to think*, i.e. within the period assigned for him or her to regain strength and taking personal decisions for the future, will be regarded as legal throughout the period of validity of the certificate of presumption that the alien is a victim of human trafficking. This certificate will be valid for 3 months, and for a minor alien for 4 months, and will be issued directly by the authority competent for conducting the proceedings for the crime of human trafficking.

3) Extending the duration for which the permit for temporary stay for the victims of human trafficking could be issued. Until recently, the permit used to be issued for 6 months, whereas the new Act on *Aliens* provides that such permit can be valid for 6 months to 3 years.

4) Introducing a provision whereby proceedings to commit the alien to return, will be suspended if proceedings are initiated for granting to the alien a permit for temporary stay as a victim of human trafficking. In addition, the decision committing the alien to return will not be issued, and, if issued, will not be enforced, if the alien stays in the territory of Poland based on a certificate of presumption that he or she is a victim of human trafficking and will not be issued if the alien stays in the territory of Poland based on a permit for temporary stay for a victim of human trafficking.

5) Introducing a provision ordering prompt release from an immigration holding centre or detention centre of an alien holding the above-mentioned certificate or if proceedings are pending for awarding to him or her a permit for temporary stay for the above-mentioned reason.

6) Introducing a provision prohibiting the entry of the details of an alien who holds a permit for temporary stay for a victim of human trafficking, in the register of aliens whose stay in the territory of Poland is undesirable.

7) Possibility to provide a victim of human trafficking with a Polish identity document. The Polish identity document will be valid for 1 years from issue, and throughout its validity will certify the identity of the alien during his or her stay in the territory of the Republic of Poland, but will not prove his or her nationality.

Referring to the topic of gathering the data on trafficking in women, it should be noted that the data on human trafficking in Poland are gathered and analysed by the Team for Matters of Trafficking in Human Beings, Department of Migration Policy, Ministry of the Interior. There are no plans to establish an independent mechanism or body for gathering and disseminating information as well as the development of effective means for combating human trafficking. This is due to the fact that the tasks regarding the gathering of information are performed by the Ministry of the Interior, and the development of effective means for combating human trafficking is the responsibility of law enforcement authorities.

According to Police data, the trafficking in human beings for the purpose of sexual exploitation is still the dominant form of exploitation. In recent years, this practice has not abated. Currently, only women have been victims of sexual exploitation. In Poland, there is an internal trafficking in persons: the perpetrators — Bulgarian nationals — coerce young female Poles from pathological families to practice roadside prostitution, recruiting them by the *lover boy* method. In addition, these groups have exploited Bulgarian nationals. In turn, victims from Ukraine and

Belarus are coerced into prostitution by Polish nationals. These victims provide sexual services in houses and flats. Through monitoring of these places, police officers verify if these persons are victims of human trafficking. As far as female Poles are concerned, they provide sexual services, usually with prior consent, usually in Germany, the Netherlands, Italy and the UK.

Due to the fact that sexual exploitation is a form of human trafficking characterised by the strongest mechanisms, on the initiative of the Central Team for Combating the Trafficking in Persons, Central Investigation Bureau, Police Headquarters, a decision was made in 2013 to take control measures against persons providing sexual services as part of the *roadside prostitution*, and, as a result, to liquidate organised criminal groups dealing with human trafficking for the purpose of sexual exploitation.

With regard to the combating of human trafficking, an important role is played by the *Programme for support to and protection of victim/witness of human trafficking* pursued since 2006. Since 2009, it has become part of the public task called the *National Consulting and Intervention Centre for the Victims of Trafficking* (KCIK). Under the *Programme*, support may be extended only to foreigners who have been identified by law enforcement authorities and have consented to the participation in the *Programme*. The KCIK support may be extended also to Polish nationals as well as those foreigners who for various reasons have not been identified as victims of human trafficking, but, in the view of KCIK workers, should be granted such status.

Since 2012, the KCIK project as a public task funded from the funds at the disposal of the Minister of the Interior, is implemented by two NGOs: La Strada Foundation Against Trafficking in Persons and Slavery, and Immaculate Mary Association Po-MOC.

Overall, support in 2009-2013 as part of the *National Consulting and Intervention Centre for the Victims of Trafficking* covered 999 victims of human trafficking, including in:

- April-December 2009 — 193 victims (116 foreign nationals, 77 Polish nationals)
- 2010 — 257 victims (170 foreign nationals, 83 Polish nationals)
- 2011 — 133 victims (52 foreign nationals, 81 Polish nationals)
- 2012 — 198 victims — (109 foreign nationals, 89 Polish nationals)
- 2013 — 222 victims (119 foreign nationals, 103 Polish nationals)

The statistics are provided in the Appendix, Tables 19-24, charts 2-3

Measures are also undertaken to facilitate the identification of victims of human trafficking, including victims of sexual exploitation. The *National Action Plan against Trafficking in Human Beings* contains, e.g., the task: *Implementation of a tool (a questionnaire) facilitating the identification of victims of human trafficking, taking into account the characteristics of various forms of abuse*. The entities responsible for its implementation are the Ministry of the Interior, the Police Headquarters, and Border Guard Headquarter in cooperation with NGOs.

In 2013, as part of expert meetings organised at the Ministry of the Interior, a generic tool has been created facilitating the identification of the victims of human trafficking (*Indicators of identification of potential victims of human trafficking — Level I*) and a tool referring to particular forms of abuse (*Indicators of identification of victims of human trafficking for sexual exploitation, labour and begging — Level II*). These indicators are currently used by the Border Guard. Some of the data obtained based on these indicators — concerning the trafficking in persons for forced labour — are provided to labour inspectors at training sessions organised as part of the joint project of the International Organisation for Migration (IOM), the Ministry of the Interior and the Main Labour Inspectorate called *Rights of migrants in practice*. In addition, in 2013, the Team for Matters of Trafficking in Human Beings, Ministry of the Interior, set up a website [www.handelludzmi.eu](http://www.handelludzmi.eu), on which there is a possibility to report:

- the fact of being victim as a result of exploitation (e.g. in prostitution, forced labour) or to submit such notification by a person who holds information about unlawful activities related to the abuse of another person;
- by a victim or witness to human trafficking or a person who would like to share information about unlawful activities related to the abuse of another person.

#### **Participation in public and political life**

**14. Taking into account the Committee's previous concluding observations (CEDAW/C/POL/CO/6, paras. 14 and 15), please describe what strategies have been adopted to accelerate women's full and equal participation in public and political life. Please clarify the impact of the Quota Act, which entered into force on 3 March 2011 with the aim of enhancing the representation of women in the parliament (paras. 89 and 92). Please clarify what measures have been taken to facilitate women's access to the Foreign Service (para. 124).**

#### **Re 14**

The quota system has been first used in Poland in parliamentary election 2011. As a result of parliamentary election in 2011, women constitute 24% of members of the Sejm (lower chamber of the Parliament). Thus, the number of female members has increased on the previous term, in which women constituted 20% of all deputies. In 2011, the number of women candidates in elections to the Sejm has doubled. In addition, the percentage of women in the Senate has increased from 8% in 2007 to 12% in 2011. The introduction of the quota system has expanded the proportion of female candidates in elections as compared to the parliamentary election in 2007, which means that political parties have fulfilled their statutory duty. In 2011, women constituted 42% of the persons seeking a term at the Sejm. The place on the electoral list and the electoral district have had the greatest impact on the success of women in elections to the Sejm. In 2011, almost 70% of female Members managed to get to the Sejm from the three upper places in electoral lists. To assess how the mechanism has performed, the course of 2-3 elections should be analysed.

Numerous meetings of academic, NGO, political stakeholders interested in increasing the share of women in politics has resulted in legislative work at the Sejm aimed at introducing a “zip” mechanism, consisting in alternate placement of female and male candidates on electoral lists. The Government Plenipotentiary for

Equal Treatment conducts working collaboration with NGOs acting for enhancing the role of women in public life. These are mainly promotional activities, participation in conferences, debates, congresses, encouraging greater use by women of the right to elect or promoting actions for introducing mechanisms supporting the applicable quota system.

In 2014, new provisions of the “Electoral Code” Act concerning the election to local councils will be first used. One-mandate constituencies will be applicable. There are some initial studies which apply to the problem of local elections. The Public Affairs Institute conducted research in four municipalities in which there are currently no women on municipal councils. The main purpose of the research was to attempt to answer the question of why no woman has won any seat on the municipal council. The female researchers wanted to know what stands in the way of the involvement of women in local politics, and what could increase their activity and how they could be supported in the subsequent elections. In March 2014, a joint conference of the Institute and the Government Plenipotentiary for Equal Treatment was organised, addressing the above-mentioned topic, and disseminating good practices with regard to the equalisation of opportunities of women and men in the system of one-mandate electoral districts.

The *National Action Plan for Equal Treatment 2013-2016* provides for a priority objective — increase the participation of women in decision-making processes. To pursue this objective, measures have been planned to increase the number of women in Parliament and local government through:

- measures for strengthening the political potential of women (education, mentoring programmes, networking),
- initiate and conduct public debate on the benefits from balanced participation of women and men in politics (with the participation of politicians and NGO representatives).

In addition, one of the detailed objectives of the Programme is to support women in the process of selection of career paths and support young women and girls in developing their leadership skills. Under this objective, a measure has been planned, consisting in extending a training and mentoring programme to young women and girls in order to develop their leadership skills.

Since 2010, the “I am the boss” competition has been run. It is a joint initiative of the Government Plenipotentiary for Equal Treatment and the Minister of National Education, implemented in partnership with the European Commission Representation to Poland. The objective of the competition is to break the stereotypes pertaining to women and authority as well as to promote a positive image of women leaders among young people. The competition is to encourage female students of secondary schools to exercise leadership functions and, in the future, to run for top positions in the world of business, science and politics both in Poland and in other European countries. The task of the competition participants is to draw up an essay in which they present themselves in the leadership role in any area of social and political life or business, and describe what they want to change, what barriers they encounter, how they see themselves as women with a leadership role.

In 2013, for the second time in the history of the competition, the female finalists, parents/guardians and teachers (a total of 60 people) were covered by a

development programme with such elements as workshops, training activities and mentoring. The competition enjoys growing interest by the year. The membership of the competition Chapter and the number of the institutions involved in the implementation of the competition has been also constantly rising.

In addition, the Government Plenipotentiary for Equal Treatment cooperated with the Minister of State Treasury is developing standards to ensure balanced participation of men and women in governing bodies of companies with State Treasury shareholding. Detailed information about these solutions is presented in the answer to question 6.

It should be noted that the Government Representative for Equal Treatment prepared in 2012, in consultation with relevant ministries, a Government position on a proposal for directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures. The Government position has favourably assessed the solutions proposed in the draft directive.

Regarding the question on women in the Foreign Service, it should be noted that during recruitment for jobs in the foreign service, the Ministry of Foreign Affairs is guided by the principle of openness and competition, as well as equal treatment regardless of sex/gender; the result of recruitment is decided by a final score taking into account the points awarded at particular stages of recruitment. In addition, on 17 November 2011, the Minister of Foreign Affairs appointed a Coordinator for Equal Treatment at the Ministry of Foreign Affairs (at the headquarters and in foreign missions), whose responsibilities include supporting the Government Plenipotentiary for Equal Treatment in her activities, including through monitoring the compliance with the principle of equal treatment and discrimination prevention.

As at 31 March 2014, women make up 54% of Foreign Service workforce (i.e. at the headquarters of the Foreign Ministry and at foreign missions). This percentage has remained on this level since 2011.

## **Education**

**15. Please explain the high number of schools for boys only as compared with girls only (annex, table A.10.1). Please also provide information on the level of access to education for disadvantaged groups of women and girls, such as rural, refugee and Roma women and girls and women with disabilities. Please also provide updated data on the professional and academic choices of women and men at all relevant educational levels (annex, tables A.11.1.A. and A.11.1.B.) and describe efforts made by the State party to promote the diversification of educational and vocational choices for women and men.**

## **Re 15**

Counteracting and preventing discriminatory practices usually takes the form of legislative measures, such as inserting appropriate regulations to the existing and proposed pieces of legislation. The curriculum and organisational changes in general education, implemented since the school year 2012/2013, provide all students of general-education secondary school [liceum ogólnokształcące] and secondary

technical school [technikum] (equally girls and boys) with the opportunity to learn the elective subjects in an extended scope.

Students elect the subjects which suit their interests and educational and vocational needs, it can be therefore argued that the access to education is in practice equal to both sexes. In addition, the data presented in the appendix to the Report (Table A.10.1) relate to schools in which only boys or only girls are learning, rather than schools designed specifically for boys or girls. There are no legal impediments preventing students of the opposite sex from being admitted to these schools. A huge interest of boys in attending these schools is due to the trades taught therein, such as toolmakers, car mechanic, electronic fitter, etc.

At the same time, it is worthwhile to note that one priority objective defined in the *National Action Plan for Equal Treatment 2013-2016* has been to eliminate expressions of inequality and discrimination in the educational process. In generally-available vocational schools, the only expression of apparent discrimination is unequal access of minor girls and boys to learning such trades as: blacksmith, pattern-maker, operator of die-casting machinery and equipment, operator of metallurgic machinery and equipment, operator of plastic-processing machinery and equipment, operator of ceramic industry equipment, deep-working miner, or open-pit miner. This restriction results from the need to comply with the Ordinance of the Council of Ministers of 24 August 2004 *laying down the list of jobs prohibited for junior workers* (Dz.U. No. 200, item 2047), which allows to employ junior workers at certain types of prohibited jobs in the scope necessary for vocational preparation, if such jobs are provided for in the curricula of practical vocational training. However, in many cases this permit applies to boys only, which prevents girls from learning certain vocations. The reason for this state of affairs is particular risks involved in performing these jobs in the context of health considerations specific to women and particular protection of women's health.

Under national legislation, guarantees of universal access to education are provided by the Constitution of the Republic of Poland (Art. 70) and the Education System Act, which stipulate that every person staying in the territory of Poland who has not completed 18 years of age, shall be subject to compulsory school duty and learning duty.

Refugees or asylum seekers have guaranteed access to education on the level of primary school, middle school, secondary school, as well as post-secondary schools, i.e., all types of schools under the competence of the minister in charge of education and upbringing. Roma girls in Poland have guaranteed access to education on equal terms with all students subject to the school duty and learning duty. Roma students — both girls and boys — attend public schools of all types (primary, middle, and secondary schools), learning in groups or units together with their non-Roma peers. Both the applicable legislation and systemic measures taken by central and local governments (as part of multi-annual governmental programmes for the Roma community) ensure the opportunity of additional educational support to Roma students according to their diagnosed needs.

The system of education ensures access to education to students with disabilities. Amendments to the Polish legislation in support of inclusive education have been consistently introduced since 2005. These changes include, first and foremost, early support to children with disabilities, introduced in 2005 to the education system; and a new pattern for the organisation of psychological and

pedagogical aid, developed in 2010, aimed at early diagnosis of the student's needs and providing him/her with assistance as early as possible and as close as possible to his/her learning and upbringing environment, gradual expansion of the involvement of parents and students in the process of individualisation of education of students with special educational needs.

At the same time, it should be emphasised that the above-mentioned provisions allow to exercise the right to education by all persons, regardless of sex, residence, nationality, legal or economic status, or any other factors.

The Ministry of Science and Higher Education also takes action aimed at taking advantage of the potential of women in the field of science. Amendments to the *Higher Education Act*, currently being in the legislative process, provide that the break related to maternity or childcare leave granted in accordance with the rules defined in the Labour Code, shall not be included in the duration of employment. The duration of these leaves will extend the eight-year period available for achieving the next academic grade. The current Act does not provide for such exceptions, and the lack of promotion in the statutory period may lead to dismissal from work. The amendments will allow to reconcile private life with academic career at universities. The possibility to suspend the running of periods of employment on the positions of *asystent* and *adiunkt* (may not be longer than 6 and 8 years, respectively) for the duration of the maternity and childcare leaves is also provided by Art. 92(2) of the Act of 30 April 2010 *on the Polish Academy of Sciences* (Dz.U. No. 96, item 619). Ordinance of the Minister of Science and Higher Education *laying down detailed requirements and procedures for granting and paying the minister's scholarships to students for outstanding achievements* governing the granting of scholarships for learning achievements and outstanding scientific, artistic or sporting achievements, allow for awarding scholarships even if an academic year is not passed due to e.g. childbirth.

Another example of these measures is the *Girls of the Future: In the Footsteps of Maria Skłodowska-Curie* competition co-organised by the Ministry of Science and Higher Education, the objective of which is to provide support to girls who study at science, technical, medical and life-science faculties and who pursue their own scientific research or participate in research projects.

Each year, an action *Girls to Universities of Technology!* is also organised, aimed at abolishing the artificial division into "feminine" and "masculine" fields of study. This initiative is based on the assumption that technology education will make women better positioned to compete in the labour market, achieve economic independence and social prestige.

At the same time, it should be stressed that one of the detailed objectives of the *National Action Plan for Equal Treatment for 2013-2016* is supporting women in the process of selection of career paths and supporting young women and girls in developing their leadership capabilities. To carry out that objective, measures have been provided for, such as:

- promoting increased participation of women on science faculties,
- eliminating stereotypes regarding the vocational choices of women and men from the content of textbooks.

The updated statistics are provided in the Appendix, Tables 1-9.

## Employment

16. Please indicate the specific steps taken during the reporting period to address the persistent occupational segregation between men and women in the labour market and the prevailing gender wage gap both in the private and public sectors (para. 165). Please indicate the steps taken to promote women's opportunities for career development and access to a wider range of jobs. Please clarify whether the State party has implemented the Committee's previous recommendation to adopt the same age of mandatory retirement for women and men (paras. 174 and 175). Please provide data on cases filed during the reporting period regarding discrimination against women in the workplace, including wage discrimination and sexual harassment, together with the outcome of such cases (paras. 209-213).

## Re 16

The government has taken measures for the alleviation of gender wage gap, by both publicising these problems and monitoring the wage gap. In 2013, the Government Plenipotentiary for Equal Treatment has asked the Supreme Audit Office (NIK) to perform an audit of State Treasury Companies and public-utility companies in order to determine whether they comply with the requirement that men and women must receive equal remuneration for work which is identical or which has an equivalent value. In this connection, the Supreme Audit Office has, of its own initiative, performed an audit of government administration entities, local government entities, sole shareholder companies established by the State Treasury and sole shareholder companies established by local government entities in five *voivodeships* from different regions of Poland. This exercise has shown that while the gender wage gap does in fact exist, it is extremely difficult to make an unequivocal assessment as to whether the principle of equal pay for men and women is in fact complied with due to the fact that no tool that would enable the monitoring of the wage gap and no objective indicators which would make it possible to determine the influence of individual factors on the amount of remuneration have so far been implemented in Poland. Therefore, it is important to take further measures in this regard. The *National Action Plan for Equal Treatment for 2013-2016*, adopted by the Council of Ministers in 2013, has defined the following detailed objective: reducing the wage gap between men and women working on the same positions or performing work having an equivalent value and quality (reducing the wage gap). To carry out that objective, measures have been provided for, such as:

- developing a methodology for the assessment of the wage gap in enterprises,
- inspiring and disseminating the outcomes of monitoring and control measures regarding the meeting of requirements of equal payment to women and men for equal work or for work having an equivalent value and quality by the institutions required to do so,
- analysis of international law regarding the monitoring of the wage gap,
- promoting equal wages of men and women working on the same positions or performing works having an equivalent value.

The measures provided for in the *Action Plan* regarding the promotion of enhanced women's capacities for developing their professional careers and access to

ever greater number of occupations are described in answers to questions no. 14 and 15.

The Government Plenipotentiary for Equal Treatment and the Ministry of Labour and Social Policy participate each year in celebrations of the European Equal Pay Day. Moreover, numerous conferences and seminar are organised, devoted to these problems. Also, a Round Table of Round Table of EU Ministers for Gender Equality on “Gender Wage Gap and Participation of Women in the Labour Market” as part of the 5th Congress of Women was held in 2013, which provided an opportunity for the exchange of experiences on the European level. The Round Table was organised by the Ministry of Labour and Social Policy and the Government Plenipotentiary for Equal Treatment. Representatives of EU Member States and institutions and of the World Bank met in the “round table” formula to exchange good practices and insights on how to effectively reduce the wage gap in Europe.

In addition, an informal team for wage gap has been established at the Ministry of Labour and Social Policy in 2012, including representatives of academic communities, NGOs, business and workers of the Ministry.

The Ministry of Labour and Social Policy also plans to take measures aimed at monitoring the wage gap between women and men doing work of the same value.

The *National Action Plan for Equal Treatment for 2013-2016* provides for a priority objective — improving the situation with respect to gender equality in the labour market. Since one of the main barriers standing in the way of achieving full gender equality in the labour market is unequal division of domestic duties and the duties resulting from the caring for children and other dependent persons, the following detailed objectives are provided for:

- promoting solutions available under the labour law with respect to the sharing of parental rights available to both parents in connection with childcare as well as with respect to the rights granted to women due to motherhood,
- development of childcare and care for dependents in order to provide support for the activities of men and women in the labour market,
- promoting the partner-like family model and the principle of equal treatment of both parents with respect to care and upbringing-related functions.

As part of measures for equal treatment of men and women and for increasing the participation of women in the functioning of society, the Ministry of Labour and Social Policy has, since 2011, been implementing the *Ministerial programme for the development of care institutions for children below the age of 3* (the “MALUCH” (“toddler”) programme). Owing to the support for the establishment of childcare centres, women can now more quickly return to the labour market following childbirth.

Measure 1.5 of the Human Capital Operational Programme is aimed at disseminating nationwide solutions for effective maintenance of work-life balance as well as facilitating the return to work following a break caused by childbirth and childcare. Co-financing as part of the measure could be granted to projects aimed at:

1. Implementing and promoting solutions aimed at maintaining the work-life balance as well as facilitating the return to work following a break caused by childbirth and childcare through:

a. support to the establishment and operation of day-care centres and children's clubs,

b. support to the services of day-care providers,

2. Popularising the idea of equal opportunities, including through organising nation-wide informative and promotional campaigns with the use of available mass media and modern communication methods, identification and promotion of best practices and running informative and consultancy activities in the area of equal access to employment — informative and promotional campaigns.

The target group of the project are persons returning to the labour market following a break caused by giving birth to and/or upbringing children, as well as employers.

By 31 March 2014, 225 contracts have been signed under the Measure 1.5 for the co-financing of project for a total of more than 215 million zlotys. According to the content of the approved projects, the total number of facilities/units scheduled for establishing as part of Measure 1.5 is:

304 day-care centres, 32 children's clubs, 47 institutions of day-care provider.

The projects will support 8,567 participants.

By 31 March 2014, thanks to funding support from the European Social Fund, 257 day-care centres, children's clubs, and 26 day-care providers have started operating.

Upon the completion of the implementation period, the beneficiaries are required to maintain the stability of measures, i.e. to ensure continued operation of the facilities for a period defined in the project co-financing application.

In addition, under the Human Capital Operational Programme, in the following projects, aimed at promoting enhanced opportunities for women to develop their professional careers and disseminating the idea of equal opportunities in access to employment, were implemented in 2013: "Reconciliation of professional and family roles of men and women", "Social and economic activation of women on a local and regional level", "Entrepreneurship of Women".

These projects have had the following objectives:

- develop and popularise a model for work-family balance, which can be used for potential development of strategies, programmes on the central and regional levels concerning legal, social and economic instruments supporting this balance;
- develop a National Roadmap, being a package of recommendations for the implementation of a model for the reconciliation of roles for central, regional and local government institutions, and for Labour Market Institutions;

- conduct training activities for key workers of Public Employment Services, during which they have supplemented their understanding of European and Polish standards related to the work-life balance;
- promote a modern social model, in which women and men are equal partners;
- develop and implement among representatives of the Labour Market Institutions a training model for gender policy and enhancement of the status of women in social and economic life, serving the equalisation of opportunities in the labour market;
- create a tool for collaboration and exchange of information among Labour Market Institutions regarding activities for equal opportunities in employment;
- develop recommendations on the forms of support and systemic solutions which will allow to increase professional activity of women through self-employment and minimisation of development barriers specific to entrepreneurship of women, and enhance the knowledge of women's entrepreneurship in Poland.

The Act of 14 March 2014 *amending the act on promotion of employment and labour market institutions and certain other acts* (Dz.U. item 598) which entered into force on 27 May 2014, provides for solutions facilitating the work-family balance. Most of all, labour offices will be able to flexibly apply labour-market services and instruments through their better adaptation to the needs of particular groups of the unemployed, including women with children, in order to optimise the forms of support offered to a specific person. In addition, new instruments have been implemented, provided to unemployed women and men returning to the labour market following a break due to childcare or caring for a dependent person, i.e. a grant for telecommuting and activation benefit.

Regarding the question on the retirement age of women and men, it should be emphasised that since 1 January 2013 a pension reform has been initiated in Poland — a process of systematic increase and equalisation of the retirement age — to 67 years of age for women and men. The process of increasing the retirement age will be completed in 2020 for men and in 2040 for women. The age on which pension is eligible has been defined in detail by the Act of 11 May 2012 *amending the act on pensions and disability pensions paid from the Social Insurance Fund and certain other acts* (Dz.U. of 2012, item 637). Under Art. 24 of the *Act on pensions and disability pensions paid from the Social Insurance Fund*, in the wording provided by the Act of 11 May 2012 and with effect from 1 January 2013, a pension shall be eligible after retirement age is reached, defined, for a transitional period, separately for women and men, and varied by the date of birth of the person. Consequently — under the current legislation — the retirement age depends on the date of birth and sex. The said provisions apply to women born after 31 December 1952 and men born after 31 December 1948. The uniform retirement age of 67 years will be applicable to women born after 30 September 1973 and men born after 30 September 1953. The increase and equalisation of the retirement age of women and men will increase the adequacy of benefits and is justified in the social context by demographic change in the Polish population which significantly affects the age structure of the population. A longer period of professional activity of women will result in relatively higher benefits due to the fact that its amount is determined not only by the contribution made by the insured into the system, expressed by duration

of professional activity and the amount of contributions paid, but also by life expectancy.

Referring to the question on the reporting of cases of discrimination of women in the workplace, it should be stressed that the complaints filed with the State Labour Inspectorate raising the charge of discrimination are verified in detail: if during the inspection procedure the labour inspector collects evidence in support of the complainant's charges, the inspection report will require the employer to remove the irregularities. However, in a vast majority of cases, the appropriate way to pursue discrimination claims is the court of law, because only a court ensures conducting evidential procedures and can find out whether or not discrimination has actually taken place, and can adjudge an adequate compensation.

The labour inspectors' experiences demonstrate that employers expect them to prove the alleged employer's discriminatory practices. In many cases, these expectations cannot be fulfilled, in particular due to the lack of physical evidence of using such practices, especially for sexual harassment.

Those suggesting sexual harassment are referred to law enforcement authorities and advised to lay information about crime to a public prosecutor.

The appendix contains the available data on the number of gender discrimination charges contained in complaints for the period 2011-2013 — Appendix, Tables no. 25-27.

For gender discrimination complaints, the lack of consent for the disclosure of the complaint practically makes it impossible to refer to the essence of the problem. In situations where labour inspectors, prior to taking inspection activities against discrimination requested the complainants to disclose their personal data, employees usually refused. Meanwhile, to diagnose the problem and conclusively confirm discrimination, a number of factors should be verified, witnesses should be interviewed, facts and regulations should be analysed. In the event of discrimination on the grounds of sex regarding payment for work, it would be necessary to look into the criteria of how the amount of pay is established (value of the work, required qualifications, physical and mental effort). In the absence of formalised job appraisal systems, worker appraisal systems, or job descriptions, these factors cannot be objectively verified during the inspection.

In considering a complaint of discrimination on the grounds of sex, and in particular sexual harassment, the labour inspector does not have any authority to conclusively decide the case. The activities of the labour inspector are reduced to finding out whether or not the employer has complied with the duty to counteract discrimination in the workplace based on the evidence and the available documentation. However, to consider the complaint, a definitive assessment is needed of whether or not there has been unequal and unjustified treatment of workers on the grounds of sex. The inability to disclose the complaint results in a situation where the person charged for being the perpetrator of sexual harassment is unable to answer the charge and possibly present her own version of the facts. This puts into question the objectivity of the whole complaint assessment and examination process, since both parties to the conflict are not heard.

To sum up these considerations, it should be concluded that inspection activities of the labour inspector regarding discrimination are very limited. The body competent for discrimination cases is the labour court. The labour inspector, as a

body of the State Labour Inspectorate, has not been authorised by statute to resolve contentious matters. The difficulty of making binding and undisputed findings in this area results from the fact that documentary evidence, usually used by labour inspectors, is insufficient to demonstrate potential violations. The statements or testimony obtained in the course of inspection activities are usually denied by the other party to the dispute — without authorisation for free assessment of the facts, labour inspectors are unable to make binding factual findings. Witnesses in cases of this type are usually other employees who are reluctant to collaborate for fear of dismissal from work. Under his or her inspection activities, the labour inspector may only verify if the employer has made available to the employees the text of provisions on equal treatment in employment in the form of a written communication circulated at the premises of the establishment or has otherwise provided access to these provisions in a way applicable at the respective employer. However, the inspector is not authorised to make binding findings of whether or not the employer's practices in individual cases meet the requirements of discrimination and request the employer to pay to the employees financial compensation on that account.

### **Health**

17. Please provide information on the effectiveness of the measures described to prevent illegal abortions and their impact on women's health and life and explain whether the legal and policy frameworks enable women to have access to abortion where the medical procedure is permitted under the law. Please provide updated data on the number of instances during the reporting period in which individual physicians and health facilities refused the termination of pregnancy by invoking the so-called conscientious objection clause and clarify what steps have been taken to guarantee access to lawful abortion. Please provide information on the measures adopted to enhance access to contraceptives and indicate the steps taken to integrate age-appropriate education on sexual and reproductive health and rights, including on responsible sexual behaviour, into educational curricula (paras. 154 and 156).

### **Re 17**

#### Abortion

Pursuant to art. 4a of the act of 7 January 1993 *on family planning, human foetus protection and preconditions for the admissibility of abortion*, abortion may be performed only by a physician, in the event that:

- 1) the pregnancy poses risks to the pregnant women's life or health;
- 2) pre-natal examination or other medical factors indicate high likelihood of severe and irreversible impairment of the foetus or incurable disease posing a threat to its life;
- 3) there is a reasonable suspicion that the pregnancy has been caused by a punishable act.

Written consent of the woman is required for termination of pregnancy. For a minor or totally incapacitated woman, written consent of her legal representative is required. A written consent is also required for a minor girl less than 13 years old. For a minor girls less than 13 years old, the consent of a Guardianship Court must be obtained and the girl has the right to express her opinion. For a totally

incapacitated woman, her written consent must also be obtained, unless her mental health status makes her incapable of giving such consent. If the legal representative refuses to consent, consent of a Guardianship Court must be obtained to terminate pregnancy.

If pre-natal examination or other medical factors indicate high likelihood of severe and irreversible impairment of the foetus or incurable disease posing a threat to its life, abortion is admissible until the foetus achieves its ability to live independently of the body of the pregnant woman.

If there is a reasonable suspicion that the pregnancy has been caused by a punishable act, abortion is admissible if no more than 12 weeks have lapsed since the start of pregnancy.

In addition, the Act of 7 January 1993 *on family planning, human foetus protection and preconditions for the admissibility of abortion* provides that the individuals covered by social insurance and those eligible under specific regulations for free healthcare, are eligible for free abortion at healthcare facilities. The list of guaranteed services related to abortion is laid down in Appendix 1 to the ordinance of the Minister of 22 November 2013 *on the list of guaranteed services regarding hospital treatment* (Dz.U. item 1520).

The Act of 7 January 1993 *on family planning, human foetus protection and preconditions for the admissibility of abortion* provides that central government authorities and local authorities, to the extent defined in specific regulations, are required to ensure to the public unobstructed access to information and pre-natal examination, especially where there is an enhanced risk or suspicion of genetic or development defect of the foetus, or incurable disease posing a risk to the life of the foetus. Access to prenatal examinations is governed by, among others, ordinance of the Minister of Health of 6 August 2013 *on guaranteed services within the scope of healthcare programmes* (Dz.U. item 1505). The appendix to the above-mentioned ordinance contains a list of guaranteed services within preventive healthcare programmes and conditions of implementation thereof which includes a programme of prenatal examinations. The programme contains a detailed scope of procedures implemented under the guaranteed service, the criteria of qualification to the programme for the patient and for the healthcare provider.

In addition, the Act of 6 November 2008 *on patient rights and the Commissioner for Patients' Rights*, provides for the patient's right to object an opinion or decision of physician. This right may be used by, among others, a woman who has been refused abortion compliant with the Abortion Act. Under the above-mentioned Act, objection against an opinion or decision of a physician may be filed with the Medical Commission affiliated to the *Commissioner for Patients' Rights*, if the opinion or decision affects patients' legal rights or duties.

By Art. 39 of the Act of 5 December 1996 *on medical and dental practitioners* (Dz.U. of 2008, No. 136, item 857, as amended), a practitioner may abstain from performing healthcare services which are contrary to his or her conscience, subject to Art. 30 whereby he or she has the duty to identify real opportunities to obtain such benefit with another practitioner or another healthcare facility, and report and justify this fact in medical records. If the practitioner fails to fulfil this duty, he or she may be subject to proceedings before professional self-government referred to

in the Act on Medical and Dental Practitioners' Chambers for violation of the provisions related to the performance of his or her professional duties.

The Ministry of Health does not have any data on the number of cases of refusal to perform abortion on the grounds of so-called conscientious objection clause by individual physicians and healthcare facilities within the reporting period. According to the information provided by the Supreme Medical Court in 2012 both by regional medical courts and by the Supreme Medical Court, there were no cases of physicians invoking the conscientious objection clause related to the refusal to abortion.

#### Access to contraceptives

The Act of 7 January 1993 *on family planning, human foetus protection and preconditions for the admissibility of abortion*, states already in the preamble that it recognises the right to responsible deciding about having children and imposes on the State the duty to allow taking decisions in this regard.

Art. 2(2) of the Act of 7 January 1993 *on family planning, human foetus protection and preconditions for the admissibility of abortion* provides that central government authorities and local authorities, to the extent defined in specific regulations, are required to ensure to the public unobstructed access to methods and means aimed at conscious reproduction.

The Act of 27 August 2004 *on healthcare services financed from public funds* (Dz.U. of 2008, No. 164, item 1027, as amended) and ordinance of the Minister of Health of 6 November 2013 *on guaranteed benefits of outpatient specialist care* (Dz.U. item 1403), ensure to women healthcare covering specialist health services of gynaecology and obstetrics — these include two types of benefits: gynaecological and obstetric consultation and gynaecological and obstetric consultation for girls. As part of these consultations, reproductive health care is ensured in particular, including the selection of appropriate contraceptives.

In Poland, there are now present and available advanced contraceptives being medicinal products or devices, as well as medicines and medical devices used in pregnancy and necessary for foetal care, and used for conscious reproduction.

In 2003, the Polish Gynaecological Society has issued recommendations on contraception; pursuant to the said recommendations, the following fertility control methods are available in Poland:

- methods based on periodical sexual abstinence (natural methods),
- spermicidal agents,
- condoms,
- intrauterine devices, including devices releasing progestogen into the uterus,
- hormonal preparations with one or two active ingredients, used in the form of orally administered pills, transdermal patches or injections.

The following medical criteria are applied for the purposes of evaluation of various contraception methods:

- efficacy,
- reversibility,

- safety,
- acceptance, tolerance,
- benefits other than contraceptive effects.

According to the announcement of the Minister of Health of 26 October 2012 *on the list of reimbursable medicines, foodstuffs intended for particular nutritional uses, or medical devices*, as at 1 November 2013 (i.e. the last reimbursement list issued in 2013), the following medicines have been covered by reimbursement in 2013 which also have contraceptive activity:

- Levomine,
- Microgynon 21,
- Rigevidon,
- Stediril 30.

The above-mentioned medicines have been included in the restricted group “Hormonal medicines for oral administration, containing cyproterone, ethinylestradiol, levonorgestrel or medroxyprogesterone”. These products are available with reimbursement level of 30%, in all registered indications as of the decision date. The most affordable of the mentioned medicines include Microgynon 21, 63 tabl., and Stediril 30, 21 tabl., available to patients, as at 1 November 2013, for additional payment of PLN 6.99 and PLN 2.81, respectively.

It should be emphasised that, in addition to reimbursable products, there is a wide selection of hormonal contraceptives in the Polish market in the form of advanced orally administered pills with a varying composition and hormonal content, including hormonal “morning-after” pills containing levonorgestrel (Escapelle) as well as modern transdermal systems; they are not reimbursable. Consequently, prices of these medical products vary between individual entities operating in the retail sector. Additionally, measures such as spermicidal agents in the form of vaginal globules as well as condoms are available on an OTC basis.

Furthermore, the National Health Fund provides reimbursement with respect to the insertion of an intrauterine contraceptive device. In appendix no. 5a to order of 17 December 2013 no. 82/2013/DSOZ of the President of the National Health Fund *on the conditions for the conclusion and implementation of agreements in the field of ambulatory specialist care* refers to a procedure for the insertion of an intrauterine contraceptive device, listing it as one of the health services in the field of girls’ gynaecology, obstetrics and gynaecology, AIDS treatment and endocrinology.

#### Sexual education

Pursuant to art. 4 of the Act of 7 January 1993 *on family planning, human foetus protection and preconditions for the admissibility of abortion* (Dz. U. no. 17, item 78, as amended), school curricula have been expanded with content on human sexual behaviours, the principles of conscious parenthood, the value of family, life in the pre-natal phase, and the methods and means of conscious reproduction. This task is implemented on “Education for life in the family” course. The purpose and scope of teaching content of this course is defined in the Ordinance of the Minister of National Education of 27 August 2012 *on the curricula of preschool education*

*and general education in particular school types (Dz.U. item 977). The way the “Education for life in the family” course is taught is defined in the ordinance of the Minister of National Education of 12 August 1999 on the way of school teaching and the scope of contents on human sexual behaviours, the principles of conscious parenthood, the value of family, life in the pre-natal phase, and the methods and means of conscious reproduction contained in the curriculum of general education (Dz.U. No. 67, item 756, as amended). The content of sexual education have been adapted to the age, needs and perceptions of students on a particular educational stage.*

At the same time, it should be added that the ordinance of 12 August 1999 was amended by ordinance of the Minister of National Education of 17 February 2012 *amending the ordinance on the way of school teaching and the scope of contents on human sexual behaviours, the principles of conscious parenthood, the value of the family, life in the pre-natal phase, and the methods and means of conscious reproduction contained in the curriculum of general education (Dz.U. item 300). This amendment was aimed at more effective implementation of educational course “Education for life in the family”.*

According to the new ordinance, the educational course “Education for life in the family” has been removed from the pool of hours being used at the discretion of the head teacher. The number of hours assigned for the mentioned course has not changed. As before, the school plan in each school year has assigned to the course 14 hours, including 5 hours divided into girl and boy groups. The “Education for life in the family” course may be organised also in inter-class groups of up to 28 students. The amendment of the ordinance is related to concurrent changes to the framework teaching schedules in public schools, defined in the new ordinance of the Minister of National Education on framework teaching schedules in public schools.

### **Rural women**

**18. Please provide information on the impact of the policies and programmes implemented to enhance access by rural women to employment opportunities and to participation in decision-making in local government, as recommended by the Committee in its previous concluding observations (CEDAW/C/POL/CO/6, para. 27). What steps have been taken to address circulatory disorders among rural women, which contribute to the higher female mortality rate in rural areas as compared with urban areas (para. 265)?**

### **Re 18**

One of the principal priorities of the Rural Development Programme (PROW) for 2007-2013, now in the final implementation phase, is economic diversification of rural areas and the improvement of the quality of life in rural areas.

This is to be achieved with the help of the implementation, through Axis 3 (Improvement of the quality of life in rural areas and diversification of rural economy) and 4 (Leader) of the measures: “Diversification into non-agricultural activities”, “Establishment and development of micro-enterprises”.

The overarching objective of the above-mentioned measures is to support establishing non-agricultural sources of income, as well as to create new jobs in

rural areas. Both women and men can apply for support under these measures on the same basis.

The data of semi-annual report for the second half of 2013 (data since the start of the programming period until the end of 2013) show that, as a result of the mentioned measures, the following numbers benefited from the support:

- 3047 women, who under the measure “Diversification into non-agricultural activities” of Axis 3 carried out 3113 operations, which allowed to create 1436 permanent and 225 seasonal jobs for women,
- 1633 women who under the measure “Establishment and development of micro-enterprises” of Axis 3 established as part of their enterprises 1763 jobs for women;
- 106 women who under the measure “Implementation of Local Development Strategies — Establishment and development of micro-enterprises” of Axis 4 established as part of their enterprises 39 jobs for women;
- 214 women, who under the measure “Implementation of Local Development Strategies” — Diversification into non-agricultural activities of Axis 4 carried out 219 operations, which allowed to create 18 permanent and 12 seasonal jobs for women.

In addition, in 2013, the Extension Centre at Brwinow has developed, on commission from the Ministry of Agriculture and Rural Development, a paper “Good Practices of PROW Female Beneficiaries 2007-2013: Examples of projects implemented by women in rural areas”. The project has been funded from PROW 2007-2013 technical assistance funds. By presenting interesting projects implemented by women, the paper is to provide an impulse for rural residents to take similar activities, increase the quality of projects implemented, and to stimulate innovation, as well as to be an educational material informing the society that Poland’s membership of the EU has created real opportunities for development. Another objective of the paper has been to promote the role of women in economic development of rural areas and provide inspiration for taking measures allowing to better utilise the social and professional potential of rural women. The paper contains descriptions of 37 good practices in the territories of particular voivodeships and summary information on PROW and the status and role of rural women. The paper is scheduled for print in the first half of 2014.

The administrative structure of the state includes: 40,540 villages (*solectwo*), being auxiliary units for municipalities. The framework of the operation of rural self-government is governed by the Act *on municipal self-government and the solectwo fund*, as well as pieces of local law. The *soltys* is an executive body of *solectwo* as the auxiliary unit of a municipality. This function covers a broad range of roles: collection of local taxes, representation of residents, rural leader.

The number of female *soltys* has been growing by the year. In 2009, women constituted 30,2% of all *soltys*, whereas in 2011 — 34.7%. This is helped by increased social and cultural competencies of rural women who more and more often are better educated than men, the changing social roles of women and men in the Polish society, varied levels of establishment of residents in local communities: the post-migration communities are more open to social innovation, as well as geographical variation of particular types of social capital. However, this is

accompanied by perceived decrease in prestige and significance of the *soltys* function.

The Congress of Women, organised every year, which involves women of various social and political backgrounds, addresses the topics of women's participation in power and their political, local and civic involvement. Panels are organised during which the topics of rural women's activity, status and rights, participation in authorities, entrepreneurship, are raised, and discussions are held to raise the rural women's awareness of their potential. Also, attention has been focused on the issues of creating and funding networks of rural educational and cultural centres. At the 6th Congress of Women in 2014, a debate has been launched on 25 years of local government in Poland. During the panels concerning local government, a discussion was also held on women in local governments, where women politicians and experts shared their experiences.

It is also worthwhile to note that regional Congresses of Women are regularly held. As part of this initiative, Women Heads of the Congress of Women operate in respective regions. Regional Congresses of Women often raise the problems of rural women, including their participation in local government.

Regarding the question of health, a health programme is being implemented, called "National Programme for Equal Access to Prevention and Treatment of Cardiovascular Diseases POLKARD for 2013-2016" which is to alleviate the differences in access of patients to healthcare services due to varied equipment availability, which may contribute, in a longer perspective, to reduced morbidity and mortality from cardiovascular diseases, as well as reduced economic consequences of disability and premature deaths. The main purpose of the health programme called the "National Programme for Equal Access to Prevention and Treatment of Cardiovascular Diseases POLKARD for 2013-2016" is to support the entities conducting therapeutic activities through measures for equalisation of equipment-related disproportions in the access of patients to highly specialised healthcare services, including in the field of cardiology, cardiac surgery, neurology, neurosurgical rehabilitation, vascular surgery. The objective of the programme is pursued by supplementing and replacing the decapitalised medical equipment at the facilities diagnosing and treating cardiovascular diseases, and also by taking action to raise awareness and knowledge on the lifestyle-related factors which can be effectively acted upon. The current edition of the programme continues the measures taken in previous years.

#### **Disadvantaged groups of women**

**19. Please provide updated information, including disaggregated statistical data, on the situation of disadvantaged groups of women and girls, including refugees, asylum seekers and migrants, which would allow for assessments of multiple forms of discrimination, and describe the measures taken to promote their access in particular to education, employment, health care, adequate housing and protection from violence and to support their integration into society. Please clarify the steps taken to establish a national mechanism for the early identification of asylum seekers with specific needs, in particular women, and explain whether they are guaranteed access to independent, qualified and free legal advice and representation.**

**Re 19**

On 31 July 2012, the Council of Ministers adopted a programme document titled *Migration policy of Poland — the current state of play and proposed actions*. The new migration policy assumes greater openness of Poland to migrants, which requires wide-ranging legal, organisational and institutional changes.

For these reasons, the document postulates, among other things, to simplify procedures and strengthen the structures responsible for migration of particular categories of foreigners, of particular important for Poland's interests; recommends to reform the system for the integration and monitoring of the situation of migrants; and to increase the role of NGOs and scientific research units studying migration problems.

Migration policy provides a number of recommendations aimed at protecting the most vulnerable groups, including women.

Included in the category of foreigners with special rights due to their situation are asylum seekers, i.e. victims of human trafficking.

In this context, it is worthwhile to emphasise that women constituted more than 40% of foreigners in Poland who in 2006-2010 enjoyed international protection. The share of women migrants identified by law enforcement authorities as victims of human trafficking, reported in the *Programme for the support and protection of victims/witnesses of human trafficking in 2006-2013* is even greater and exceeds 80%.

At the same time, based on recommendations for Poland's migration policy, work is ongoing at the Ministry of Labour and Social Policy to formulate a policy for the integration of immigrants, to allow for developing integration programmes for the immigrants settling in Poland. This is a new challenge, because, until now, integration programmes have only covered aliens seeking international protection. The immigrant integration policy will cover measures to facilitate the availability of employment, healthcare, housing, welfare care, education to immigrants, including women. On the other hand, the policy is to be addressed to the host population and encourage inter-cultural dialogue. The situation and role of women will certainly be an important part of this dialogue.

One effect of the new migration policy is the Act of 12 December 2013 *on Aliens* which entered into force as of 1 May 2014. The Act simplifies and liberalises the procedures for legalisation of stay of immigrants in Poland. It also facilitates legalisation of stay to the immigrants entering into marriages with Polish nationals. It is worthwhile to note that women immigrants dominate bi-national marriages in Poland.

In 2013, 2182 persons, including 473 were placed at guarded holding centres for immigrants. In Q1 2014 the number of women staying at these centres was 147. These figures include minor female immigrants.

The Act *on Aliens* allows for measures alternative to detention (payment of security money, depositing the travel document, duty to report in specific time periods), thanks to which, for many women, it will be possible to dispense with the use of the preventive measure in the form of placement at an immigrant holding centre. These changes are also aimed at simplifying procedures to shorten the detention period.

The changes to the operation of holding centres, introduced in 2013, also consist in increasing the freedom of movement within the centre, expanding the opportunities for spending free time, improving communication both between the immigrants and the personnel (language courses for officers, translation of the applicable rules to 15 languages), as well as between the immigrants and the external world (access to the Internet, greater freedom to use mobile phones, absence of limits to visits, etc.).

One expression of the concern about vulnerable groups, which include women and children, are training courses for Border Guard officers, covering such topics as inter-cultural communication, prevention and combat of human trafficking, or strengthening the protection of refugees. In addition, procedures are being implemented aimed at identifying the victims of violence. This is particularly relevant, because, under the Act *on Aliens*, recognition of an alien as a victim of violence is the basis for his or her release from the holding centre.

Healthcare is provided to all persons placed at immigrant holdings centres regardless of sex. Basic and specialist healthcare is ensured to immigrants in the same scope as to Polish nationals. It should be noted at this point that the Border Guard shall ensure, for women and minor female immigrants, the option to use care of medical specialists (gynaecologists, endocrinologists) including, where relevant, psychologists, of the same sex. Pregnant women and those who have born a child during their stay at the immigrant holding centre, have guaranteed access to gynaecological and obstetric care. Women are also provided with adequate conditions for feeding and caring for the child, and, moreover, are able to fulfil the duty of preventive vaccinations for children in accordance with the vaccination requirements.

All immigrant children, regardless of sex, have guaranteed availability of compulsory school education. This is one of the basic elements required under Article 70(1) of the Constitution of the Republic of Poland. By Art. 94a(1) of the Act of 7 September 1991 *on the education system*, education is compulsory for minors up to 18 years old or until they complete a secondary school. Consequently, the profiles of the holding centres have been defined in such a way as to adapt their operation to the current migration situation. Guarded holding centres for families additionally ensure the fulfilment of compulsory education in accordance with the curriculum carried out by qualified teachers. As a result of profiling, three holding centres have been established, in which minors can be placed; compulsory education is realised in two of them. Minor immigrants in a non-school age are directed to the Immigration Holding Centre at Przemysl. Educational classes are conducted within the boundaries of the holding centres, whereas the Ministry of National Education is responsible for preparing and selecting the curricula. The curriculum covers classes in Polish language, mathematics, elements of geography and visual arts. Classes are conducted in groups, taking into account the age and level of Polish language.

In addition to the classes implemented by teachers of public schools, all minors held at immigration holding centres can use extra educational and cultural classes conducted by workers of the Education and Upbringing Sections of these centres. The personnel carrying out the said classes hold relevant professional background, including pedagogical training. The selection of working forms and methods depends on individual needs of children and takes into account various age groups.

Moreover, under the Act of 13 June 2003 *on the protection of foreign nationals within the territory of the Republic of Poland*, as part of social assistance, the Office for Foreigners ensures the purchase of educational aids (textbooks, school equipment) for children learning and cared for in public facilities, elementary schools, middle schools or secondary schools, as well as pays, as far as possible, the costs of extracurricular activities.

Regarding the system for identification of victims of violence, it should be stressed that special attention is paid to identifying vulnerable groups, such as minors without care, ill persons, persons with disabilities, in old age, in pregnancy, persons who might be victims/witnesses of trafficking in persons or violence, or persons with traumatic disorders.

It should be also noted that the Border Guard has implemented an algorithm of proceeding in the event of identifying human trafficking, which is now used at immigration holding centres. Moreover, the Headquarters of the Border Guard is in the process of preparing a detailed algorithm of proceeding with identification of persons from particularly vulnerable groups. This algorithm will allow the officers and workers of holding centres early identification of those groups, including women. In addition, the Headquarters of the Border Guard has established collaboration with the International Humanitarian Initiative Foundation (MIH) aimed at developing the rules of proceeding in the event of identifying victims of violence. As part of the collaboration, a series of training activities were carried out to deliver the necessary knowledge to enhance the competences facilitating early identification of victims of violence.

It should be stressed that, in recent times, the Border Guard has revealed cases of violence in the families placed at immigration holding centres (i.e. men against women and children). In such situations measures were taken to separate the perpetrator from the victim of violence (a motion to the court to apply arrest for aliens and, due to the nature of case, the prosecution office has been notified). At the same time, a duty has been introduced of establishing, each time, family relationships in order to take prompt measures aimed at preventing violence.

For asylum seekers, measures are taken to allow to learn their basic legal procedures, principles of day-to-day functioning in a local community, and the habits and customs of that community. A part of a *Welcome Package*, an orientation course is conducted, involving every new asylum seeker arriving at the centre. During that course, the migrant is provided with basic information, including about Poland, its culture, customs and habits, legal system, or social assistance. At the same time, every participant of the course receives a guidebook *First steps in Poland*, available in languages understandable to the immigrants.

Apart from that, every asylum seeker receives an information package concerning: the rules and regulations for the stay at the centre, rights and duties, types and amounts of social assistance, care for minors, including the consequences of marrying a minor without judicial permit. Every asylum seeker has also access to a list of NGOs dealing with refugee affairs.

In addition, immigrants have ensured assistance from centre workers who support them in the aspects of stay in Poland (labour market, availability of housing, social assistance).

Numerous projects are run at holding centres, as part of projects implemented by NGOs, including language courses, vocational courses, meetings with a psychologist, cultural activities. Immigrants participate in many cultural activities and events also outside of the centre, e.g. at community centres, in festivities. Computer rooms have been organised in immigrant holding centres, finances from EU funds, as well as libraries in some of them. Polish language classes are also carried out.

At every centre, a psychologist is available, and NGOs organise meetings on legal aid. Aliens may also undertake extra work in the territory of the centre. In Q1 2013, this opportunity was used by an average of 70 people, i.e. about 10% of all adult residents of the centres.

Since 2008, the Office for Foreigners has implemented the provisions of the *Agreement on standard procedures for identification, prevention of and response to cases of sexual violence or gender-based violence against aliens staying at holding centres for asylum seekers*. As part of *Agreement*, in 2008-2014 (by 20 May 2014), 103 cases were identified of women subjected to violence during the course of the procedure leading to the refugee status. The Office intends to continue implementing the *Agreement* in the coming years.

In addition, until the end of 2014, the Office will participate in a partner project called, *Give me a chance! — Legal and informative support to special-care persons seeking refuge in Poland, and preventing sexual violence and gender-based violence at centres for asylum seekers*, implemented jointly with the Halina Neć Legal Aid Centre, this project being co-financed under the European Refugee Fund.

With reference to the problem of improvement of conditions in the centres and social assistance to immigrants seeking asylum in Poland, it should be noted that the Office for Foreigners has prepared draft assumptions for the proposed Act *on the protection of foreign nationals within the territory of the Republic of Poland*, in which a significant proportion of changes in relation to the current state of affairs pertains to the provisions on social assistance. One example may be a proposal for the Office to grant pre-integration assistance. Currently, in addition to the informative meetings and Polish language courses, available at the centres, asylum seekers may use free pre-integration activities offered by NGOs.

With reference to the access of immigrants to the labour market, it should be emphasised that asylum seekers have the opportunity to work in Poland, if after the lapse of 6 months from the date of application for the refugee status, no decision has been issued in the first instance, for reasons beyond the control of the applicant. In such cases, the Head of the Office, at the request of the immigrant, shall issue a certificate which, together with the temporary identity certificate of the immigrant, provides basis for employment in the territory of the Republic of Poland, according to the rules and procedures defined in the Act *on employment promotion and labor market institutions*.

Referring to the part of the question concerning the national system for the early identification of asylum seekers with special needs, it should be underscored that under Art. 68 of the Act *on the protection of foreign nationals within the territory of the Republic of Poland*, “the foreigner who informs the authority running the procedure that he or she has been subject to violence, is disabled, or his/her mental and physical status provides reasonable grounds for presumption that

he or she has been subjected to violence, the Head of the Office shall ensure that medical or psychological examination be conducted to verify these circumstances". This provision stipulates that such examination should be performed for every person alleging to have been subject to violence or his or her behaviour suggests that he or she has been subject to physical violence.

Identification of a person with special needs can be conducted at any stage of the refugee proceeding. The first stop in identification may be an affirmative answer to question 6 point (e) of the application form for awarding the refugee status, concerning the use of physical (including sexual) or mental violence. Therefore, each time when the applicant testifies that he or she has been subject to physical or mental violence, he or she should be referred to specialist examinations to verify this fact and possibly (depending on the diagnosis) or be granted a special course of procedure.

A person with special needs may be identified also at the immigration centre, if disclosing that he or she suffered violence in the past. Then he or she should be again referred to appropriate examination to verify his or her statement in this regard.

It should be emphasised that an asylum seeker will not necessarily disclose the fact of being subject to physical violence. To identify such person, appropriate experience of the worker of the reception centre (observation of behaviour), or of the worker running the refugee procedure (awareness of the situation in the country of origin, behaviour during interview) is needed.

Regardless of the stage of procedure on which the applicant is disclosed as having special needs, appropriate diagnostic examination should be conducted under Art. 68(1) of that Act to apply the special procedure (Art. 68(2)). Interview with the assistance of a psychologist should be conducted in conditions ensuring freedom of speech to the foreign national, in a tactful way adapted to his or her mental and physical condition, at a time considering his or her mental and physical condition and the person's healthcare appointments, and with participation of a psychologist or physician, and, where needed, with the participation of an interpreter. Upon completion of the interview, the psychologist present at the interview shall issue so-called *observations from the interview with a foreigner* which describes the foreigner's behaviour during the interview and may contain potential comments on further diagnosis.

The identification of vulnerable groups, including women, is now subject to special attention of the Head of the Office for Foreigners. From December 2012 to December 2013, the Office for Foreigners took part in a project called *Response to Vulnerability in Asylum*. The project was funded by the UNHCR and the European Refugee Fund, and coordinated by UNHCR Regional Representation for Central Europe. The following countries participated in the project: Bulgaria, Poland, Romania, Slovakia and Hungary. The objective of the project was to disseminate knowledge on the difficulties encountered by people with special needs during the procedure for granting the refugee status. This will result in improved identification systems and the ways in which countries react to the needs of this category of applicants. As part of the project, a procedure has been worked out for the identification of persons with special needs, and a list of codes concerning persons with special needs has been developed (including, among others, single parents,

victims of physical or mental violence, victims of human trafficking, old people, pregnant women).

Referring to the question on independent, qualified and free legal aid and representation, it should be noted that immigrants seeking asylum in Poland may use free legal aid and advice, provided by a number of NGOs, collaborating in this respect with the Office for Foreigners. These NGOs include Association for Legal Intervention, “Polish Migration Forum” Foundation, “Rule of Law Institute” Foundation, Helsinki Foundation for Human Rights, Legal Clinic of the University of Warsaw, Legal Clinic of the Jagiellonian University.

The activities of the above-mentioned NGOs include providing oral advice, preparing legal opinions, preparing official documents, representing the client in the administrative procedure for the granting of the refugee status (including participation in status interviews), preparing complaints to the regional administrative court, representing their clients before courts as part of the procedure for granting the refugee status.

In addition, legal advice and legal aid are provided to people with the refugee status or other form of protection in Poland. These organisations ensure that the rights of these people are protected, prevent potential discrimination and subsequent social exclusion. An important role is also played by integration advice provided by NGO representatives, aimed at better accommodation of immigrants to the Polish realities, including in the area of employment or education.

It should be also noted that intensive work has been underway to establish a system for free legal advice for asylum seekers. The relevant regulation will be introduced by the provisions of the new Act *on the protection of foreign nationals within the territory of the Republic of Poland*, currently drafted by the Office for Foreigners. If such regulations are adopted, this will fulfil Poland’s commitments under EU legislation regarding free legal aid for immigrants seeking international protection.

It should be also emphasised that, since 25 March 2008, the Office for Foreigners has been party to the *Agreement on standard procedures for identification, prevention of and response to cases of sexual violence or gender-based violence against aliens staying at holding centres for asylum seekers*. Other parties to the Agreement are the Police Commander in Chief, the Office of the United Nations High Commissioner for Refugees, La Strada Foundation, and Halina Neć Legal Aid Centre. Parties to the agreement collaborate in the forums called Local Cooperation Teams (LZW) active at all immigration centres.

Local Cooperation Teams also collaborate with medical personnel, the administrator of the centre and representatives of refugee communities.

The following measures are taken under the *Agreement*:

- Prevention:
  - ensure adequate safety and security conditions in and around the centre,
  - inform the foreigners staying at the centre about violence, methods to prevent violence, and responding to violence cases.
- Diagnosis:

- document cases of violence and keep informed all members of the team,
- gather documentation, develop analyses of the risk of violence.
- Response:
  - take measures aimed at ensuring personal security to an actual or potential victim of violence or his/her relatives,
  - take measures to meet healthcare, psychological and social needs of the victim of violence and his/her relatives,
  - ensure legal aid to the victim of violence in order to initiate criminal proceedings.

In addition, taking into account the needs of single women and women raising children related to the issue of improvement of the security and the need to ensure adequate housing to this particular group of foreign nationals, the Office for Foreigners has designated one of its facilities for use exclusively by members of this group of individuals. Since 2010, the facility for foreign nationals who have applied for refugee status, located in the Targówek district of Warsaw, has been used for the accommodation of single women and women with children. The facility's capacity has been utilised in full virtually from inception. As at 16 April 2014, 110 persons have stayed at the Targówek facility. Moreover, NGOs conduct at that facility regular meetings with mothers, during which training activities are conducted on proper communication with children and the harmfulness of applying physical punishment. In this facility, an integration adviser (from the Helsinki Foundation of Human Rights) has provided broad advisory services to the women immigrants. This is one of the forms of pre-integration measures for asylum seekers.

**20. Given the absence of information in the State party's report, please describe the measures taken to remove all barriers to access by women with disabilities to the labour market, health care and educational institutions; prevent violence against women with disabilities; and adapt centres providing aid and support to the victims of violence to the needs of women with disabilities. Please also indicate the steps taken, if any, to facilitate the transition of women and girls with disabilities from institutional care to community-based social service alternatives.**

#### **Re 20**

In order to support professional activity of women with disabilities, a publication "Professional Advice and Intermediation for Disabled Persons: A Guide for Labour Offices" was issued in 2011. This publication presents occupational opportunities for people with various types of disability, and shows how to solve potential problems with employing persons with disabilities, and addresses the problems of employment advice and intermediation for people with disabilities. Potential employers are also incentivised to employ people with disabilities by surcharges to payroll received by eligible employers. This instrument has enjoyed the greatest interest among employers. In addition, an employer who employs a person with disability may be reimbursed by the National Funds for Rehabilitation of Disabled People (PFRON) for monthly costs of employment of workers helping the employee with disability to perform activities facilitating communication with

the environment and to perform the activities impossible or difficult for execution by the employee with disability.

A person with disability, registered at the labour office as an unemployed or a job-seeker and not employed, may be granted from the PFRON the funds necessary for starting business, agricultural activity or payment of contribution to a social cooperative. A person with disability who runs a business or one's own or leased agricultural establishment may receive support to interest on a loan taken out for continuing such activity. People with disabilities running their own business or farmers with disabilities may apply for total or partial reimbursement of contributions to social insurance.

Moreover, there are facilities offering to people with disabilities who are incapable of employment to undertake social and professional rehabilitation to acquire or reinstate the skills necessary for taking up employment; these include occupational therapy workshops being separate units in terms of organisation and funding. The costs of their establishment and running are co-financed by the PFRON.

In addition to the programmes co-financed by the PFRON, programmes should be mentioned which are aimed at improving the situation of people with disabilities, including women:

- Partner III (2008–2010) — support to projects implemented for people with disabilities by NGOs,
- Trener pracy (2007–2010) [Job coach] — aided employment of persons with disabilities on the open labour market,
- Telepraca oraz inne elastyczne formy zatrudniania osób niepełnosprawnych (2009–2013) [Telecommuting and other flexible forms of employment of disabled people], the purpose of which is professional activation of disabled people.

In 2013, the following programmes were also implemented:

- “Programme for alleviating inter-regional differences II”, the purpose of which is to ensure equal opportunities in access to professional and social rehabilitation of disabled people living in economically and socially less developed regions,
- “Active local government”, the purpose of which is to eliminate or reduce barriers to participation in social, professional life and in access to education.
- “JUNIOR programme for professional activation of disabled school leavers”, the purpose of which is to facilitate professional career (internship, employment) to young people with disabilities. This support takes the form of an allowance for the intern/graduate (for professional rehabilitation) and a bonus for the professional advisers and for the employer (due to the internship completed by the graduate).

In 2012-2014, the PFRON has also implemented projects for people with disabilities, with rare and multiple disabilities. These projects have had the following objectives:

- support people with motor disabilities in the labour market,

- support people with disabilities in unrestricted access to information and services available in the Internet,
- support blind people in the labour market,
- support people with multiple sclerosis, including with multiple disabilities, in the labour market,
- aid from a job coach as a means for increasing employment of disabled people,
- support to 45+ people with rare disabilities and some multiple disabilities in the labour market.
- In addition, in 2013 projects were launched, aimed at:
  - supporting the community of people with disabilities in rural areas and small towns,
  - supporting social and professional activation of people with disabilities, and building a favourable image of people with disabilities in the labour market through internships in public administration,

In 2011 and 2012, guides on good practices were also published for the support of, among others, deaf people, people with intellectual disability, deafblind people, people with motor disabilities.

Also campaigns in mass media were run with the aim to change social attitudes towards people with disabilities among employers and employees of the open labour market, and especially to cause a change of image of a person with disability, portray her as an efficient and valuable employee, as well as get across with the message on benefits from employment of people with disabilities. Informative activities also pertained to the forms of support to the employment of people with disabilities, and promoted a positive image of the person with disability as a full-value employee.

In addition, in 2013-2015, the PFRON has been implementing a project called "Framework guidelines on the design of facilities, rooms, and on the adaptation of workstations to disabled people with special needs". The objective is to develop and disseminate the above-mentioned framework guidelines.

Referring to the question of access of women with disabilities to healthcare, it should be noted that under Article 68(3) of the Constitution of the Republic of Poland of 2 April 1997, everyone has the right to healthcare services. Regardless of material status, public authorities shall provide all citizens with equal access to healthcare services financed from public funds. The scope and conditions pertaining to the provision of such health services are laid down in the Act of 27 August 2004 *on healthcare services financed from public funds* (Dz. U. of 2008 No. 164, item 1027, as amended). By Art. 15 of that Act, patients are eligible, under the rules defined in the Act, for using healthcare services aimed at the preservation of health, prevention of diseases and injuries, early detection of diseases, treatment, nursing and prevention/alleviation of disabilities. Services are provided to patients in a highly individualised way, i.e., to a specific person in response to her specific healthcare needs affected by various factors, including sex or disability of the patient.

Moreover, it should be mentioned that pregnant women as well as women during the childbirth and postnatal periods enjoy special legal protection in the Republic of Poland. The protection of women during these periods is guaranteed by national legislation as well as the international treaties ratified by the Republic of Poland. Article 68(3) of the Constitution of the Republic of Poland of 2 April 1997 (Dz. U. no. 78, item 483, as amended) provides that public authorities are under obligation to provide special health care to children, pregnant women, disabled persons and the elderly. By Art. 2(1)(3) of the Act of 27 August 2004 *on healthcare services financed from public funds*, all women during the period of pregnancy, childbirth and the postnatal period who are Polish citizens and reside within the territory of the Republic of Poland — regardless of whether they remain subject to health insurance — shall have the right to receive healthcare services financed from public funds according to the principles laid down in the said Act. Both women with and without disabilities are eligible for using a full gamut of health services in the above-mentioned scope. In addition, under Ordinance of the Minister of Health of 4 October 2012 *on the standards of conduct and medical procedures in the course of the provision of healthcare services related to perinatal care to women during the period of physiological pregnancy, physiological childbirth, the postnatal period and the period of infant care* (Dz. U. of 2012, item 1100), “*the plan of prenatal care and the plan of childbirth may be modified as appropriate according to the health status of the pregnant woman during the period of care*”, and, in the postnatal period, every woman is eligible for professional care at the place of residence or stay.

It should be also mentioned that the National Health Fund (NFZ) publishes each year a *Vademecum* with practical information about healthcare services financed from public funds, and maintains an online bulletin “*Nasz Fundusz*” with information about the rights of people with disabilities. Connections with NFZ workers through Skype, an instant messenger, by text-based communication, have been enabled. People with communication problems are provided with access to information through the SMS service. The website of the Polish liaison institution regarding therapeutic services is adapted to the need of people with disabilities. Since 2011, blind and low-vision people are provided with a European Health Insurance Card with Braille inscription “*EKUZ*”.

The NFZ has been also implementing a project “*NFZ Academy*” (through 31 December 2014) This project is aimed at enhancing the knowledge of those making registrations at healthcare facilities providing healthcare services financed from public funds on the rules of providing information about healthcare service and patient’s rights, the rules for the functioning of the healthcare system, the rules for contracting healthcare services. During training activities, special attention is paid to the duty of ensuring facilities for people with disabilities at the place of provision of healthcare service and the duties under the Act on sign language and other means of communication. The access to all training activities has been additionally ensured through the e-learning platform.

Please refer to the answer to question 15 for information about ensuring the access to education to students with disabilities. Projects and programmes are also implemented aimed at supporting students with disabilities. Since 2009, projects are implemented under the competition “*Development and pilot implementation of innovative curricula for students with special educational needs using advanced diagnostic and therapeutic methods for disabled students*”. School of all types and

the facilities providing education to students with special educational needs may take part in the competition. The objective is to develop and implement, on the pilot basis, of curricula for students with special educational needs. The projects relate to teaching mathematical, science and technical content as well as entrepreneurship content. In 2011, the project “Increasing the effectiveness of education of students with special educational needs” has been completed. Activities carried out under the project were geared towards preparing teachers and specialists employed at kindergartens, schools and educational facilities for work with students with disabilities.

Models of working with deaf and low-hearing students, blind and low-vision students, students with motor disabilities, with aphasia, with light, moderate or severe intellectual disability, with multiple disabilities, with autism, including with the Asperger syndrome, have been developed.

Another example is the Parents’ Forum affiliated to the Minister of National Education, organised in 2012 as a platform to provide cues for the development of educational policies. A broad discussion was held regarding the place of children with disabilities in the educational system, changes were proposed to provide these students with the best possible care and developmental support. In accordance with postulates, the Centre for Education Development issued in December 2013 a brochure “Local and national governments for disabled people”, containing information about the rights of children with disabilities. This publication is addressed to public authorities, kindergartens, schools and facilities of the educational system, as well as to parents of children with disabilities.

Moreover, in 2013, under the call for proposals for the implementation of the programme called “School friendly and safe for children and youth with special educational needs — projects to promote and disseminate activities in the area of safe and effective functioning of students with special educational needs in generally-available and integration schools, in support of individualised teaching, and the shaping of a friendly and safe social climate at school”, the target group were students with special educational needs, including disabled students.

In 2012 and 2013, the State budget co-financed the production of magazines for children and young people in the Braille system and in enlarged print, and in 2013 also in the form of audio files. Digital versions of textbooks in the Braille language are available on the website of the Centre for Education Development for download in whole or in part.

A number of measures are also taken to enhance the participation of people with disabilities in cultural life, recreation, leisure and sports. The Act *on the professional and social rehabilitation and employment of persons with disabilities* provides that the duties of the district (*poviat*) level of administration include ensuring access to culture for people with disabilities. Under Ordinance of the Minister of Labour and Social Policy defining the tasks of districts which may be financed from PFRON funds, legal persons and unincorporated units may apply for funding support for the organisation of sporting, cultural, recreational and tourist events for people with disabilities. The cultural institutions reporting to the Minister of Culture and National Heritage are, in most part, adapted to the needs of people with disabilities (absence of architectural barriers). Measures are being taken to remove these barriers, but complete removal of architectural barriers from some

facilities (this is true in particular for historical buildings) can be very difficult due to conservation requirements for historical buildings.

The Act *on Games of Chance* has established a Culture Promotion Fund. The proceeds of that Fund are spent, among others, for promoting or supporting access to culture for people with disabilities. In 2013, the fund financed, among others, educational activities in the area of culture and arts for children and young people with disabilities, establishing rental facilities for players of digit audiobooks in public libraries, publishing multi-media books in formats adapted to the needs of low-vision and blind people, adapting cultural facilities (theatres, museums, libraries), promotion of artistic works created by people with disabilities, promotion of reading in the form of a mail-order library, conducting comprehensive research on the culture of deaf people in Poland.

Over 2012-2013, the PFRON was implementing a “Programme to support international sporting events for disabled people, organised in Poland”. The purpose of the programme was to support the organisation in Poland of sporting events with the level of Olympic or European Games, world championships or European championships, to promote sporting activity and social integration of people with disabilities. Under the Act *on Sports*, the Polish Paralympic Committee has organised the national paralympic movement of people with disabilities. The committee is a union of associations and other legal persons whose objective is the organisation, dissemination and development of sports of people with disabilities. The rules for the financing of sporting activity of people with disabilities are the same as for sports of people without disabilities.

One example of the activities is a project co-financed in 2012 by the Ministry of Sport and Tourism “In a World Beyond Silence and Darkness”, to provide training to 120 city and museum tour guides from the point of view of servicing sensorially disabled tourists and adaptation of selected elements of urban space. Co-financed is also a project “Senior assistant in tourism of blind people”.

With reference to the part of the question regarding the prevention of violence, it should be indicated that the support offered by specialist centres is aimed at various categories of victims, including women, children, men, the elderly and persons with disabilities. Women with disabilities may use free aid and support from support centres for victims of domestic violence. In addition, since December 2009, a “Nationwide Social Campaign for Countering Domestic Violence against Old-age and Disabled People” has been carried out. The purpose of the campaign was to raise awareness and sensitise the society to domestic violence against old-aged and disabled people. The Ministry of Labour and Social Policy has assumed that leaflets and posters will provide the optimal medium to deliver the message to a broad audience. Consequently, 6,100 posters and 61,000 leaflets have been produced, these materials being subsequently transferred to Marshal Offices. These materials were distributed to organisational units of social assistance, specialized support centres for victims of domestic violence, as well as public places. The posters and leaflets were also used during training sessions for “First contact” workers dealing with prevention of domestic violence.

The campaign for countering domestic violence against old-age and disabled people continued into 2010. On commission of the Ministry of Labour and Social Policy, a TV spot has been produced and broadcast for free.

In addition, a guidebook called “Domestic violence against old-aged and disabled people — A guide for first-contact workers” has been published. The guidebooks were provided to Voivodeship Marshals for subsequent distribution to the professionals dealing with counteracting domestic violence.

The protection of people staying in assisted living facilities against violence is guaranteed by the Act *on Social Assistance*. The organisation of assisted living facilities, the scope and level of assistance and livelihood services are informed by, in particular: freedom, privacy, dignity and sense of security of the residents and the level of their physical, intellectual and mental capability. The Ordinance of the Minister of Labour and Social Policy on assisted living facilities ensures to residents of such facilities respect to their rights and access to information about their rights. The Ordinance imposes on the members of the treatment and assistance team of the assisted living facility a duty to participate, at least once in two years, in training activities, organised by the head of the facility, on the rights of residents, the directions of therapy, methods of working with the residents. The residents may file their complaints and requests to the head of the facility or to a member of the treatment and assistance team. The residents have the right to regular contact with the director of the facility. Legal aid may also be provided by workers of the facility or by workers of the social assistance centre.

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