

2005 Data Collection

RAXEN National Report

**European Racism and Xenophobia Information
Network**

National Focal Point for POLAND

Helsinki Foundation for Human Rights (HFHR)

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Summary

There were no material changes in 2005 in the five areas in Poland. This year's most important work devoted to national and ethnic minority issues as well as foreigners is the *Third Report on Poland* by the ECRI, though it mainly discusses the situation in previous years. Nonetheless, many of the ECRI's remarks and recommendations remain applicable.

Of the five areas, migrant labour issues engendered the greatest interest among authorities, NGOs and researchers. This is related to the increase in immigration to Poland visible in recent years. Several reports were published in 2005, which initiated public discourse on the broad topic of Polish migration policy, or, rather, the need to formulate such. The two most widely discussed issues are social assistance for refugees and those with tolerated stay as well as the issue of work by aliens. The issue of illegal workers from abroad, the number of which significantly exceeds the number of legally employed aliens in Poland, has also been discussed. Experts note the onerous procedures for legalising a stay as well as the burdensome and costly procedures for obtaining work permits. Discrimination in employment for reasons of ethnicity has basically not appeared in this discourse at all. Not a single case of racism or discrimination at a place of employment was described in any of the reports. The National Labour Inspectorate also did not receive any complaints regarding discrimination based on race or ethnic origin. As in previous years, the Roma and refugees remain in the most difficult situation. It is to these groups that good practices against racism and discrimination in employment are directed, taken mainly within the framework of national programs: *National Program Against Racial Discrimination, Xenophobia and Related Intolerance 2004-2009*, *Programme for the Roma Community in Poland* and *EQUAL Community Initiative for Poland 2004-2006*. These programs operate with various degrees of success. However, it is disturbing that the Roma are primarily employed in tasks that specifically concern Roma matters. This sequesters them in a niche from which extrication may prove difficult.

There are no new sources of information and new data regarding ethnic discrimination in education. It seems the situation in this realm is similar to the previous year, except that a gradual improvement in the situation of the Roma has been observed. There are also no reports of discrimination against foreigners in schooling or schools. Education is the realm with the greatest number of "good practices" directed both to groups most subject to discrimination as well as to the mainstream student population. With respect to the latter, this primarily concerns multicultural education.

In the legislative domain, the amendment of the act on aliens and adoption of the long-awaited act on national and ethnic minorities and regional language are of greatest significance.

There is no data regarding discrimination based on ethnicity in the housing area. Nonetheless, it should be emphasised that spatial segregation does not occur in Poland. National and ethnic minorities as well as migrants live integrated in Polish communities. Exceptions are a number “Roma settlements” located mainly in southern Poland. However, no work on this subject was produced this year. As part of the government program, various activities are being performed to improve the Roma housing situation. Two reports related to housing of aliens were published in 2005. One was the report on the control conducted by the Supreme Chamber of Control in refugee centres and the report of an NGO on the monitoring of deportation arrests and guarded centres for aliens.

Statistical data provided by the Ministry of Justice and the Police Headquarters Office indicate the level of racist violence and crimes has maintained at the same level as in recent years. However, this is collective data, and thus offers only a fragmentary view of the situation. Information obtained from the Team for Monitoring Racism and Xenophobia Issues and the Plenipotentiary of the High Police Commissioner for Human Rights Protection Issues evidences victims of racist violence are aliens with darker skin colour and the Roma, while hate speech is usually anti-Semitic. In Poland there is not a serious problem with Islamophobia, though there are instances of Muslims being the subject of provocations and unpleasant comments.

Trends and developments in 2005

No significant changes in the five areas occurred in 2005. In the realm of legislation, the most important fact seems to be adoption of the act on national and ethnic minorities and regional language.¹ Work on the act lasted about fifteen years and minorities considered the inability to pass it a form of discrimination. Fundamentally, the act restates existing minority rights. The new version introduces definitions of a national and ethnic minority, regional language, expands language rights and establishes a Joint Committee of the Government and National and Ethnic Minorities.

There are still no available sources of data on discrimination cases in housing, employment and education. According to police and Ministry of Justice statistical data, the amount of racist violence (including hate speech) has remained at a stable level.

In 2004, the number of various complaints from minority representatives submitted to the Commissioner For Civil Rights Protection [NFP/PL/0055] has remained at similar level as in previous years – not exceeding 30 complaints annually. In the period between January and September 2005, 6 cases of alleged national and ethnic discrimination were submitted to the Commissioner's Office.² Similarly, the number of complaints from aliens has not changed significantly. The complaints are more likely to be related to difficulties arising from protracted refugee status proceedings and refusals to grant residence to foreigners living in Poland for many years with Polish spouses and children rather than the problem of discrimination itself.³

The Poles' approval levels of other nations, as declared in national opinion surveys, have held at steady levels, though minor changes may be discerned. In January 2005, the Public Opinion Research Centre (CBOS) published a memorandum from research entitled *Attitudes toward other nations*.⁴ The survey indicates Poles like Italians and Czechs the most. Meanwhile, dislike is declared primarily toward

¹ Poland / Dz.U. 2005/17/141 (06.01.2005)

² Document from the Commissioner for Civil Rights dated 27 September, 2005, in reply to the inquiry by HFHR.

³ Poland, Commissioner For Civil Rights Protection (2005), Bulletin of the Commissioner For Civil Rights Protection. Materials, no. 50, available at: http://www.brpo.gov.pl/pliki/infor_RPO_za_2004.pdf (17.10.2005)

⁴ CBOS (2005), *Stosunek do innych narodów [Attitudes toward other nations]*, available at: http://www.cbos.pl/SPISKOM.POL/2005/K_001_05.PDF (17.10.2005)

Arabs, the Roma, Romanians, Russians, but also Jews, Serbs and the Vietnamese. Attitude changes toward two groups – Arabs and Ukrainians – seem quite significant. In accordance with the dominant trend during the three last years, approval of Arabs is falling. In 2004, they became the least liked social group. On the other hand, Poles' attitudes toward Ukrainians have improved. The changes during this period are relevant because Ukrainians are one of the numerically largest groups of foreigners present in Poland. This group is likely to grow as the number of migrants coming to Poland continues to rise.

In 2004, the Central Statistical Office (GUS) noted the largest immigration into Poland since 1960 (9,000) and the lowest emigration from Poland – 19,000. This produced the lowest foreign migration permanent residence balance since 1960. Because GUS statistics are based on the number of permanent residence registrations and de-registrations, they are severely underreported. However, they indicate a certain trend, which, it seems, depicts one of the most important changes in recent times.⁵

Along with the rise of migration, a rise of interest in migration issues is visible among authorities, NGOs and researchers. On 9 May 2005, the Interdepartmental Team for Social Integration of Foreigners [NFP/PL/0139] was established. Independent of the above, several reports have been published and become the basis for initiating public discourse on Polish migration policy as a whole. The two most extensively discussed issues are social aid for refugees and persons with tolerated stay permit and the labour problem among foreigners.

In 2005, two national programs on the issue of discrimination were realised, the *National Program Against Racial Discrimination, Xenophobia and Related Intolerance 2004-2009* [ACT/PL/0178] and *Programme for the Roma Community in Poland* [ACT/PL/0038]. Both of these are difficult to judge as of today. The former, because actual implementation has only begun and assessment of the situation is in progress. As to the latter, because at the time of writing there has been no evaluation of hitherto conducted activities, reliable judgment is difficult. Opinions of people realising the program indicate efforts in educational activities are netting the best effects. Education is also the domain where the largest numbers of “good practices” occur, both in relation to the Roma and other vulnerable groups.

⁵ Centre for International Relations, Centre for Migration Research (2005), *Biuletyn Migracyjny*, no. 2, p. 1, available at: <http://www.csm.org.pl/pl/files/BiuletynMigracyjny2.pdf> (17.10.2005)

Employment

New sources of information and reports

The main source of data and information regarding racism and discrimination and the situation of immigrants in employment were new reports and studies prepared both by Polish (Institute of Public Affairs [NFP/PL/0076], Centre for International Relations [NFP/PL/0077]) and foreign NGOs (Migration Policy Group), public institutions (Ministry of Economy and Labour) as well as international institutions (ECRI).

However, there is still a lack of systematic studies and statistical data dealing strictly with the issue of employment discrimination for reasons of national or ethnic identity. Moreover, none of the quoted reports mention even a single case of racism and discrimination in the workplace.

The most common report and study topic was immigrant labour. Five reports dealing solely with the issue of migrant employment were published.⁶ In several

⁶ Centre for International Relations (2005), *Imigranci na polskim rynku pracy w świetle opinii pracodawców*, [Immigrants in the Polish labor market in the opinion of employers], available at: http://www.csm.org.pl/pl/files/raporty/2005/rap_i_an_0305.pdf (17.10.2005)

Institute of Public Affairs (2005), *Migranci na rynku pracy w Polsce: wyniki badań przeprowadzonych wśród migrantów ekonomicznych i pracowników polskich* [Migrants on the Polish labour market: Results of research conducted among economic migrants and Polish employers], available at: <http://www.isp.org.pl/files/15564235680343222001119876573.pdf> (17.10.2005)

Institute of Public Affairs (2005), *Regulacja migracji zarobkowej – wyzwania dla Ukrainy w kontekście polskich doświadczeń* [Regulation of wage migration – challenges for the Ukraine in the context of Polish experience], available at: <http://www.isp.org.pl/files/8623030200558718001121427779.pdf> (17.10.2005)

Institute of Public Affairs (2005), *Zapotrzebowanie na pracę cudzoziemców w Polsce: próba analizy i wniosków dla polityki migracyjnej* [The need for foreign labour in Poland: an attempt to analyze and draw conclusions for migration policy], summary available at: <http://www.isp.org.pl/files/10686100250984876001118673762.pdf> (17.10.2005)

Migration Policy Group (2005), *Immigration as a labour market strategy: Poland*, available at: <http://www.migpolgroup.com/multiattachments/2559/DocumentName/PolandImmigrationLabourMarketStrategyKorysWeinar.pdf> (17.10.2005)

others, this issue was one of the key points.⁷ The reports contain the characteristics of migrants present in Poland, analysis of the form and direction of Polish migration policy, forecasts concerning future migration policy in the context of demographical changes taking place in Poland.

The European Commission's *Equality and non-discrimination* annual report for the year 2005 is a publication entirely devoted to discrimination in employment.⁸ The report is a summary of actions directed at fighting discrimination taken last year by member states and at the European Union level. It comprises two parts: the first concerns legal regulations found in anti-discrimination directives and their implementation by particular EU countries; the second deals with the situation of the Roma. However, the latter part of the report does not list any cases of discrimination or any good practices from Poland.

In the framework of the *National Program Against Racial Discrimination, Xenophobia and Related Intolerance* [ACT/PL/0178], the Ministry of Economy and Labour has investigated ethnic discrimination in employment. The preliminary study is devoted to situation of migrants, refugees and representatives of the Roma minority in the labour market and was conducted with the cooperation of voivodship labour offices and councils.⁹ The Ministry's objective was to obtain basic statistical data, collect information on cases of ethnic discrimination in employment and distinguish projects undertaken in particular voivodships that aim to help those who may be subject to racial discrimination.

Collecting statistical data, however, turned out to be problematic. The main difficulties were resulted from the fact that when registering an unemployed person,

⁷ ECRI (2005), *Third Report on Poland*, available at:
http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Poland/Poland_CBC_3.asp (17.10.2005)

Iglicka K. (2005), *Active Civic Participation of Immigrants in Poland*, Country Report prepared for the European research project POLITIS, Oldenburg, available at:
<http://www.uni-oldenburg.de/politis-europe/download/Poland.pdf> (17.10.2005)

Migration Policy Group (2005), *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue. Poland*, available at:
http://www.migpolgroup.com/multiattachments/3010/DocumentName/EMD_Poland_2005.pdf (17.10.2005)

⁸ European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, Unit D.3 (2005), *Equality and non-discrimination. Annual Report 2005*, available at:
http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/pubst/annualrep05_en.pdf (17.10.2005)

⁹ However, this study has not been published and is not in report form. It is more like a juxtaposition of information gathered in the given provinces.

it is not possible to make annotations concerning nationality, information about the awarding of refugee status and national or ethnic minority (only annotations concerning citizenship may be made). Therefore, the statistical data concerning the number of national and ethnic minority members and refugees gathered at the voivodship offices is fragmentary and not comparable. For example, in some places the number of Roma (unemployed or working) was determined, in other places the approximate number of foreigners or refugees was obtained, in yet other places it was the number of work permits granted to foreigners that was obtained. In two voivodships no presence of minority representatives or migrants was reported, but it is unlikely that this is reliable information. The conducted study did not find a single case of discrimination in employment or in access to employment in the entire country.¹⁰ Nonetheless, due to the fragmentary nature of the statistical data, not stating cases of discrimination does not necessarily mean no such cases actually exist. In its study, the Ministry of Economy and Labour notes the problem of unemployment among the Roma, but links it mainly to lack of education. This sort of explanation, albeit common, is not without certain doubts. It has been noted by the ECRI in its *Third report on Poland*.¹¹

The most complete picture of the immigrants' situation can be found in reports compiled by the Institute of Public Affairs [NFP/PL/0076]. In 2005, IPA published three reports on the situation of foreigners on the Polish labour market. The reports dealt mainly with the problem of illegal migrant employment; according to estimates, there are several hundred thousand migrant workers in Poland¹² and only about 20,000 foreigners work legally in Poland. The report's authors claim this situation is caused by arduous procedures to legalise stays as well as burdensome and costly procedures for granting work permits. The IPA also notes the lack of a national policy on economic migrants and the want of public institutions dealing

¹⁰ On the basis of information obtained from the Ministry of Economy and Labour, in a document to the HFHR from September 20, 2005.

¹¹ ECRI (2005), *Third Report on Poland*, point 110, available at: http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Poland/Poland_CBC_3.asp (17.10.2005)

¹² 50,000-300,000 according to the IPA in: Institute of Public Affairs (2005), *Zapotrzebowanie na pracę cudzoziemców w Polsce: próba analizy i wniosków dla polityki migracyjnej* [*The need for foreign labour in Poland: an attempt to analyze and draw conclusions for migration policy*], Warsaw, p. 21; 100,000-600,000 according to the Migration Policy Group in: Migration Policy Group (2005), *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue. Poland*, available at: http://www.migpolgroup.com/multiattachments/3010/DocumentName/EMD_Poland_2005.pdf (17.10.2005)

with this issue.¹³ In the face of the annual rise in foreigners coming to Poland, the IPA formulated recommendations for a future migration policy based on the results of its findings.¹⁴ It postulates a more flexible employment policy, more effective realisation of bilateral agreements, scholarship programs, trainings for foreigners, as well as implementation of a more selective and quota-based policy on employment migration.

Existing reports contain only singular fragments devoted to the issue of discrimination, which shed light on this topic. For example, in the report *Regulation of wage migration – challenges for the Ukraine in the context of Polish experience* there is a section devoted to relations between Ukrainian migrants and Poles. According to these studies, 54 per cent of migrants have encountered cases of unfriendly treatment from normal citizens, and slightly more, 61 per cent, have encountered unfriendly treatment from officials.¹⁵

Although the personal attitude of officials and regular Poles toward foreigners is unfavourable, ethnic discrimination does not appear in any of the available reports as a problem faced by economic migrants. The “informal economy” is quite widespread and, what is more, there is significant public acceptance of the informal economy.¹⁶ This is undoubtedly linked to the fact that migrants working in Poland fill the labour market gap, meaning they work in professions that do not interest Poles, or which require specific qualifications that Poles do not possess. The first case applies to the “pool of cheap labour” – migrants coming mainly from East European countries, who work as cleaning ladies, care for children and the elderly, as well as in the construction and agricultural sectors. These are relatively low-pay

¹³ The reports were compiled before the constitution of the Interdepartmental Team for Social Integration of Foreigners.

¹⁴ Institute of Public Affairs (2005), *Praca Ukraińców w Polsce – rekomendacje dla polityki migracyjnej* [*Employment of Ukrainians in Poland – recommendations for migration policy*], available at: <http://www.isp.org.pl/files/18351185660564283001123683283.pdf> (17.10.2005)

Institute of Public Affairs (2005), *Rekomendacje dla ukraińskiej polityki migracyjnej* [*Recommendations for Ukrainian Migration Policy*], available at: <http://www.isp.org.pl/files/7923305160709581001126788715.pdf> (17.10.2005)

¹⁵ Institute of Public Affairs (2005), *Regulacja migracji zarobkowej – wyzwania dla Ukrainy w kontekście polskich doświadczeń* [*Regulation of wage migration – challenges for the Ukraine in the context of Polish experience*], available at: <http://www.isp.org.pl/files/8623030200558718001121427779.pdf> (17.10.2005)

¹⁶ Migration Policy Group (2005), *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue. Poland*, available at: http://www.migpolgroup.com/multiattachments/3010/DocumentName/EMD_Poland_2005.pdf (17.10.2005)

jobs Poles do not want to perform deeming them unprofitable. The second group of migrants working in Poland is that of highly qualified specialists mainly from other EU countries and the USA, who work in international corporations and teaching foreign languages as “native speakers”. It may be said that on the whole, Poles and foreigners work in different professional sectors that do not cause competition and do not create a context for discrimination.¹⁷

The economic sectors which provide jobs for both Polish employers and migrant workers are trade and gastronomy. The Vietnamese, one of the numerically largest migrant groups,¹⁸ are particularly active in these domains, as are Turks. According to studies conducted by the Centre for International Relations [NFP/PL/0077], these groups prefer to employ or be employed only by their compatriots.¹⁹ This also partly concerns Armenians. In such relations, ethnic discrimination in the workplace does not occur, though one may reflect on whether inter-ethnic solidarity in the employment process is not in itself a form of discrimination.

Another group potentially subject to ethnic discrimination are refugees and people with tolerated stay status. In Poland, this group consists mainly of Chechens. Both these categories have permission to work though both have very high unemployment levels. No studies showing discrimination of this group in the labour market have yet been conducted. Existing overviews state the reason for unemployment among refugees is lack of knowledge of the Polish language, low qualifications and their treating Poland as a place of temporary residence.

Public body monitoring working conditions

There is basically not a single special public body dealing with recording complaints or allegations of racism and discrimination in employment. Employee

¹⁷ Migration Policy Group (2005), *Immigration as a labour market strategy: Poland*, available at: <http://www.migpolgroup.com/multiattachments/2559/DocumentName/PolandImmigrationLabourMarketStrategyKorysWeinar.pdf> (17.10.2005)

¹⁸ The Vietnamese are estimated at around 20-30,000 people. See: Migration Policy Group (2005), *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue. Poland*, p. 12, available at: http://www.migpolgroup.com/multiattachments/3010/DocumentName/EMD_Poland_2005.pdf (17.10.2005)

¹⁹ Centre for International Relations (2005), *Imigranci na polskim rynku pracy w świetle opinii pracodawców*, [*Immigrants in the Polish labor market in the opinion of employers*], available at: http://www.csm.org.pl/pl/files/raporty/2005/rap_i_an_0305.pdf (17.10.2005)

complaints are handled by the National Labour Inspectorate.²⁰ This is also the official body that monitors working conditions. The NLI is a supervisory body subordinate to the Sejm [*Poland's Lower House of Parliament*] that oversees and controls the observance of labour law, especially regulations and measures of occupational safety and hygiene. Its scope and powers are prescribed by the Act dated 6 March 1981, on the National Labour Inspectorate.²¹ However, its role is not limited to monitoring the situation of minority groups or immigrants, but that of all workers.

In 2004, 94 matters were submitted to NLI dealing with discrimination in labour relations. Inspectors deemed only 21 per cent of them as warranted, while 4 per cent of the complaints were partially confirmed. In the following year, the number of complaints rose almost twofold. During the first half of 2005, the labour inspectorate received 156 discrimination complaints. None of these, however, dealt with discrimination related to racial or ethnic identity.²²

Religious minority groups at workplace

Regulations guaranteeing the right to time off during religious holidays are examples of positive measures addressing the needs of religious minority groups in the workplace. In Poland, official public holidays are first of all Roman Catholic Church holidays, which are meant to satisfy the religious needs of Roman Catholics, as well as of minority churches and religious associations that spring from the Catholic tradition and celebrate festivities during the same time. However, the act on freedom of conscience and denomination²³ and certain acts concerning the position of the Republic of Poland respecting particular non-Roman Catholic churches and denominational associations introduce the possibility of time off from work during religious holidays.²⁴

Article 42 of the Act on freedom of conscience and denomination provides that members of denominational associations whose holidays are not statutory public

²⁰ Apart from this, employees may also claim their rights in labour courts.

²¹ Poland / Dz.U. 1981/6/23, (06.03.1981)

²² NLI, Main Labour Inspectorate – Legal Department, document no. GNP-306-4560-1007/05/PE sent in reply to the HFHR inquiry.

²³ Poland / Dz.U. 1989/29/155 (17.05.1989)

²⁴ Orthodox Church, Evangelical Church of the Augsburg Confession, Reformed Evangelical Church, Evangelical Methodist Church, Catholic Mariavite Church, Old Catholic Mariavite Church, Christian Baptist Church, Pentecostal Church, Seventh-day Adventist Church, Association of Jewish Religious Communes.

holidays may, at their request, be granted work leave for the time necessary to celebrate their holidays in accordance with the requirements of their religion. Work leave is granted provided work hours equal to the time of leave will be made up in the future, and does not ensure additional pay for work during statutory holidays or overtime work. Polish law does not provide for the possibility of refusing requests for work or study leave for religious holidays that are not statutory holidays.

Trade unions

Article 59 of the Constitution of the Republic of Poland ensures the freedom to associate in trade unions. However, the Constitution does not specify whether this right is assured to Polish citizens or to all people working on Polish national territory. Neither is this specified by the trade union act. Nonetheless, because the Constitution does specify in some articles that the given a regulation concerns Polish citizens, and in the case of article 59 there is no such statement, it seems that immigrants are allowed to establish and join trade unions. Such unions have not, however, been established in Poland. Still, professional organisations created by migrants (e.g. The Association of Vietnamese Businessmen) and members of national minorities do exist.

According to the information provided by Polish authorities,²⁵ trade unions conduct nearly no projects and actions aimed at limiting discriminatory practices.²⁶ Polish authorities explain the lack of trade union activity in this domain is due to poor knowledge of the Race Equality Directive both among trade union members and employers' organisations. The fact that cases of discrimination in the workplace are reported extremely rarely may be linked to the specificity of the racially and ethnically homogeneous Polish work environment.

Trafficking of illegal workers

The only publicly available data regarding trafficking in human beings is the statistical data compiled by the Organised Crime Bureau of the National

²⁵ Poland, Office of the Committee for European Integration (2005), *Informacja dodatkowa nt. stosowania Dyrektywy 2000/43/WE z dnia 29 czerwca 2000 wprowadzającej zasadę równego traktowania bez względu na pochodzenie rasowe i etniczne* [Additional information on Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin] (unpublished)

²⁶ No such initiative is known to the authors of the present report.

Prosecution Service.²⁷ This is statistical data concerning the number of preparatory proceedings, their results and the number of victims and accused in a given case.

In 2004, 25 proceedings regarding trafficking in human beings were completed. Thirty eight people were charged and 98 were considered victims. This data does not allow for a determination of the number of cases that concerned forced labour other than sexual exploitation. The number of victims under the age of 15 in successive years was: 2002 – 18, 2003 – 21, 2004 – 2. According to the Nobody's Children Foundation, Polish territory is mainly a transfer point of child trade victims. Children are sold for purposes such as prostitution, mendicity, illegal adoption, and participation in criminal activities.

More precise data on the subject of trade in human beings shall be collected in the framework of realisation of the *National Program for Fighting and Preventing Trafficking in Human Beings for the years 2005-2006*. This data will be available in mid-2006.

ECRI points out the problem of trafficking, but mainly in the context of trade in human beings for purposes of sexual exploitation.

Good practices

In 2005, good practices in employment were primarily undertaken in connection with three programs. These were the *National Program Against Racial Discrimination, Xenophobia and Related Intolerance 2004-2009* [ACT/PL/0178], the government *Programme for the Roma Community in Poland* [ACT/PL/0038] and *EQUAL Community Initiative for Poland 2004-2006*. However, it is difficult to indicate best practices, as the projects are either in their preliminary phases, are difficult to evaluate or engender various apprehensions. In some cases, project assumptions are not being thoroughly realised in practice, in others the results of activities are not particularly outstanding.

The good practices performed have primarily concerned professional activation of the Roma and asylum seekers as well as enabling those groups to enter the labour market. Anti-discrimination activities in workplaces were undertaken to a very meagre extent. No specific anti-discrimination mechanisms, such as equality officers etc., were established. It seems these activities were hindered by a low awareness level among employers and employees respecting discrimination issues based on race and nationality or ethnicity, thus inherently thwarting their interest in creation or implementation of solutions in this realm.

²⁷ Available at: <http://www.mswia.gov.pl/index.php?dzial=166&id=2001> (17.10.2005)

The *National Program...* [ACT/PL/0178] was to raise employers' awareness through "development of informational materials for employers regarding the obligation to realise the principle of equal treatment of women and men irrespective of race, national or ethnic origin".²⁸ The entities charged with executing this by May 2005 were the Government Plenipotentiary for Equal Status of Women and Men [NFP/PL/0016] in cooperation with the National Labour Inspectorate and NGOs. Though an informational leaflet for employers was published near the end of 2004, entitled *Identical rights – equal treatment*, it promotes only equality of women and men and in no place does it refer to equal treatment of people of different race, nationality or ethnicity. These issues are contained only in a leaflet for employers entitled *Equality in employment – discrimination, harassment, humiliation*, which was published in accordance with the national program timetable in September 2005.

Roma assistants have been employed in educational activities as part of the government *Programme...* [ACT/PL/0038]. Polish language lessons (e.g. teaching reading and writing) are also being provided to adult Roma, of which many are illiterate. The expected long-term effect of such activity is reinforcement of the Roma's position on the labour market. Further, funds have been awarded to entities from over a dozen localities directly for the improvement of the Roma's professional situation. These entities presented their own activity programs, including conducting professional training, job searching workshops, creation of new jobs especially in subsidised jobs as well as maintenance work. Still, the impression remains that aside from a few exceptions such activities are short-term and rather ineffective. Much of the work employing the Roma is seasonal and training does not always bring quantifiable results – the trained Roma infrequently undertake steady work and such is exceptionally complicated in areas of high unemployment.

Those employing the Roma as part of the government program most highly praise solutions where the Roma work on behalf of their own communities. Some qualms do accompany the positive evaluation of these kinds of activities on behalf of the professional activation of the Roma. It is unsettling the Roma are primarily employed to realise tasks that specifically concern Roma issues with such being the view of their participation in the labour market. Promotion of this kind of employment among the Roma relegates them to a niche that may be difficult to extricate from.

In this context, an idea being realised as part of the government program by a county [*gmina*] entity, the Practical Education Centre in Zabrze, seems valuable.

²⁸ Poland, Government Plenipotentiary for Equal Status of Women and Men (2004), *National Program Against Racial Discrimination, Xenophobia and Related Intolerance*, available at: <http://www.rownystatus.gov.pl/pl/data/DurbanPL.pdf> (17.10.2005)

Beginning with October, it has been operating three-month trainings for painters, bricklayers and floorlayers. Three Roma and nine people of non-Roma origin take part in each of the trainings. Training participants are young people who did not complete elementary school and are thus learning basic professional qualifications. It will be possible to adjudge the project's success or failure only after it is completed. Nonetheless, it is already notable that in addition to the trainings' educational qualities, they additionally play an important integration function by emboldening the Roma to enter into contacts with persons from outside their social group through engagement in common tasks.

The most complex initiatives in the employment area are being taken as part of the EQUAL Community Initiative. Four projects on behalf of the Roma, four on behalf of asylum seekers as well as one for immigrants, repatriates, refugees and settled non-European cultural minorities are being operated. The majority of projects contain research components, some have educational aspects that aim to raise social awareness of disfavoured groups, and, overall, assume methodical, long-term activity to increase their labour market opportunities.

The first program phase, i.e. Activity 1, was completed on 30 June 2005. It is difficult to evaluate which project will have the best effects at the program's current stage. Hitherto, certain Partnerships have drafted preliminary analyses and reports that will serve the thought-through implementation of ideas.²⁹

²⁹ Partnership for Development „@lterCamp” (2005), *Cudzoziemcy poszukujący ochrony w Polsce: analiza danych zastanych* [*Aliens seeking protection in Poland: analysis of existing data*], available at: http://www.altercamp.org.pl/pliki/raport_ips.pdf (17.10.2005)

Partnership for Development „Education for Integration – Partnership for Refugees” (2005), *Raport podsumowujący wyniki ankiety przeprowadzonej w ośrodkach recepcyjnych dla cudzoziemców* [*Report summarising results of survey conducted at reception centres for aliens*] (unpublished)

Partnership for Development „Initiative for the Development of Roma entrepreneurship KXETANES – TOGETHER” (2005), *Raport z ankiety przeprowadzonej w ramach realizacji 1. Działania projektu pn. ‘Initiative for the Development of Roma entrepreneurship KXETANES – TOGETHER’* [*Report on survey conducted in the framework of the 1st Activity of the ‘Initiative for the Development of Roma entrepreneurship KXETANES – TOGETHER’ project*] (unpublished)

Partnership for Development „Initiative for the Development of Roma entrepreneurship KXETANES – TOGETHER” (2005), *Wstępne potrzeby szkoleniowe beneficjentów projektu ‘Initiative for the Development of Roma entrepreneurship KXETANES – TOGETHER’* [*Preliminary schooling needs of the ‘Initiative for the Development of Roma entrepreneurship KXETANES – TOGETHER’ project beneficiaries*] (unpublished)

Partnership for Development „Initiative for the Development of Roma entrepreneurship KXETANES – TOGETHER” (2005), *Bariery niekapitałowe powodujące niechęć do*

It should be added, however, that disturbing signals have been heard from the Partnerships of late. They are complaining of overly bureaucratic procedures and serious communication problems with the National Supporting Structure. Certain Partnerships feel the bad cooperation with the NSS actually discourages them from continuing the projects.³⁰

podejmowania działalności gospodarczej: raport z badań [Non-capital barriers hindering inception of economic activity: research report] (unpublished)

³⁰ Opinions expressed in telephone conversations we held for purposes of this report at the outset of October 2005 with representatives of Partnerships for Development realising EQUAL projects on behalf of national and ethnic minorities as well as foreigners.

Education

New sources of information and reports

There are no new sources of information or data on ethnic discrimination in education. It seems the situation in this domain does not vary much from previous years, although a gradual improvement of the Roma situation can be observed. Similarly, there are no reports on discrimination of aliens. The number of schools teaching national and ethnic minorities in the 2004/2005 school year totalled 895, while the number of pupils was 50,173.³¹ The numbers are higher than in previous years, but this does not mean the number of schools teaching and pupils learning their mother tongue or minority language has in fact risen significantly. The reasons for the statistical changes are twofold. Firstly, the statistics now include institutions conducting additional classes for Roma, which nonetheless are not Roma language courses, but act as remedial classes. There are currently 121 such institutions, with 1,049 pupils benefiting from the classes. Secondly, some schools have undergone “profiling”. As a result, what was hitherto counted as one school is now counted as several schools, i.e. one general high school (grades 10-12) is counted as three profiled high schools.

As noted by the UNHCR [NFP/PL/0079], according to the data from the Office for Repatriation and Aliens (URiC) [NFP/PL/0083], less than 10 per cent of children from refugee centres attend school. Not many more take advantage of the Polish language classes conducted in the centres. So far, classes have taken place too infrequently (usually two times a week). Children and “parents alike complain that all children, regardless of age and language level, attend the same class, which slows down study progress. Experience of social workers indicates providing lessons will not solve the problem – social work with parents is also needed, as sometimes they do not motivate children to study, as is the as the support of state schools, which attend only after attaining a sufficient mastery of Polish.³²

³¹ Based on information collected at the Ministry of Education upon the request of HFHR.

³² According to the information dated 13 October 2005 from the Office for Repatriation and Aliens (URiC) 51 per cent of children from refugee centres (at the age from 7 to 18) attend school. The total number of children in the refugee centres is 725. 372 children attend preliminary school and 47 children attend the secondary school. Polish language classes have taken place in 7 refugee centres two times a week and in 12 refugee centres from 3 to 5 times a week. UNHCR (2005), “Integracja – wydarzenia” [*Integration – events*], *Z Obcej Ziemi*, no. 22, available at: http://www.unhcr.pl/publikacje/zobcejziemi/nr22/integracja_wydarzenia.php (17.10.2005)

The UNHCR [NFP/PL/0079] also notes that a growing number of volunteers conduct Polish language classes for refugees and asylum seekers.³³ Volunteers give classes in several refugee centres, as well as in the headquarters of the Polish Humanitarian Organisation [NFP/PL/0058]. Polish language lessons are also given free of charge by the Social Policy Department in the Mazovia Province Office [NFP/PL/0161].

Comments concerning education can be found in the ECRI report. ECRI commented the situation of two groups – Roma and refugees. Relating to the former, ECRI criticised the existence of Roma classes, but applauded the solutions aimed at improving the education of Roma children offered by government programs for the Roma community. ECRI has noted that “the access to education of children living in the reception centres is not satisfactory as many children do not attend school at all or very rarely during their stay which sometimes lasts several months”.³⁴

New state provisions

New state provisions regarding minority education may be found in the act on national and ethnic minorities and regional language, adopted in January 2005.³⁵ In Article 17, the act restates the right of minority members to learn their mother tongue or obtain education in their mother tongue. As to the realisation of this right, it refers to Article 13 of the education system act, to which two additional points were added through Article 34 of the act on national and ethnic minorities and regional language. These points oblige the Minister of Education to take actions with the objective of providing possibilities of educating teachers, access to textbooks for schools conducting classes for minorities and the propagation of knowledge of the history, culture, language and religious tradition of national and ethnic minorities and communities speaking regional languages. Moreover, Article 6.2 of the act obliges public authority bodies to take appropriate actions in domains such as strengthening intercultural dialogue.

After consultations attended by Roma minority representatives, entries concerning the minority were included in the draft of the *National Development Plan 2007-*

³³ UNHCR (2005), “Integracja – wydarzenia” [*Integration – events*], *Z Obcej Ziemi*, no. 22, available at: http://www.unhcr.pl/publikacje/zobcejziemi/nr22/integracja_wydarzenia.php (17.10.2005)

³⁴ ECRI (2005), *Third Report on Poland*, points 60, 115, available at: http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Poland/Poland_CBC_3.asp (17.10.2005)

³⁵ Poland / Dz.U. 2005/17/141 (06.01.2005)

2013, adopted by the Council of Ministers on 6 September 2005. Issues related to this minority were considered one of Poland's primary social problems. Actions in the framework of the NDP will concern such things as access to education and strengthening the role pre-school education.³⁶

Provisions regarding multicultural education are contained in the *National strategy for youth*. The fourth objective is the preparation of children and their guardians for intercultural contacts through, among other things, spreading the principle of tolerance and otherness and broadening knowledge on European culture and other countries.³⁷

Religious symbols in schools

Art. 53 of the Constitution of the Republic of Poland provides freedom of conscience and religion to everyone. Freedom of religion shall include the freedom to profess or to accept a religion by personal choice as well as to manifest such religion, either individually or collectively, publicly or privately, by worshipping, praying, participating in ceremonies, performing of rites or teaching. The freedom to publicly express religion may be limited only by means of statute and only where such is necessary for the defence of State security, public order, health, morals or the freedoms and rights of others." Thus, it seems the introduction of a prohibition against the display of religious symbols in schools would need to be statutorily regulated. No statute has yet been formulated regarding this issue.

It would be appropriate to note that currently, Catholic crosses hang in most public schools. Although this issue fomented discussion at the outset of the 1990s, currently, it is not the subject of public debate.

Good practices

Initiatives taken in 2005 in the realm of education may be divided into two main categories. First, good practices were directed to groups most subject to discrimination. These were activities intended to facilitate the integration of immigrants, refugees, asylum seekers and the Roma minority group and the

³⁶ Poland (2005), *Draft National Development Plan 2007-2013*, available at: http://www.npr.gov.pl/NR/rdonlyres/9AA4868D-3ACB-43EF-823F-01E71F16930D/14643/npr_sept_en.pdf (17.10.2005)

³⁷ *Strategia Państwa dla Młodzieży na lata 2003-2012 [National strategy for youth for the years 2003-2013]*, available at: http://www.yforum.pl/strategia/strategia_ml.php (17.10.2005)

improvement of their educational attainment. Second, projects aimed at raising the awareness of the mainstream student population regarding the culture, religion and history of immigrant, refugee and minority groups were realised.

The great majority of projects to improve the Roma's education situation operate as part of the government *Programme for the Roma Community in Poland* [ACT/PL/0038] and are primarily directed to elementary school (grades 1-6) and younger children. The activities taken in 2005 have included employing Roma assistants and assistant teachers, organisation of remedial classes, equipping schools with teaching aids, paying for children's meals at schools, covering the costs of transportation and insurance, purchasing textbooks and school supplies, organising interest circles and additional foreign language classes, youth centres for the Roma or youth integration centres, school celebrations and trips with the participation of Roma children, organising camps and day camps, paying preschool costs and financing kindergartens. Funds were awarded to local authorities, schools and NGOs, including Roma associations, from eighty-five localities across Poland for execution of the above initiatives.

Further, as part of the government program in 2005, the Minister of Interior and Administration announced the second edition of a competition for Roma college students and of a competition for Roma children gifted in art. Ten scholarships have been granted to children and forty-four Roma students have won the scholarship. The scholarship program for students is an exceptionally important initiative because, in addition to the obvious goals it serves, such as material assistance to particular persons and facilitation of entry onto the labour market, it promotes higher education among the Roma, hence contributing to changing their image as uneducated people.

There is no doubt that activities taken on behalf of Roma education as part of the government program are extremely needed and often bring very good results in the form of increasing school attendance of Roma children, increased graduation rates to the next grade level, as well as integration and the diminishing of differences related to ethnic origin among students. Nevertheless, there is a want of an overall evaluation of activities taken as part of the program as well as consultations between parties carrying it out, though such initiatives would be likely to support development of the most effective tools for integration of Roma children. In this context, the idea realised by the Plenipotentiary for National and Ethnic Minorities in the Dolnośląskie Voivodship [NFP/PL/0061] jointly with the Angelus Silesius Meeting Centre [NFP/PL/0075] and the Thesaurus Association should be deemed a best practice. On 22-27 July 2005, a meeting was organised in Wrocław for Roma assistants and assistant teachers from the Dolnośląskie Voivodship [ACT/PL/0359]. It served to develop models for their work in the form of standard activities.

The biggest projects directed to raising awareness of students regarding the culture, religion and history of immigrant, refugee and minority groups have been realised for years by organisations specialising in this subject matter. The One World

Association [NFP/PL/0049] and Polish Humanitarian Organisation [NFP/PL/0058] are leading NGOs in preparing educational packages concerning these issues and conducting educational projects in schools along with teacher trainings.

Since 1996, the One World Association [NFP/PL/0049] has been running the *Different – Equal* [ACT/PL/0108] educational program. It is being realised by volunteers using lesson scripts and educational materials specially developed for this program, which is devoted to human rights, refugees and national and ethnic minorities. As part of the program, lessons are conducted in middle schools (grades 10-12) during which various activation methods are used such as simulation, brainstorming, work in groups, discussion, work with photographs, etc. Teacher trainings are also conducted, as are international volunteer camps, during which volunteers help directly by working for and with refugees and minority representatives in Poland. Additionally, an assortment of materials is published for youth, volunteers and teachers (leaflets, informational brochures, reports, posters, video cassette). The *Different – Equal* program has received the support of UNHCR in Warsaw [NFP/PL/0079], the National In-service Teacher Training Centre [NFP/PL/0073] and the Poznań Municipal Educational Department. Thirty lessons for students and a single training for volunteers and teachers were held in Poznań and surrounding area schools through September 2005. Three volunteer camps that include work in refugee centres (in Łomża, Białystok and Czerwony Bór) as well as one with clean-up work and discussion meetings on the former concentration camp in Majdanek were organised.

In 2003, methodology specialists from the Polish Humanitarian Organisation [NFP/PL/0058] drafted a lesson script entitled “*I am not a Ruski!*” *Script for humanitarian education lessons for grades 7-9* [PUB/PL/0352]. It has been incorporated into the *Humanitarianism* [PUB/PL/0348] packet, which fundamentally addresses issues of human rights, tolerance and volunteerism. PHO conducts workshops for teachers interested in introducing *Introduction to humanitarian education* [ACT/PL/0284] into the curriculum; three such trainings were held between January and end of September 2005. Propagation in the educational packet of issues regarding stereotypes of Russian-speaking persons should be deemed a best practice. This is so because the negative image of migrants from beyond the eastern border persists in Polish society, while the lesson script prepared by PHO is currently the sole offering for teachers that methodically deals with discrimination against this group.

The *Małopolska of Many Cultures* [ACT/PL/0198] program, operated by the Małopolski Cultural Institute [NFP/PL/0112] deserves mention among programs raising the awareness of students regarding national and ethnic minorities. This multi-year program, planned for 2004-2009, aims not only to make youth more sensitive to minority issues, including their culture, religion and history, but also to develop publications, educational materials and multimedia presentations. The Slovak minority was the subject of the 2005 project. It involved two elementary

schools (grades 1-6), two middle schools (grades 7-9) and one professional school from cities in southern Poland. First educational materials and workshops were developed and then activities in schools were conducted. Subsequently, in June, a forum of the schools taking part in the project was organised, where the results of the projects in schools, i.e. the “How do I understand you?” scripts, were presented. Students shared what they learned through exhibits, a competition and a show.

It should be added that in 2005, three broad³⁸ educational initiatives were taken, and although they did not emphasise knowledge regarding the culture, religion and history of immigrant, refugee or minority groups, they instead aimed to increase awareness of youth to the problem of discrimination based on national or ethnic origin. Taking into account the scant social awareness regarding discrimination, realisation of such projects seems vital. They were: *Anti-discrimination on a daily basis* [ACT/PL/0281] conducted by the One World Association [NFP/PL/0049], *Education for Tolerance* [ACT/PL/0332] carried out by the “Wariant” Social Initiative Association [NFP/PL/0172] and *My Europe* contest [ACT/PL/0225] realised by The Villa Decius Association [NFP/PL/0023].

Numerous initiatives addressing the holocaust should be considered good practices. The *March of the Living* [ACT/PL/0305] organised annually on Holocaust Victims Remembrance Day commemorated according to the Hebrew calendar is the largest project directed to youth. The path of the *March* runs three kilometres between the former camps in Auschwitz and Birkenau. On the Birkenau site, an appeal to victims is made, Hebrew songs commemorating Holocaust victims are sung and a Jewish prayer is offered for the dead. Numerous organisations take part in preparing the *March*, and, in recent years, the Ministry of National Education has coordinated these activities. The *March* organised in 2005 was the largest in history with nearly 20,000 participants, including several thousand Polish youth. The prime ministers of Israel and Poland took part in the ceremonies as well as the ministers of education from the member states of the Council of Europe. Poland’s First Public Radio station broadcasted the Birkenau ceremony.

The subject of the Holocaust has been introduced in the basic educational curriculum in middle (grade 7-9) and high schools (grades 10-12). Moreover, many dynamic institutions that specialise in disseminating knowledge about the Holocaust are active in Poland. These include both Polish and international organisations, as well as cultural centres and museums, among which the camps to which visitors have access, especially KL Auschwitz-Birkenau, clearly play an exceptionally important role. In 2005, the subject of the Holocaust was particularly frequently present in media coverage due to the celebration of the 60th anniversary of that camp’s liberation.

³⁸ Broad refers to initiatives realised in at least a number of schools with activities not being limited solely to those schools (e.g. publications were prepared, a social campaign or cultural event was organised for the broader public).

The most frequently used form of disseminating knowledge regarding the Holocaust are Polish-Israeli and Polish-German international youth exchanges, as well as various youth meetings with specially prepared lectures, workshops and meetings with Holocaust survivors. The main actors organising these types of activities are the Auschwitz Jewish Centre Foundation [NFP/PL/0020], Centre for Dialogue and Prayer in Auschwitz [NFP/PL/0167], Forum for Dialogue Among Nations [NFP/PL/0113], and The International Youth Meeting Centre in Oświęcim [NFP/PL/0035]. The last of those organisations also conducts international seminars for methodology specialists and teachers. For example, on 16-23 April 2005, there was a Polish-German seminar entitled *History versus histories* [ACT/PL/0314] on the perception of the Holocaust in schoolbooks. It was directed at searching for new ways and methods of speaking about the Holocaust, the historical truth and the significance of developing own identity. Additionally, on 27 January 2005 the International Centre of Education about Auschwitz and the Holocaust was established. The Centre aims to take educational initiatives aimed at youth and teachers to combat racism and intolerance.

Among the numerous programs organised by the above-referenced organisations, it is difficult to indicate one that stands out as a best practice. The initiative described below seems interesting because it is directed to youth residing in the town of Oświęcim (Auschwitz), i.e. those whose place of residence imparts upon them a particular obligation to remember the Holocaust and develop intercultural dialogue.

During school year 2004/05, the Centre for Dialogue and Prayer in Auschwitz [NFP/PL/0167] organised the third edition of the *A place of residence: Auschwitz* [ACT/PL/0306]. The project's objective was to increase participants' knowledge regarding subjects related to their identity and place of residence, while also preparing them for dialogue with "Others" on the intercultural, inter-religious and international planes "at the threshold of Auschwitz". In the period between September through January, activities were held concerning Christian-Jewish dialogue and KL Auschwitz-Birkenau itself, its history and symbolism. Among other activities, youths toured locations closed to regular visitors, the fates of particular prisoners were presented and meetings were organised with former camp prisoners. Between February and June, activities regarding Polish-German relations were held, including meetings with German youth, the history of Oświęcim as well as issues of human rights, national religious and cultural minorities. Over a dozen students took part in the project.

Legislation

Legal provisions introduced in 2005

On 6 January 2005, nearly fifteen years after the initial draft was submitted to the Sejm, the act on national and ethnic minorities and regional language was passed.³⁹ This act basically repeats regulations referencing minorities currently contained in other laws and provisions of the Framework Convention formulating minority rights and establishing general principles concerning dealing with minorities. Article 6 of the Act introduces a prohibition against discrimination arising from membership in a minority and obligates public authorities to take certain steps to support intercultural dialogue, protect persons subjected to discrimination, hostility or violence and support complete and actual equality in economic, social, political and cultural life among persons belonging to minorities and members of the majority. It may also be considered that said Article restates certain assumptions of the Race Equality Directive. Moreover, Section 5 of the Act, indicating the entities in charge of national and ethnic minority affairs, contains regulations implementing, to some extent, Article 13 of the Directive. Pursuant to these regulations, the central government authority in matters covered by the act is the Minister of the Interior and Administration. At the local level government authority responsible for matters such as preventing discrimination of ethnic minorities is the Voivod. The act also institutes a Joint Committee of Government and National and Ethnic Minorities as the Prime Minister's consultative body, to cooperate with agencies of government administration and of local government, and with social organisations interested. The committee's tasks include actions aimed at preventing discrimination of minorities.

It is particularly the Minister of Interior and Administration who is charged with initiating programs to realise the principle of equal treatment of all people regardless of ethnic origin, conducting analyses of minorities' legal and social situations including cases of ethnic discrimination, and putting forward methods and strategies to counteract it. The Voivod is to cooperate with local authorities and social organisations. He or she may also establish a Plenipotentiary for National and Ethnic Minority Affairs. Similarly, the Joint Committee of Government and National and Ethnic Minorities works with government and local authorities as well as interested social organisations.

³⁹ Poland / Dz.U. 2005/17/141 (06.01.2005)

It must be noted, however, that the above regulations relate only to national and ethnic minorities defined and referred to in the act, not all people subjected to discrimination for ethnic or racial reasons.

Amendment of the Code of Civil Procedure should be mentioned with reference to implementation of Article 7 item 2 of Directive 2000/43/EC and Article 9 item 2 of Directive 2000/78/EC. The amendment became effective on 2 February 2005.⁴⁰ After amendment, Article 61 § 4 of the Code of Civil Procedure currently reads “Social organisations, the statutory objectives of which include protection of equality and non-discrimination by unwarranted direct or indirect discrimination of rights and obligations of citizens, may, in matters claiming thereunder, file complaints with the consent and on behalf of citizens, and, with claimant consent, join proceedings at any phase thereof”.

Transposition of the Council Framework Decision 2002/629/JHA

Polish law does not contain regulations imposed especially to transpose the Council Framework Decision on combating trafficking in persons (2002/629/JHA).

The acts the Council Framework Decision indicates should be criminalised concern Articles 204 § 4⁴¹ and 253 § 1⁴² of the Penal Code.⁴³

The mutual interaction of these two regulations is unclear. Supreme Court Chief Justice Lech Gardocki notes that due to difficulty in rationally interpreting Article 253 § 1 of the Penal Code in juxtaposition to Article 204 § 4 of the Penal Code, and foremost because of the general nature of Article 253 § 1 of the Penal Code, this regulation cannot be applied, because it contradicts the Constitutional principle of *nullum crimen sine lege certa*.⁴⁴

⁴⁰ Act on legal act amendment – Code of Civil Procedure and other acts, Poland / Dz.U. 2004/172/1804 (02.07.2004)

⁴¹ “Any person who entices or abducts another person with the purpose of forced prostitution outside the country’s territory is subjected to the penalty described in § 3 [up to 10 years imprisonment]”.

⁴² “Any person engaging in trafficking in persons even with their consent is subject to penalty of no less than 3 years imprisonment”.

⁴³ Poland / Dz.U. 1997/88/553 (06.06.1997) with subsequent amendments.

⁴⁴ See, among others: Gardocki L. (2003), *Prawo karne [Penal Law]*, 9th edition, Warsaw, p. 292.

Application of this regulation along with its construction with respect to Article 204 § 4 of the Penal Code has given rise to divergent interpretations in Polish courts. In the framework of the *National Program for Fighting and Preventing Trafficking in Human Beings* adopted by the Council of Ministers on 16 September 2003, the Ministry of Justice was charged with the task, to be carried out by 1 May 2005, of including in the Penal Code the definition of trafficking in persons, as formulated by the Council Framework Decision and UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. Such a definition was to standardise Polish jurisprudence. On 12 December 2004, the Ministry of Justice applied to the Council of Ministers for a recapitulation of their task, arguing the legal norm contained in a ratified international agreement is subsumed in the national legal system and that an additional introduction thereof to internal law would constitute a breach of legislative regulation principles.⁴⁵ The referenced ratified agreement is the cited UN Protocol.⁴⁶

For the next *National Program for Fighting and Preventing Trafficking in Human Beings for the years 2005-2006*, the tasks assigned the Ministry of Justice include researching judicial decisions in matters concerning trafficking in persons to examine conformity with the definition contained in the UN Protocol.⁴⁷

Transposition of the Council Directive 2004/38/EC

On 27 July 2002, the Act on principles and terms of entry and stay of European Union citizens and their family members on the territory of the Republic of Poland

⁴⁵ See Poland, Ministry of Interior and Administration (2005), *Sprawozdanie z wykonania Krajowego Programu Zwalczenia i Zapobiegania Handlowi Ludźmi* [Report of the Implementation of the National Program for Fighting and Preventing Trafficking in Human Beings], available at: http://www.mswia.gov.pl/index_wai.php?dzial=166&id=2174 (17.10.2005)

⁴⁶ The position of the Minister of Justice may be considered highly controversial. Although Poland joined the Protocol effective 25.12.03, it could be viewed as subsumed in the national legal system – pursuant to Article 91 paragraph 1 of the Constitution – not before the moment of publication in the Journal of Laws, which occurred only in 2005 (Dz.U. 2005/18/160). Moreover, pursuant to the mentioned Constitutional regulation, the ratified international agreement is applied directly, unless its application depends on passing of the act (Article 91 paragraph 1 of the Constitution). A review of the Protocol indicates it requires issuance of internal state normative acts.

⁴⁷ *Krajowy Program Zwalczenia i Zapobiegania Handlowi Ludźmi na lata 2005-2006* [National Program for Fighting and Preventing Trafficking in Human Beings for the years 2005-2006], available at: http://www.mswia.gov.pl/index_wai.php?dzial=166&id=2174 (17.10.2005)

was adopted.⁴⁸ It corresponds to the normative scope of Directive 2004/38/EC, excepting Chapter IV therein (Right to Permanent Residence), and some regulations of the act conform to this Directive. This Act does not correspond to the whole normative scope of Directive 2004/38/EC because according to the Article 6 of the Directive the Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 April 2006. In order to implement the whole normative scope of Directive 2004/38/EC the new draft of the act conform with the whole regulation of the Directive has been prepared.

The target beneficiaries of the act differ somewhat from the corresponding target beneficiaries set out in the Directive. Polish law does not limit the definition of a family member of an EU citizen to direct family members only. On the other hand, however, it does not compel the member state to facilitate entry and stay by EU citizens' informal partners and family members not covered by the definition contained in Article 2 item 2 of the Directive.

The regulation of entry by EU citizens and their family members to the territory of the Republic of Poland conforms to the Directive. The facilitation of visa obtainment for family members who are not EU citizens required by the Directive may be deemed assured by the regulation allowing issue of such a visa by the commandant of a Border Guard Checkpoint (Article 3, item 4 of the Act).

Pursuant to the Directive, stays in Poland by EU citizens and their family members not exceeding 3 months do not require permits or registration (Article 4, item 1 of the Act).

With respect to stays exceeding three months, the Act requires a residence permit – granted for 5 years with possibility of extension – or a temporary residence permit – granted for either 6 or 12 months, or for the intended duration of work or economic activity, provided the period of time is between 3 and 12 months. Both types of permits jointly meet all necessary terms provided for in the Directive regarding the right to stay on the territory of another member state (wage work, work on one's own account, studies, possession of appropriate funds, etc.).

Pursuant to the Polish act, an EU citizen who has been issued a residence permit, a temporary residence permit, or had these permits extended is issued an "EU citizen residence card". Family members who are not nationals of an EU Member State are issued a "residence document" (Article 13). Respectively, Directive 2004/38/EC speaks of "a registration certificate" or "residence card". Twinning of Polish law to EU law will require replacement of the obligation to apply for a residence or

⁴⁸ Poland / Dz.U. 2002/141/1180 (27.07.2002)

temporary residence permit and the possession of a residence card with the obligation of registration attested by a certificate issued “on the spot”.

Polish legislation does not guarantee the right of permanent residence to EU citizens residing legally in the territory of the Republic of Poland continuously for a period of 5 years, nor does it introduce the principle of protection from expulsion of EU citizens who have become integrated to a significant degree with the host member state.

Transposition of the Council Directive 2003/9/EC

Council Directive 2003/9/EC has become implemented into Polish law through two acts: the Act dated 13 June 2003, on granting protection to aliens within the territory of the Republic of Poland⁴⁹ and the Act dated 22 April 2005, amending this and other legal acts.⁵⁰ This regulation is, in certain aspects, even more favourable to people seeking protection in Poland than regulations contained in the Directive.

Regarding reception conditions, Polish law provides for, amongst other:

- a broad obligation to provide asylum seekers with information, including information on the rules and course of proceedings;
- detailed regulations for issuing a document certifying the alien’s identity during the period of proceedings;
- the general principle that alien asylum seekers shall not be detained, excepting narrowly defined and enumerated cases;
- in the event of passage of one year or more from the filing of an application for asylum, a decision of the first instance has not been issued and the cause of delay in proceedings is not the fault of the applicant, upon the alien’s request, the issuance of certification, which, together with the provisional document certifying said alien’s identity during the procedure period, shall constitute the basis for granting a work permit;
- granting asylum seekers access to health care in the same extent as inuring to persons covered by obligatory or voluntary health care insurance pursuant the Act dated 27 August 2004, on publicly financed health service, in other words, in the same scope that applies to Polish citizens;
- the realm of material reception conditions: including assistance to asylum seekers who evidence lack of sufficient means to cover costs of residing in the territory of

⁴⁹ Poland / Dz.U. 2003/128/1176 (13.06.2003)

⁵⁰ Poland / Dz.U. 2005/90/757 (22.04.2005)

the Republic of Poland and without other possibilities to secure housing and maintenance. Such assistance may take the form of placing the asylum seeker in a facility or granting financial benefits and medical care. Aliens assigned to facilities shall be assured food in kind or as financial allowances in exchange for food, tickets for travel in warranted cases, didactic materials for children taking advantage of education and care in public institutions as well as regular financial assistance for purchase of personal hygiene items and minor personal expenses. One-time financial aid may be granted to aliens for the purchase of clothing and footwear. Polish language classes and basic materials needed to learn this language may also be provided free of charge. Financial aid is awarded in the event stay in social facilities is inadvisable for medical reasons or to assure the alien's safety.

As for the scope of regulations in section IV of Directive 2003/9/EC concerning persons with special needs, extensive regulations are contained in sections 3 and 4 of Chapter II of the Act, entitled "Proceedings involving minors residing in the territory of the Republic of Poland without a statutory representative" and "Proceedings involving aliens whose psychophysical state gives rise to a presumption of subjection to violence, or with disabled aliens". Pursuant to these legal norms, a minor asylum seeker residing in the territory of the Republic of Poland without a statutory representative is assigned a custodian for the duration of refugee status proceedings as well as a guardian charged with caring for the minor and the minor's assets (the guardian's responsibilities include ensuring the minor's appropriate living conditions, ensuring access to education and healthcare, joint organisation of the minor's free time and active assistance in contacting national and international organisations whose statutory tasks include minor and refugee affairs, with the objective of finding the minor's family). Minors without caretakers are placed in guidance and counselling centres or in an asylum applicant residential facility. Only minors without caretakers cannot be placed in guarded detention centres and cannot be arrested with the aim of deportation, however, minors with caretakers can be placed in guarded detention centres together with them. The conditions of placing minors without caretakers in accommodation centres and the standard of care required therein are specified by the executive decree to the regulation of the Act issued by the Minister of Interior and Administration.

The Act also defines specific exigencies respecting actions or persons performing such in cases concerning aliens whose psychophysical state gives rise to a presumption of subjection to physical abuse with disabled aliens. The Act forbids placing such aliens in guarded detention centres and arrests with the aim of expulsion.

The decision to grant or reject refugee status is made by the President of the Office for Repatriation and Aliens, while the Refugee Board is the appellate body.

It should be made clear that there are four ways of granting protection to aliens in the territory of the Republic of Poland – granting refugee status, granting asylum,

granting a tolerated residence permit and granting temporary protection. Refugee status in the Republic of Poland is granted to aliens meeting conditions for being considered a refugee pursuant to the Geneva Convention and the New York Protocol. Aliens with refugee status possess rights equal to those of aliens granted a residence permit for a fixed term, unless the law provides otherwise. Aliens granted asylum are granted a residence permit. An alien may, upon request, obtain asylum in Poland in cases where it is indispensable to assure his/her protection or such comports with a substantial interest of the Republic of Poland.

Appropriate regulations of proceedings of granting refugee status referenced above are applied in asylum proceedings concerning aliens whose psychophysical state gives rise to a presumption of subjection to physical abuse, disabled aliens or unaccompanied minor aliens. Concerning minor aliens without caregivers, appropriate above-referenced regulations regarding material conditions of reception and healthcare are also applied in asylum request proceedings.

Provisions regarding religious congregations

Basic legal regulations on the activity of churches and denominational associations in Poland and their relations with the State are provided for in Article 25 of the Constitution. Moreover, Article 53 of the Constitution ensures freedom of conscience and denomination, which “also embraces possession of sanctuaries and other places of worship depending on the needs of believers as well as the right of individuals to take advantage of religious services wherever the individuals may be”. It also permits teaching the religion of a church or other legally recognised religious organisation in schools.⁵¹

Article 25 of the Constitution establishes the principle of equal rights of churches and denominational associations, the impartiality of public authorities in the Republic of Poland in matters of religious, world view or philosophical convictions and of assuring their freedom of expression in public life. Relations between the state and churches and other religious organisations is based “on the principle of respect for their autonomy and the mutual independence of each in its own sphere,

⁵¹ Other Constitutional regulations may be mentioned: Article 85 paragraph 3 on the right of any citizen whose religious convictions or moral principles do not allow him to perform military service may be obliged to perform substitute service in accordance with principles specified by statute, Article 32 paragraph 2 implementing a general and broad anti-discrimination clause, Article 191 paragraph 1, point 5 in relation to Paragraph 2 allowing churches and denominational associations to make application to the Constitutional Tribunal regarding normative acts relating to matters relevant to the scope of their activity and Article 35 paragraph 2 on the right of national and ethnic minorities to establish institutions designed to protect religious identity.

as well as on the principle of cooperation for the individual and common good". However, methods regulating relations between the Polish state and the Churches differ.

Pursuant to the Constitution, relations between the Republic of Poland and the Roman Catholic Church are defined by international treaty concluded with the Holy See in 1993 (concordat) and legal acts.⁵² Other denominational associations without international incorporation cannot enter into similar agreements with the state. For these associations, the Constitution provides that agreements shall be concluded between the Council of Ministers and appropriate representatives of the given denominations, and that appropriate statutes are to be then adopted on the basis of these agreements.

In practice said regulation has so far remained dead letter. Most churches and denominational associations act based on an entry in the register, pursuant to the freedom of conscience and denomination act.⁵³ The status of fourteen churches and denominational organisations is regulated by individual acts, albeit adopted before 1997, and thus not pursuant to the Constitution in force – not preceded by agreements.

The act guaranteeing freedom of conscience and denomination enumerates specific individual rights in the domain of freedom of conscience and denomination. It also contains general regulations on the relationship of the state toward churches and other denominational associations and provides for and regulates the right of a religious community to be entered into the register of churches and denominational associations maintained by the Minister of Interior and Administration. The law is non-binding and a denominational community may acquire legal status in another form, such as an association or foundation, or renounce any institutionalisation whatsoever. Nonetheless, after entry into the register of churches and denominational associations, the relation between the denominational community and the state is then based on the regulations provided for in the Constitution and statutes, especially in the act guaranteeing freedom of conscience and denomination. As such, the community's income from non-commercial statutory activity (collection plate, contributions) is exempt from income taxation and its clergymen obtain the right to social benefits and health service on a special basis. The specific rights of registered churches and denominational associations provided by law further include:

⁵² The concordat is an international agreement belonging to the group of agreements in the Polish law system which take precedence over other acts.

⁵³ Poland / Dz.U. 2005/231/1965 (17.05.1989)

- partial exemption of income from commercial activity from income taxation, in the portion of activity related to worship, cultural, scientific or other purposes provided for in the act on freedom of conscience and denomination;
- exemption of churches and denominational association organisations from real estate taxation, if they are an owner of the property or they use the property on any other legal basis for non-residential purposes, excepting portions of real estate devoted to commercial activity;
- exemption of goods received by the churches and denominational organisations from abroad dedicated to worship, charitable, caretaking and educational purposes from customs fees under the conditions of the Community system of reliefs from custom duty;
- exclusion from taxable income of donations for church charitable and caretaking activity;
- the possibility of receiving aid from the public Church Fund;
- non-application of rigors and limitations provided for in the act on assemblies to assemblies held as part church or denominational association activity.

“Readmission” agreements

“Readmission” agreements or protocols between Poland and non-EU Member States⁵⁴:

Byelorussia and Russia – Agreement between the Government of the People’s Republic of Poland and the Government of the Union of Soviet Socialist Republics on Legal Relations on the Polish-Soviet State Border and on Cooperation and Mutual Assistance in Border-Related Matters, along with the Protocol attached to this Agreement

Bulgaria – Agreement dated 24 August 1993 between the Government of the Republic of Poland and the Government of the Republic of Bulgaria on Readmission of Illegal Immigrants and the Executive Protocol between the Ministry of the Interior of the Republic of Poland and the Ministry of the Interior of the Republic of Bulgaria attached to this Agreement

⁵⁴ We do not mention agreements and protocols between Poland and EU Member States (such agreements exist with Belgium, German Federal Republic, France, Holland, Luxembourg, Italy, Austria, Czech Republic, Estonia, Greece, Spain, Ireland, Lithuania, Latvia, Slovenia, Slovakia, Sweden and Hungary) or agreements between the European Community and non-EU Member States (with Albania, Hong Kong, Macau, Sri Lanka).

Croatia – Agreement dated 8 November 1994 between the Government of the RP and the Government of the Republic of Croatia on Readmission of Illegal Immigrants and the Protocol between the Ministry of the Interior of the Republic of Poland and the Ministry of the Interior of the Republic of Croatia on the execution of this Agreement

Moldavia – Agreement dated 15 November 1994 between the Government of the RP and the Government of the Republic of Moldavia on the Transfer and Readmission of Illegal Immigrants and the Protocol between the Ministry of the Interior of the Republic of Poland and the Ministry of the Interior of the Republic of Moldavia on the execution of this Agreement

Romania – Agreement dated 24 July 1993 between the Government of the RP and the Government of Romania on the Transfer and Readmission of Illegal Immigrants Present on the Territory of the Signatory Parties and the Protocol between the Ministry of the Interior of the Republic of Poland and the Ministry of the Interior of the Republic of Romania on the execution of this Agreement

Switzerland – Agreement from September 1991 between the Government of the RP and the Swiss Confederation Federal Council on the Mutual Abolition of Visa Requirements

Ukraine – Agreement between the Government of the RP and the Government of Ukraine on Transfer and Readmission of Persons across the common State Border and the Protocol on the execution of this Agreement

Vietnam – Agreement dated 22 April 2004 between the Government of the RP and the Government of Socialist Republic of Vietnam on the Transfer and Readmission of Citizens of Both States and the Protocol on the execution of this Agreement

On 12 July 2005, the International Organization for Migration signed an agreement with Polish authorities concerning the voluntary return of aliens to their homeland. The agreement provides aid to asylum seekers in Poland who voluntarily wish to return to their homeland.

Provisions regarding health services access

Health services access for aliens, including immigrant groups and asylum seekers and refugees, is not regulated by a single legal act. Appropriate regulations are contained in various normative acts in Polish law and in international agreements. There are no specific regulations limiting the access of aliens to health services, although regulations do vary in the scope of access to the health services depending on the status granted a given person.

Therefore, asylum seekers are granted access to healthcare in the same scope as persons with obligatory or voluntary health care entitled to the health service on the basis of the Act dated 27 August 2004 on publicly financed health services. The

President of the Office for Repatriation and Aliens provides medical care to aliens granted temporary aid in Poland. The Aliens act grants aliens placed in guarded detention centres or arrests with the aim of deportation the right to medical care and hospitalisation if their medical condition so requires. The Act dated 22 April 2005 amending the act on aliens and granting protection to aliens within the territory of the Republic of Poland and certain other acts has given Article 5 item 2 of the Act dated 23 January, 2003 on General Insurance in the National Health Fund⁵⁵ the following form:

“Polish citizens living in the territory of the Republic of Poland, as well as aliens present in the territory of the Republic of Poland pursuant to a work residence visa, a residence permit for a fixed term, a settlement permit, a tolerated stay permit or possessing refugee status granted by the Republic of Poland or benefiting from temporary protection on its territory are entitled to insurance by the Fund, if:

- 1) they are subject to obligatory healthcare insurance
- 2) they are insured voluntarily”

According to the act on publicly financed health services other categories of individuals are also subjected to general – obligatory and voluntary – health care insurance, such as students and post-graduate students studying in the Republic of Poland.

Aliens present in Poland on an illegal basis are not entitled to publicly funded health services.

Finally, it is worth noting the Constitution of the Republic of Poland guarantees “everyone” the right to health care services (Article 68, item 1), but equal access to publicly funded health care services is ensured only to citizens (Article 68, item 2).

Voting rights in municipal elections

People who are not EU citizens do not have the right to participate in municipal elections in Poland. EU citizens do have the right to participate in such elections, pursuant to the Act dated 20 April 2004 amending the Act on electoral law for communal councils, poviata and voivodship councils [sejmiks],⁵⁶ implementing Council Directive 94/80/EC dated 19 December 1994.

⁵⁵ Poland / Dz.U. 2003/45/391 (23.01.2003) with subsequent amendments.

⁵⁶ Poland / Dz.U. 2004/102/1055 (20.04.2004)

Reports

Fragments devoted to Polish anti-discrimination legislation can be found in a report prepared by the E.U. Network of Independent Experts on Fundamental Rights,⁵⁷ as well as in the report of ECRI. ECRI recommends Polish authorities adopt a comprehensive body of legislation which contains clear and consistent anti-discrimination provision in areas such as education, housing, access to goods and services and healthcare. ECRI recommends a clearly defined concept of sharing the burden of proof in racial discrimination cases so that no confusion arises as to its scope and applicability when such cases are brought to court. ECRI considers that the above-mentioned lacunae in the Polish legislation partly explain this lack of jurisprudence on issues pertaining to racial discrimination. ECRI is, however, also of the view that the lack of understanding in Poland of the concept of discrimination also lies at the root of the problem. ECRI is particularly concerned that there is a general feeling among some officials that discrimination does not exist because it is not perceived as being a widespread problem and that there is therefore no need to legislate against it.⁵⁸

Good practices

At the end of July 2005, the Ministry of Justice completed preparations to conduct a series of seminars for prosecutors, devoted to preventing discrimination. One seminar, on 28-30 September, has been held so far, co-organised by the Government Plenipotentiary for Equal Status of Women and Men [NFP/PL/0016], with fifteen participants. The next seminar, also for fifteen participants, is planned for November, and subsequent ones for 2006 – five trainings, each for sixty prosecutors.

The Government Plenipotentiary for Equal Status of Women and Men [NFP/PL/0016] also holds training seminars entitled *Fostering tolerant attitudes towards diversity*. They are two-day workshops during which participants are acquainted with the Race Equality Directive. Judges, prosecutors, policemen, representatives of the Border Guard and Prison Service, local authorities, labour inspectors, trade union activists, as well as singular representatives of the media and

⁵⁷ E.U. Network of Independent Experts on Fundamental Rights (2005), *Thematic Comment No. 3: The Protection of Minorities in the European Union*, available at: http://www.cpdf.ucl.ac.be/cridho/InformesCFRCDF2004/them.comments2005_en.pdf (17.10.2005)

⁵⁸ ECRI (2005), *Third Report on Poland*, points 33 and 36, available at: http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Poland/Poland_CBC_3.asp (17.10.2005)

private employers attend the seminars. There are five trainings planned for the period between October 12 and November 4, for 250 people in total.

The Helsinki Foundation for Human Rights [NFP/PL/0001] in co-operation with Interights holds trainings concerning Race Equality and Employment Directives in the framework of the project *EU Non-Discrimination Law Training for Trainers from Poland, Lithuania and Latvia* [ACT/PL/0357]. The project's goals are twofold. Firstly, it aims to increase the capacity of local lawyers to litigate the discrimination cases and secondly, at increasing their capacity to teach the local lawyers how to litigate. The first training took place from September 28 – October 4 and was attended by nineteen people including eight Poles. The participants were attorneys, as well as lawyers working for NGOs, equality bodies, ombudsman bureaus and trade unions. They actively acquired knowledge on directives and litigation of discrimination cases. In early 2006, a training on didactic methodology will take place, and by spring, four-day national sessions will take place. The trained project participants will organise the latter. Two trainings are planned in Poland and one each in Lithuania and Latvia. Twenty lawyers will take part in each of these.

In 2005, there were no other significant good practices for legal practitioners on discrimination issues. There are, however, educational courses for lawyers and law students on refugee law: *Refugee Law Course* [ACT/PL/0353] organised by the Jagiellonian University – Human Rights Centre [NFP/PL/0063] and *Academy of International Refugee Law* [ACT/PL/0324] held at the Halina Nieć Human Rights Association [NFP/PL/0070].

Housing

New sources of information and reports

The only information sources regarding the housing area are control report from the Supreme Chamber of Control (NIK) conducted in refugee housing facilities and a monitoring report of deportation arrests and guarded centres for aliens. In 2005, there was no analysis conducted on the housing situation of minority groups and aliens living in Poland. When it comes to spatial segregation, the phenomenon essentially does not exist in Poland. Both national and ethnic minorities and migrants live integrated into the Polish community.⁵⁹ Exceptions are several “Roma settlements” found primarily in southern Poland. This issue had been described several times in previous years, but this year no study on the subject was published.

Some comments regarding housing can be found in several reports devoted to migrant issues and racial discrimination in general. In the report on active civic participation of immigrants in Poland, Krystyna Iglicka noted that housing is the most serious problem faced by refugees. “The refugees cannot easily find accommodation. There are fewer flats than refugees participating in the [integration] program. Some of them have to find on their own place to live and they face many obstacles.” The author sees the difficulties stemming mainly from the high cost of flat rental.⁶⁰

In 2005, the report of NIK entitled *Information on the results of government administration control of tasks related to protection of aliens in the context of Polish accession to the European Union* was published.⁶¹ Controls were conducted

⁵⁹ “In Poland, immigrants, do not live in ghettos” – quoted from: Migration Policy Group (2005), *Current Immigration Debates in Europe: A Publication of the European Migration Dialogue. Poland*, p. 13, available at: http://www.migpolgroup.com/multiattachments/3010/DocumentName/EMD_Poland_2005.pdf (17.10.2005)

⁶⁰ Iglicka K. (2005), *Active Civic Participation of Immigrants in Poland*, Country Report prepared for the European research project POLITIS, Oldenburg, available at: <http://www.uni-oldenburg.de/politis-europe/download/Poland.pdf> (17.10.2005)

⁶¹ Poland, Supreme Chamber of Control (2005), *Informacja o wynikach kontroli realizacji przez administrację rządową zadań związanych z ochroną cudzoziemców w kontekście przystąpienia Polski do Unii Europejskiej* [*Information on the results of government administration control of tasks related to protection of aliens in the context of Polish accession to the European Union*], available at: http://bip.nik.gov.pl/pl/bip/wyniki_kontroli_wstep/inform2005/2005136/px_2005136.pdf (17.10.2005)

between 5 August and 28 December 2004 in the Office for Repatriation and Aliens (URiC) [NFP/PL/0083], fifteen voivodship offices and seven refugee reception centres. Three of these were administered by URiC and four were rented from external entities. The control covered the period between 1 September 2003 and 30 June 2004.

Overall, the NIK positively evaluated social and subsistence conditions in refugee centres administered by URiC. However, respecting facilities leased from external entities, the number of aliens living there during the control period exceeded the number of places stated in the contract while not all places in other facilities were occupied. Moreover, it was stated that living conditions in one such facility were life threatening and hazardous to the health of its inhabitants. The facility was closed in March 2004 after its lease expired. The NIK noted, however, that URiC acted unreliably and inefficiently, as the contract with the tenant did not include minimal requirements with respect to social and living conditions nor penalties for failing to meet contractual terms.

The NIK also noted an irregularity in the form of insufficient security for aliens and employees in refugee housing facilities. The control found cases of aggressive behaviour by aliens, outbreaks of fighting with Polish citizens, as well as cases of possession of materials for the manufacture of drugs. Most cases of breaching social interaction rules and legal norms were not officially reported to facility employees, which prevented them from notifying law enforcement agencies. The refugee centres function as open facilities (aliens were allowed to come and go freely between 6 a.m. and 11 p.m.) with most centres located in wooded areas. Refugee centre location and functioning hampered assurance of controls and proper security conditions. The NIK noted that the noted negligence in the safeguarding of facilities (breaches in fences, lack of fencing) demands effective action by URiC to improve security conditions in the centres.

Certain irregularities were noted in relation to the conditions of accommodation of underage aliens in the Dębak centre. They concerned lack of isolation quarters for the ill and their visitors, as well as not assuring 24-hour care.

The NIK also noted the insufficient number of social workers at the centres – URiC assigned one employee to work directly with aliens at most centres. This could mean that one employee would have to work with nearly 200 aliens, as in the case of the centres in Łuków (183 people exactly) or Białystok (181 people). Furthermore, employees assigned to work directly with aliens also carried out other tasks, such as those related to registration or reporting.

With respect to the above cases, the NIK formulated post-control conclusions that were adopted for implementation. In the meantime, aliens protested against indecent living conditions and improper treatment by employees at a Warsaw centre in July and at the Lublin centre in August. According to Agnieszka Kosowicz from UNHCR [NFP/PL/0079], the main cause of tension in centres is the drastically low

number of social workers. UNHCR also notes the need to develop a method of working with centre inhabitants and introduce courses on topics such as multiculturalism, negotiating skills, problem solving and stress management. A separate problem is the low level of information obtained by asylum seekers concerning their rights, privileges and obligations, which spawns much of the frustration and many exorbitant expectations. Other problems indicated by UNHCR include the lack of children's playgrounds near centre buildings and no continuous offer of various activities for its inhabitants. Another issue is the lack of Polish language classes for refugee children during the summer season.⁶²

On 30 August, a meeting of delegates from eleven centres for asylum seekers with the directing staff of the URiC Centre Organisation Bureau was held in the presence of NGO representatives. Each centre representative gave a 15-minute presentation of the main problems faced by his/her cohabitants and characteristic requests and conclusions of their centre. The administration had an opportunity to explain and respond to the postulates. The meeting can be considered a first step in long-term cooperation and working out a new quality of relations between the parties.

At the end of 2004 and in 2005, the Halina Nieć Human Rights Association [NFP/PL/0070] conducted monitoring of detention centres for aliens.⁶³ Social conditions and observance of centre inhabitants' rights were studied. The monitoring took place in thirteen deportation arrests and in one guarded centre for aliens. The authors of the monitoring report unanimously stated that the living conditions in arrest quarters are decent and conform to international agreements. Nonetheless, they did point out several shortcomings and lapses. Financial shortages prevent aliens from being provided with clothing appropriate for the season, organisation of their free time, establishment of multilingual libraries, or financing proper healthcare. Detention centres do not have properly delineated smoking areas and food is not adapted to the cultural needs of the detained. Deportation arrests are sometimes merged with detention quarters. The lighting conditions in arrests are not sufficient for reading and the arrests do not enable the

⁶² Centre for International Relations, Centre for Migration Research (2005), "Strajk Czeczeńów w ośrodku dla uchodźców" [*Chechen strikes in refugee facility*], *Biuletyn Migracyjny*, no. 2, p. 3, available at: <http://www.csm.org.pl/pl/files/BiuletynMigracyjny2.pdf> (17.10.2005)

⁶³ In Poland there are two types of detention centres for aliens: guarded centres for aliens and deportation arrests in border guard or police premises. Foreigners who apply for asylum at the Polish border are automatically detained in closed centres. Similarly, asylum applicants against whom a decision of deportation has been taken may be placed in a guarded centre. In-country asylum applicants, i.e. those who do not apply for asylum at the border, are in most cases accommodated in refugee centres.

use of electrical appliances powered from the mains. The monitoring reports' authors have formulated appropriate recommendations for the above cases.⁶⁴

The ECRI has also noted in its report that living conditions in deportation centres are not satisfactory and has recommended the Polish authorities take all necessary measures to improve this situation.⁶⁵

New state provisions

Some new provisions related to reception centres for asylum seekers now apply due to the coming into effect of the Act dated 22 April 2005, amending the act on aliens and the act on granting protection to aliens within the territory of the Republic of Poland and other acts.⁶⁶ Temporary arrest or imprisonment of an alien was added to the list of circumstances, in which the URiC President may withhold, in whole or in part, the aid of accepting an alien into a housing centre or granting him/her financial aid.⁶⁷ The aid of accepting an alien into a housing centre may also be withheld when the alien explicitly breaches the facility's rules of social cohabitation (already in effect pursuant to prior provisions), or when the alien remains outside the centre premises for over three days without a valid explanation.⁶⁸ The amendment of legal acts related to aliens also states that aliens placed in refugee centres are to be provided didactic aids for children benefiting from education and care not only in public institutions, elementary schools (grades 1-6) and middle schools (grades 7-9), but also in post middle school (grades 10-12).⁶⁹ Granting aliens placed in centres a financial allowance for food is no longer limited only to cases when his/her medical condition requires a special diet for a duration of time specified by a physician, which diet cannot be assured by the facility (as had been previously in effect). Currently, the food allowance may be granted if an alien lives in the centre with children under 7 years of age (and not, as in previous acts, under 2 years of

⁶⁴ Halina Nieć Human Rights Association (2005), *Monitoring Polskich Aresztów Deportacyjnych i Ośrodków Strzeżonych [Monitoring of Polish Deportation Arrests and Guarded Centres for Aliens]*, Biuletyn Prawny Stowarzyszenia Praw Człowieka im. Haliny Nieć, no. 6, Kraków.

⁶⁵ ECRI (2005), *Third Report on Poland*, point 52, available at: http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Poland/Poland_CBC_3.asp (17.10.2005)

⁶⁶ Poland / Dz.U. 2005/94/788, (22.04.2005)

⁶⁷ Art. 2, item 18, Poland / Dz.U. 2005/94/788, (22.04.2005)

⁶⁸ Art. 2, item 18, Poland / Dz.U. 2005/94/788, (22.04.2005)

⁶⁹ Art. 2, item 17a, Poland / Dz.U. 2005/94/788, (22.04.2005)

age), or when the alien's underage child benefits from education and care not only in public institutions, elementary schools (grades 1-6) and middle schools (grades 7-9), but also in post middle school education (grades 10-12).⁷⁰

Good practices

All of the good practices against racism and discrimination in housing in 2005 were conducted for the benefit of the Roma community within the framework of the government *Programme for the Roma Community in Poland* as well as refugees in the framework of the initiatives outlined below.

In the framework of the government program for the Roma minority, funds were granted in 2005 to entities in nineteen localities for renovation of buildings and apartments inhabited by the Roma, installation of water supply networks, installation of lighting in a Roma residential community, purchase of a residential container, as well as for the regulation real property ownership and performance of inventory along with technical evaluation of a portion of the buildings. Work is still in progress.

From July 2004 to July 2005, the Social Policy Department in the Mazovia Province Office [NFP/PL/0161] in co-operation with a host of partners including the Warsaw Caritas office [NFP/PL/0056] carried out the project *Supporting integration of refugees and performance of social service on behalf of people awarded refugee status within the Mazovian Voivodship* [ACT/PL/0221]. The project was carried out with financial assistance from the European Refugee Fund and was intended to supplement shortages in refugee integration programs organised by family aid centres. In September 2004, a refugee rotational apartment rental program was initiated as part of the project. The Warsaw Refugee Information Centre for Refugees Caritas rented and administered ten apartments in Piaseczno, Płock and Siedlce. Refugees were also assisted in their efforts to individually rent apartments on the free market. Apartments for refugees were purposely rented outside Warsaw. Firstly, they are much cheaper. Secondly, it was assumed refugees living outside the capital will receive better aid from the given city's social services. Thirdly, it was considered that entering an integration program outside Warsaw may help obtain greater financial means from a given county's budget; and fourthly that it will create real chances for contacts between foreigners and the local community of the given county. However, the Caritas employee involved in the project reports of difficulties related to renting apartments.⁷¹ These difficulties were primarily caused by the fact that refugees do

⁷⁰ Art. 2, item 17b, Poland / Dz.U. 2005/94/788, (22.04.2005)

⁷¹ Phone interview, 07.10.2005.

not usually treat Poland as a country of final destination. Thus, it often happened that they suddenly left the assigned apartment and most probably moved to Western Europe, without notifying anyone of this fact. The abandoned apartment would remain empty until project coordinators realised it was uninhabited. In their actions aimed at helping refugees, Caritas decided to depart from the idea of granting rotational apartments to refugees. Instead, it devoted the administered funds to other aims, such as psychological help.

At the end of 2004 and beginning of 2005, the Voluntaries Centre Association made rotational flats for people with tolerated stay permits available in Lublin. The association encountered problems similar to those of Warsaw's Caritas.

Pursuant to the resolution of the City of Warsaw of December 2, 2004, refugees are granted up to five social living premises belonging to Warsaw's apartment supply.⁷² The Warsaw City Council together with the Warsaw Family Aid Centre is responsible for assigning these apartments. A committee that recommends refugees most in need of an apartment has been created to secure transparency in the beneficiary selection process. A separate commission, which examines these recommendations and decides who will be granted the apartment has also been appointed. NGOs dealing with refugees constitute the first body. A Caritas Poland [NFP/PL/0056] activist is part of the second team. The deadline for submitting application forms in the resolution's first year of application was September 20, 2005, and 17 forms were submitted. Currently, a WFAC worker is conducting guideline interviews among the recommended families. The commission will meet on October 25 to determine whom to award the apartments. The Premises Policy Bureau of the Warsaw City Council will supervise the process of lending for use.

Thanks to the efforts of the "Salvation" Foundation [NFP/PL/0136], another five apartments for refugees were offered in 2005 by the Social Housing Association of Warsaw's Praga Północ district. The decision whom to grant the apartments is made on a similar basis to that of the apartments awarded through Warsaw's apartment supply – beneficiaries were chosen by two commissions composed of the same members. In this case, the income criteria used by the SHA were a certain barrier for the refugees. Ultimately, however, five beneficiaries were selected and moved into their apartments during the summer.

A City Council resolution, which provides that municipal apartments from communal [*gmina*] resources may be rented to repatriates returning to the country or refugees present in Poland was also adopted in Lublin in 2001.⁷³ So far, however,

⁷² Warsaw City Council resolution of December 2, 2004 establishing the rules of renting residential premises belonging to the apartment pool of the City of Warsaw, paragraph 5.1e.

⁷³ Resolution of the Lublin city Council dated 06 December 2001 regarding leasing premises owned by the Gmina, paragraph 6, available at: <http://www.um.lublin.pl/pl/index.php?typ=news&look=all&id=10982> (17.10.2005)

because of the limited amount of reclaimed apartments and the necessity to accomplish earlier commitments, only six apartments have been provided to refugees.

Racist violence and crimes⁷⁴

New sources of information and reports

A new source of data and information on racist violence and crimes is the *Report on the realisation of the National Program Against Racial Discrimination, Xenophobia and Related Intolerance (2004-2009) between 18 May 2004 and 31 May 2005*.⁷⁵ However, the report is not available to the public. It includes an analysis of prosecutorial practices and final jurisprudential rulings related to racist crimes prepared by the Ministry of Justice.⁷⁶ The analysis found that in 2004, regional prosecution offices conducted 17 racist crime proceedings. In five of the cases, five suspects were indicted and three of these were convicted with final effect. In four cases, the investigations were dropped (one of those cases was transferred to a juvenile court). The remaining eight cases were discontinued with final effect, but these matters were placed under appellate and service oversight by appropriate entities of higher instance.

For comparison, a total of 28 proceedings regarding such crimes were reported in 2002-2003, 11 of which concerned the distribution of racist books and periodicals. Therefore, it may be considered that the number of such crimes has maintained at a stable level.

The statistics mentioned above were not made publicly available, although the national program assumes the task of making available statistical information on the results of proceedings and court rulings in the realm of racial discrimination, xenophobia and related intolerance. The task was to be realised by the Ministry of Justice in cooperation with the Government Plenipotentiary for Equal Status of Women and Men [NFP/PL/0016], but this did not occur. According to the Ministry

⁷⁴ As there is no data on Islamophobic cases and the available data regarding Anti-Semitic incidents is fragmentary (e.g. there is a lack of dates of incidents in given cases, or the lack of information regarding legal qualification of given acts according to the Penal Code), there is no concerning Annex.

⁷⁵ Poland, Government Plenipotentiary for Equal Status of Women and Men (2005), *Sprawozdanie z realizacji National Program Against Racial Discrimination, Xenophobia and Related Intolerance (2004-2009) w okresie od 18 maja 2004 do 31 maja 2005*, [Report on the realisation of the National Program Against Racial Discrimination, Xenophobia and Related Intolerance (2004-2009) between 18 May 2004 and 31 May 2005] (unpublished)

⁷⁶ As racist crimes may be deemed the crimes defined in articles 118, 119, 256, 257 of the Penal Code. The Ministry of Justice conducted its analysis taking into account Article 119 § 1, Articles 256 and 257 of the Penal Code.

of Justice, analyses of prosecutorial practice and jurisprudence evidence the marginal nature of such phenomena, and thus need not be made publicly available.⁷⁷

As in previous years, the Police Headquarters Office remains the source of data and information concerning racist violence. The police data are published on its website.⁷⁸ At present, statistical data are available regarding crimes committed in Poland in 2004.⁷⁹ They are as follows: art. 256 – 14, art. 257 – 22. In previous years, the data was as follows: in 2003, 14 crimes were committed under Article 256 and 15 under Article 257, in 2002 – 8 and 17 respectively, and in 2001 – 11 and 17. This data depicts a certain rising trend, although it is difficult to judge whether we are faced with a growing number of crimes, better detection or the appropriate classification of activities (see ECRI report below). Moreover, the information provided by Ministry of Justice and the Police Headquarters Office is collective data, and thus offers only a fragmentary view of the situation. It does not indicate precisely what crimes it respects, against whom the crimes were committed or whether and what kind of conviction was ultimately adjudged.

A new source of data and information concerning racist violence and crimes is the Team for Monitoring Racism and Xenophobia Issues [NFP/PL/0170], established within the structures of the Department of Denominations and National Minorities at the Ministry of Interior and Administration [NFP/PL/0015]. The Team is working on building a database of racial discrimination and violence cases, which will be partly available publicly. So far, the database has not been created. In the period between 1 January and 10 October 2005, the Team received 23 notifications,⁸⁰ of which 9 concerned battery,⁸¹ and 8 related to hate speech. The

⁷⁷ Poland, Government Plenipotentiary for Equal Status of Women and Men (2005), *Sprawozdanie z realizacji National Program Against Racial Discrimination, Xenophobia and Related Intolerance (2004-2009) w okresie od 18 maja 2004 do 31 maja 2005*, [Report on the realisation of the National Program Against Racial Discrimination, Xenophobia and Related Intolerance (2004-2009) between 18 May 2004 and 31 May 2005], p. 4 (unpublished)

⁷⁸ <http://www.kgp.gov.pl/> (17.10.2005)

⁷⁹ As racist crimes may be deemed the crimes defined in articles 118, 119, 256, 257 of the Penal Code. However, the Police Headquarters Office did not provide information regarding the number of crimes ascertained as committed under articles 118 and 119.

⁸⁰ This number includes events from 2004 reported to the Team in 2005. Notifications addressed to the Team have various forms; at times they are only e-mails informing the Team about a given incident, which do not include more specific information. The Team itself does not verify the veracity of the reported incidents, nor does judge the racist character of the event.

⁸¹ Three of these concerned Roma (two of which took place in 2004), and the rest concerned foreigners, including one Israeli citizen.

remaining 8 cases were complaints of alleged mistreatment by public officials. The Ministry of Interior and Administration referred the latter cases to jurisdictionally appropriate institutions for resolution. Eight of the nine cases of battery were reported to the police.⁸² Charges were filed in two cases and the police are continuing investigative proceedings in the remaining cases. Of the eight hate speech cases, 5 cases were submitted to the prosecutor's office and 3 were discontinued. In all 5 cases, hate speech was of an anti-Semitic nature. The aforementioned information is not publicly available.⁸³

The Plenipotentiaries for Human Rights Protection Issues active in voivodship headquarters and police academies since December 2004 as well as the Plenipotentiary of the High Police Commissioner for Human Rights Protection Issues [NFP/PL/0176] constitute new sources of information. Their tasks are set out in the *Police action schedule in the domain of human rights for 2005* and include collection of information regarding cases of racial and ethnic discrimination, anti-Semitism and xenophobia, collection of data regarding instances of hate speech and instances of activities by neo-Fascist groups.⁸⁴ According to information obtained from the Plenipotentiary of the High Police Commissioner for Human Rights Protection Issues [NFP/PL/0176], in 2005, the plenipotentiaries identified 15 race-related crimes of which two matters were dropped because the perpetrators were not identified. The others remain in progress (investigative proceedings are ongoing, the indictment has been filed with the court, the accused have been presented with the charges). One of the matters made it to trial, but no racial basis for the acts was found. Victims are usually persons of black skin colour and the Roma. Two of the 15 crimes are anti-Semitic hate speech.⁸⁵

In 2005, the Anti-Defamation League noted anti-Semitic statements made by Father Jankowski during the 25th anniversary celebrations of the establishment of the Solidarity trade union. The ADL underscored Father Jankowski's attitude toward Jewish issues as not having changed for many years and called upon the Polish Catholic Church to deprive him of the right to deliver sermons.⁸⁶

⁸² In one case the victim did not want to officially report the incident to the police.

⁸³ Made on the basis of information received from the Ministry of Interior and Administration at the request of the HFHR in relation to the preparation of the present report, e-mail dated 13 October 2005.

⁸⁴ Poland, Police Headquarters Office (2005), *Harmonogram działań Policji w zakresie ochrony praw człowieka na rok 2005* [*Police action schedule in the domain of human rights for 2005*] (unpublished)

⁸⁵ Made on the basis of information received from the Plenipotentiary of the High Police Commissioner for Human Rights Protection at the request of the HFHR in relation to the preparation of the present report, e-mail dated 15 October 2005.

⁸⁶ http://www.adl.org/PresRele/ASInt_13/4776_13.htm (17.10.2005)

No sources have reported racist incidents directed against Muslims. There was no publicly available study of Islamophobia in Poland. According to HFHR information collected for use in Rapid Response nos. 1, 2 and 3 in 2005, physical attacks on people of Islamic faith do not occur. Provocation and offensive comments targeted at Muslims occur rarely. After the London terrorist attacks, several press articles that were untoward to Muslims appeared and Muslim League members received a few telephone threats. The Polish Muslims' Association has a section on its web site entitled *Kiosk – Polish Media on Islam and Muslims*, that quotes and scores articles published in the Polish press.⁸⁷ The selection available, however, is not the result of a methodical press scan. Currently, the *Kiosk* contains links to nine articles published since early 2004, but it has not been updated since May 2005. One of the articles, with the lowest scoring, includes a response signed by the spokesperson of the Association addressing the editorial board of the periodical that had published the controversial text.⁸⁸

The most significant report on racist crime is the *Third report on Poland* prepared by ECRI.⁸⁹ ECRI points out the problem of anti-Semitism, violence against the Roma and the inappropriate attitude of Polish authorities towards the issue of ethnic violence. The problem of Islamophobia does not appear at all in the report.

Concerning anti-Semitism, ECRI noted this phenomenon persists despite the extremely small number of Jews living in Poland⁹⁰ and accused Polish authorities of remaining passive in fighting it. “During the last few years, anti-Semitism has sporadically manifested itself through physical attacks against Jews, notably by Skinheads, vandalism against Synagogues or Jewish schools or desecration of Jewish cemeteries and tombstones”. ECRI noted, however, “the number of these acts of violence against members of the Jewish community and their property is very small compared to other forms of anti-Semitism such as written and verbal abuses against Jews”. This mainly concerns the availability of anti-Semitic publications, the existence of anti-Semitic media (primarily Radio Maryja), anti-Semitic statements by politicians and priests and the use of the word “Jews” by football hooligans to insult their opponents. ECRI also noted the propagation of

⁸⁷ <http://www.ipdirect.home.pl/kmp/kiosk/index.htm>, (17.10.2005)

⁸⁸ Response to an article by Paulska, A. (2005) “Polskie dzieci Allaha” [*Allah’s Polish Children*], in: *Nowe Państwo*, (03.2005). Response available at: http://www.ipdirect.home.pl/kmp/pr010305Czy_terroryzm_ma_jakiekolwiek_podstawy_w_Islamie.htm, (17.10.2005).

⁸⁹ ECRI (2005), *Third Report on Poland*, available at: http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Poland/Poland_CBC_3.asp (17.10.2005)

⁹⁰ ECRI calls this phenomenon: „an anti-Semitism without Jews”, „virtual anti-Semitism”.

anti-Semitism on the Internet.⁹¹ Likewise, ECRI referenced the issue of hostility and sometimes even aggression toward the Roma. Information concerning this is provided by NGOs and also confirmed by Polish authorities. ECRI has expressed concern that some members of visible minority groups are sometimes physically assaulted. ECRI devoted much attention to the problem of the lack of appropriate reactions on the part of Polish authorities regarding instances of violence (both physical and verbal).⁹²

Good practices

Neither the police nor any other agencies organise initiatives that could be considered proactive responses to the needs of victims of racist crimes. So far, no specific police response strategy aimed at victims of such a crime has been devised, though such aid programs exist e.g. for rape victims.

In 2005, no specific police actions against racist crimes were conducted. The need to counter discrimination, racism, xenophobia and related intolerance has, however, been included in the *Police action schedule in the domain of human rights for 2005*, developed in connection with the appointment in 2004 of Commissioner's Plenipotentiaries for the Protection of Human Rights in each Voivodship Police Headquarters and each Police Academy. Activities scheduled for 2005 are subordinated to the objective of monitoring the aforementioned phenomena.⁹³

⁹¹ This part of the ECRI report has stirred controversy in Poland. One of the major journals, *Rzeczpospolita*, published an article in which it accuses the ECRI of unfair judgment. The article quoted statements by representatives of the Jewish community, also surprised by the ECRI's judgment: Piotr Kadłcik, Association of Jewish Religious Communes: „It is true that anti-Semitic incidents do occur here and that the authorities don't do much about it. Internet sites, publications, the Antyk bookshop, this is all true. But I do not assume that Poland can be called an anti-Semitic country or one in which anti-Semitism is widely present. Situations which occur in France or Germany do not take place in Poland. Here there are no physical attacks on community members; there are no attacks on synagogues”. Michał Sobelman, spokesperson of the Embassy of Israel: „We are not familiar with any cases of desecration of cemeteries or schools”. Jerzy Kichler, Association of Jewish Religious Communes: „In the two last years there were no serious anti-Jewish incidents in Poland”, *Rzeczpospolita*, 15 June, 2005, *Gazeta Wyborcza*, 16 June, 2005, information on the subject is also available at: <http://fzp.jewish.org.pl/news0605.html> (17.10.2005)

⁹² ECRI (2005), *Third Report on Poland*, points 19, 93-96, 98, 111, available at: http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Poland/Poland_CBC_3.asp (17.10.2005)

⁹³ Poland, Police Headquarters Office (2005), *Harmonogram działań Policji w zakresie ochrony praw człowieka na rok 2005* [*Police action schedule in the domain of human rights for 2005*] (unpublished)

Moreover, there has been focus on increasing the awareness of police to antidiscrimination issues. A curriculum and methodical package has been readied, entitled *Strengthening Anti-Discrimination Policy* intended as part of realisation of the professional continuing education program of police field units. These materials were distributed by the Słupsk Police Academy Commander to all other police academies, Capital Police Headquarters and all voivodship Police Headquarters. Discrimination prevention issues are also included in the basic professional police training curriculum as a separate subject matter as part of the activities devoted to ethical aspects of police service. Training in such issues is proceeding in accordance with the professional continuing education timetable for police field units, which was approved for realisation in 2005.

The Plenipotentiary for National and Ethnic Minorities in the Dolnośląskie Voivodship [NFP/PL/0061] has also become involved in activities to make policemen sensitive to the issue of racism and discrimination. In 2005, it conducted *Trainings for policemen from the Lower Silesia Voivodship regarding national and ethnic minorities and discrimination* [ACT/PL/0131]. The Plenipotentiary is also active in the domain of initiating cooperation between the Roma community and local authorities and police, especially in the Dolnośląskie voivodship. In 2004, it conducted the *Program of Trainings for Roma Organizers, Police, and Employees of Local Administration in the Dolny Śląsk Region* [ACT/PL/0272]. On February 10-11, 2005, it organised a national conference *Against discrimination: Roma – Administration – Police* [ACT/PL/0358], during which relations and ways of cooperation between these actors were discussed.

Training for police officers also took place on September 6 in the Voivodship Police Headquarters in Łódź. It was conducted in the framework of one of the EQUAL projects by the *Roma Circle of Life* Partnership for Development [ACT/PL/0232] and the Centre for Social Communication. It was attended by representatives of municipal and communal police stations and one representative each from the Crime Prevention Unit as well as the Łódź Voivodship Police Headquarters Crime Prevention Department. The training concerned mainly identifying and dealing with racist crime. It also familiarised participants with the origin and aims of the Partnership. Participants suggested organising meetings with the local Roma community in order to share experiences of mutual contacts.

No other significant initiatives aimed at counteracting racist crime (including anti-Semitism and Islamophobia) were undertaken in 2005, neither for the police nor for other target groups. The only actions in this domain are blocking of internet sites propagating “hate speech” [ACT/PL/0084; ACT/PL/0345], actions covering racist inscriptions [e.g. ACT/PL/0202] and workshop meetings of the Polish-German youth in Oświęcim (Auschwitz) and subsequently in Berlin in the framework of the *Youth against right-wing extremism* project [ACT/PL/0317].

Update of the Report

October – December 2005

Employment

Between 15 October and 31 December 2005 there were two works published devoted in whole or in part to migrant employment. The first, *Non-Poles on Polish Labour Market. Problems and Challenges*, was prepared for the *Get In* project [ACT/PL/0227].⁹⁴ The second, *Institutional Discrimination* was drafted as part of the *Xenophob – The European dilemma: institutional patterns and politics of 'racial' discrimination* [ACT/PL/180] project operated by the Institute of Public Affairs [NFP/PL/0076].⁹⁵

Non-Poles on the Polish Labour Market. Problems and Challenges consists of a number of parts, two of which are devoted to discrimination issues (the issue of unequal treatment and discrimination on the labour market; the issue of public debate concerning migrants living in Poland and visibility and awareness of discriminatory acts).⁹⁶

Just as in previous works on labour discrimination, this report also notes the scale of legal and illegal employment. According to estimates, there are about 40,000 legally employed immigrants, which constitutes a small percentage of all foreigners actually employed in Poland. The authors cite restrictive laws concerning employment of non-Polish citizens as the cause of this and feel this law is a certain form of discrimination. Viewing the problem in this matter also gives rise to the conclusion that indirect discrimination occurs more frequently in Poland than direct discrimination. Nonetheless, authors of the report state, “It is, however, difficult to say that discrimination is inherent in the state system in Poland, in law and regulations, rules operating in work places or schools, political parties, etc.”⁹⁷ When asked about cases of discrimination, migrants rarely complain of permanent or repeated discrimination. They also note the difficulty in providing unequivocal evidence of intolerance and cite incidents or conflict situations in which both sides of the dispute were equally active. Some respondents complain they are the subject

⁹⁴ Caritas Polska (2005), *Non-Poles on Polish Labour Market. Problems and Challenges*.

⁹⁵ Institute of Public Affairs (2005), *Institutional Discrimination*, available soon at: <http://www.isp.org.pl/>

⁹⁶ Other parts present: general migratory trends in Poland and studies on attitudes towards non-Poles; a specificity of foreign labour market in the country showing the conditions of the Polish labour market itself, attempting to classify non-Poles working in Poland and giving an overview of legal frames for foreigners' employment; state institutions and NGOs that deal with immigrants' and discrimination issues.

⁹⁷ Caritas Polska (2005), *Non-Poles on Polish Labour Market. Problems and Challenges*, p. 18.

of unpleasant insinuations and sarcastic remarks. However, they do not have a problem with finding work. They accept low-status and low-paid jobs as a result of their own economic decisions.

The report concludes that, “migrants encounter some symptoms of discrimination but the phenomenon is rather connected with inflexible and imperfect state system of dealing with non-Poles. Single cases of discrimination of immigrants are unavoidable and do appear, but a phenomenon of active discrimination is not a significant social problem in Poland”.⁹⁸

Just as in other research and reports cited in the main section of the National Annual Report, no cases of a formal complaint or court proceedings concerning discrimination were found during the *Get In* project [ACT/PL/0227].

The report prepared as part of the *Xenophob* project [ACT/PL/180] focused solely on the issue of legally employed migrants and the existence of institutional discrimination toward that group and the strategy used by foreigners to deal with the Polish employment market. However, the report’s authors observe that, “the real problem on the Polish market was related to the illegal migrant workers”.⁹⁹ They also point to difficulties faced by refugees, those residing in refugee centres or who have just left such centres. On the other hand, they also note the phenomenon of positive discrimination of foreigners. This applies mainly to foreigners arriving from Western states and highly qualified specialists.

The general conclusion of the research conducted for the needs of the report is that there are certain problems related to employing immigrants in general. “Legal regulations offer a rather ‘rigid’ model of employment for legal immigrants. However, the rules and procedures constituting the model are not coherent and thus they may not be treated as a symptom of discrimination *par excellence*. Rather, they are meant as measures to protect the home labour market”.¹⁰⁰ Further, Poland has been a mono-ethnic country for more than fifty years (or at least treated as such), without significant participation by foreigners in the labour market. Thus, there is a want of skills and experience in dealing with migrant workers, including on the legal and institutional levels.

That is also why, since immigrant strategies result from the immigrants’ practical experience with Polish institutions and their effectiveness (or lack thereof), foreigners frequently choose self-employment in order to become other category of

⁹⁸ Caritas Polska (2005), *Non-Poles on Polish Labour Market. Problems and Challenges*, p. 20.

⁹⁹ Institute of Public Affairs (2005), *Institutional Discrimination*, p. 108, available soon at: <http://www.isp.org.pl/>

¹⁰⁰ Institute of Public Affairs (2005), *Institutional Discrimination*, p. 107, available soon at: <http://www.isp.org.pl/>

subject on labour market. This is the way in which legal immigrants cope with the rigidity of legal regulations.

Regarding good practices:

In the period between October and December 2005, there was no progress made on the *EQUAL Community Initiative for Poland 2004-2006* in the realm of supporting national and ethnic minorities as well as immigrants on the labour market. As of the end of 2005, none of the Partnerships for Development formed to execute such activities had signed an agreement with the National Supporting Structure to execute phase two of the program, i.e. Activity 2, even though Activity 1 had been completed on 30 June 2005, and the deadline to sign an agreement was 15 November 2005. In October 2005, the Partnerships were predicting various perturbations, pointing out difficulties in communicating with the NSS and over-bureaucratisation of activities and, sometimes, certain difficulties within the Partnership.¹⁰¹ For its part, the NSS has noted the need to verify successive versions of the budget presented by the Partnerships.¹⁰²

Ultimately, the deadline for signing agreements was moved to 2006. It is noteworthy that among all of the 107 Partnerships participating in the EQUAL program in Poland, only 30 had signed agreements for execution of Activity 2 as of the end of 2005.¹⁰³ In December 2005, by a decision of the Institution Managing the EQUAL Community Initiative, an EQUAL Community Initiative recovery team was formed, whose task is to analyse functionality of applied solutions and suggest activities for improvements. The team consists of representatives of the Managing Institution, the NSS and independent experts. Partnership representatives will become their consultants in January 2006.

¹⁰¹ Opinions expressed in telephone conversations we held for purposes of the Annual Report 2005 at the outset of October 2005 with representatives of Partnerships for Development realising EQUAL projects on behalf of national and ethnic minorities as well as foreigners.

¹⁰² Poland, National Supporting Structure (2006) *Podsumowanie procesu podpisywania Umów o dofinansowanie Działania 2 w ramach PIW EQUAL (stan na 31.12.2005)* [Summary of the process for signing Agreements for grants for Activity 2 as part of EQUAL Community Initiative (status as of 31.12.2005)], pp. 2-3, available at: <http://www.bkkk-cofund.org.pl/download/podsumowanie%202006.doc> (20.01.2006)

¹⁰³ Poland, National Supporting Structure (2006) *Podsumowanie procesu podpisywania Umów o dofinansowanie Działania 2 w ramach PIW EQUAL (stan na 31.12.2005)* [Summary of the process for signing Agreements for grants for Activity 2 as part of EQUAL Community Initiative (status as of 31.12.2005)], p. 1, available at: <http://www.bkkk-cofund.org.pl/download/podsumowanie%202006.doc> (20.01.2006)

Education

Two reports were published between October and the end of December that discussed immigrants. The first is a report drafted by the Institute of Public Affairs [NFP/PL/0076] as part of the *Xenophob – The European dilemma: institutional patterns and politics of 'racial' discrimination* project [ACT/PL/180] and it is entitled *Institutional Discrimination*.¹⁰⁴ The other is the *Report on monitoring execution of the education obligation by minor aliens in refugee centres* prepared by the Legal Intervention Association.¹⁰⁵

The reports are quite informative, though they add little to conclusions contained in similar works of previous years. However, the attention paid to the contents of textbooks by the *Institutional Discrimination* report is new. In the opinion of experts, “others”, those who come from abroad, immigrants – are practically absent in Polish textbooks. Therefore, if they are mentioned at all, it depends on the creativity of the given teacher.¹⁰⁶

NGO activists, representatives of state institutions related to the educational system, as well as academics working on the problem, were interviewed for the *Institutional Discrimination* report. Experts noted that schools to which immigrants are admitted do not offer a lower than average level of education. Moreover, the fact that the immigrant children are dispersed in Polish schools probably makes the actual impact of their presence on school results obtained by other students in the given class and school statistically insignificant. However, it was noted that children of refugees and asylum seekers have difficulties in school due to lack of familiarity with Polish, though they attain relatively good results in the hard sciences. Their parents often treat Poland as a transit country and thus usually do not place importance on investing in the education of their children, especially in learning Polish. Sometimes, they do not believe that children must learn a lot, which is a cultural conviction. In light of the above, the actual grades and graduation from class to class of immigrant children does not correspond to their real skills and abilities.

¹⁰⁴ Institute of Public Affairs (2005), *Institutional Discrimination*, available soon at: <http://www.isp.org.pl/>

¹⁰⁵ Legal Intervention Association (2005), *Raport z monitoringu realizacji obowiązku szkolnego przez małoletnich cudzoziemców, przebywających w ośrodkach dla uchodźców* [*Report on monitoring execution of the education obligation by minor aliens in refugee centres*], available at: <http://www.interwencjaprawna.pl/raport.pdf> (20.01.2006)

¹⁰⁶ Institute of Public Affairs (2005), *Institutional Discrimination*, p. 39, available soon at: <http://www.isp.org.pl/>

Additionally, the report contains interviews with employees of two schools, one in Warsaw and one in Łuków. The former is a renowned private/social junior high school (grades 7-9) known for its very affirmative approach to immigrants. The latter is a public junior high (grades 7-9) located near a refugee centre, and is therefore attended mainly by children of parents awaiting decisions as to their refugee status. This is the only junior high school in the entire voivodship where the number of foreign pupils exceeds ten.¹⁰⁷

The foreign students attending the Warsaw school may be divided into four groups: a few children of Western businessmen or diplomats, a few young Ukrainians, a group of refugees mostly from Chechnya, as well as over ten children of Vietnamese origin (they are usually very good students, especially gifted in math and science). Students pay tuition, but in each grade level there are two children exempted from the fees. These are either Polish orphans, children from poor families living near the school and/or refugees. The school provides various integration activities, as well as, if necessary, remedial activities. Teachers use auteur textbooks that emphasize eradication of prejudice and stereotypes.¹⁰⁸

The situation differs in the Łuków school attended by children of asylum seekers. Teachers unwillingly devote time to these students, as they do not believe the children will remain in Poland. The children of asylum seekers are reluctant to integrate with Polish students and do not really apply themselves. Since the junior high was established in 1999, no such child has completed the school (usually because they left). Two years ago, there was one violent incident at the school. A Polish student beat up a Chechen schoolmate and the latter called on his friends for help; a general brawl ensued between Polish and Chechen students. Since then, there has been continual tension in relationships between the Polish citizens and the

¹⁰⁷ Authors of the report note that the number of immigrant pupils in Polish schools is very low. During school year 2003/2004 there were only 3,437 such students in all types of Polish schools (p. 20). About one third of all alien students attend schools in the Mazovian Voivodship. However, even in Warsaw it is difficult to find a school in which the overall number of foreign-origin children exceeds ten individuals (p. 16). The number of foreigners studying at Polish universities is also relatively low. The relative number of foreign to domestic students is currently lower than during the communist period. That is also why, as noted by the report's authors, immigrant pupils are not considered an important issue by the Polish educational authorities. At the same time "the lack of interest in immigrant pupils' problems is not kind of discrimination but it is a consequence of lack of immigrant pupils. Therefore, owing to a very small scale of the phenomenon as yet, it is difficult to investigate institutionalized forms of school segregation in Poland. According to that at present, our thesis is that the problem of immigrant pupils is rather a problem of some schools attended by these pupils not the problem of the whole system" (p. 16).

¹⁰⁸ Institute of Public Affairs (2005), *Institutional Discrimination*, pp. 40-46, available soon at: <http://www.isp.org.pl/>

refugees in Łuków. This tension is compounded by the fact that, generally, Poles in Łuków are poor and envy the benefit payments received by the refugees.¹⁰⁹

The situation of immigrant children is better in the Warsaw than the Łuków school. This is not that related to the level of teaching, but the attitude of teachers and other students toward migrant children. Authors of the report underscore that various types of private education opportunities seem more open to legal immigrants (e.g. they carry out integration programs) than the public ones. The authors feel it is school districts that should deal with improving the situation in public schools. They further noted that the immigrant students should be registered, as so far there is no reliable data either on the number of immigrant children within the Polish education system or the time span they remain within the system. The authors recommended the design of textbooks, which could take into account new knowledge resources including multiculturalism in the image of Poland, as well as manuals systematically oriented towards building programs of integration.

In summarising the research results, the report authors write, “children of immigrants are not segregated in the educational systems, if by segregation a systematic channelling to special types of programs or sending the immigrant children to worse schools is meant (...). However, one needs to highlight the presence in it as many stereotypes feed discrimination”.¹¹⁰ Taking into account the reflections of all the interviewees, the report deemed that “problems within the system of education have to be related to the way local communities react to the problem of proximity in which a detention camp for asylum seekers is located, and not as reactions to dispersed groups of immigrants and their incompatibility with the requirements of the Polish school”.¹¹¹

The Legal Intervention Association report was prepared based on monitoring conducted at the outset of October 2005. The report covered sixteen refugee centres operating in Poland. A survey was distributed to centre management with a request for responses to enclosed questions.

It turns out that less than half of 655 school-age children (7-18 years-of-age) actually attend school (338). This situation is disturbing and in violation of the law.¹¹²

¹⁰⁹ Institute of Public Affairs (2005), *Institutional Discrimination*, pp. 47-52, available soon at: <http://www.isp.org.pl/>

¹¹⁰ Institute of Public Affairs (2005), *Institutional Discrimination*, p. 108, available soon at: <http://www.isp.org.pl/>

¹¹¹ Institute of Public Affairs (2005), *Institutional Discrimination*, p. 106, available soon at: <http://www.isp.org.pl/>

¹¹² However, as noted by one of the report’s authors, “note that this is a record, because as long as refugee centres have been operating in Poland, it has never happened that so many

Parents are responsible for execution of the school attendance obligation, but it is the director of the elementary school or junior high school of the district within which the child resides that is entrusted with verification of that execution. The same is true of gmina [county] authorities with respect to attendance of schools after junior high. Regulations also provide that alien children shall attend schools upon principles applicable to Polish citizens. An exception here is the lack of documents confirming a child's completion of an appropriate school or grade abroad. In such case, the school director is required to conduct a qualification proceeding that consists of an entry or qualification exam. The qualification exam determines to which grade (teaching level) the child may qualify based on the child's skills and Polish curricular requirements. In the event of insufficient or total lack of Polish language skills, a child is to be assured additional Polish language lessons for one year, free of charge. This is the obligation of the gmina in which the child resides.

However, the report indicates no gmina is fulfilling this obligation and schools do not always make good on their duty to accept minor aliens. Not a single school educates alien children aged 16-18, i.e. past junior high. None of the schools organise Polish language courses or take part in organising such (the Office for Repatriation and Aliens [NFP/PL/0083] or volunteers provide the classes actually offered).

Just barely over half the children living in the alien centres have taken the qualification exam. The reasons listed for this were insufficient Polish language skills, arrival at the centre after the exam was offered and lack of interest by parents. Of the 326 children taking the exam, 137 did not pass, through the exam should only be a form of qualification to the appropriate teaching level rather than a form of elimination.

children attended school," stated Witold Klaus during the *Polityka wobec migrantów i problem dyskryminacji w Polsce – z doświadczeń praktyków, ekspertów i badaczy* [Migrant Policy and Discrimination Problem in Poland – experiences of practitioners, experts, and researchers] conference organized in the Institute of Philosophy and Sociology of the Polish Academy of Sciences, Warsaw, 28 November 2005.

The table below presents the situation of alien children in particular centres:

Centre	Number of school-age children	Number of children taking exam	Number of children passing exam	Number of children attending school	% of children attending school
Jadwisin	40	31	31	31	77.5
Wołomin	39	30	1	25	64.1
Linin	51	18	18	26	50.9
Lublin	40	23	17*	19	47.5
Legionowo	23	26	2	2	8.6
Łomża	34	24	19	19	55.8
Warszawa – Siekierki	22	-	-	16	72.7
Warszawa – Bielany	121	73	35	33	27.2
Czerwony Bór	46	29	17	17	36.9
Łuków	47	40	28	25	53.2
Białystok – Budowlani	51	-	-	45	88.2
Warszawa – Ciołka	24	8	1	6	25
Białystok – Iga	48	-	-	33	68.75
Moszna	32	9	9	32	100
Radom	35	15	11	7	20
Dębak	2	-	-	2	100
TOTAL	655	326	189	338	51.6

* No data available for junior high.

Source: Legal Intervention Association (2005), *Raport z monitoringu realizacji obowiązku szkolnego przez małoletnich cudzoziemców, przebywających w*

ośrodkach dla uchodźców [Report on monitoring execution of the education obligation by minor aliens in refugee centres], p. 9, available at: <http://www.interwencjaprawna.pl/raport.pdf> (20.01.2006)

Pursuant to the regulations, the qualification proceedings are conducted twice a year prior to the start of the semester. Authors of the report note, however, that in the case of persons undergoing asylum proceedings there should be the possibility to conduct the exams more frequently. In addition, these exams sometimes actually take place after the start of the school year. Children cannot attend school while awaiting the results and thus begin their learning behind their Polish peers.

Authors of the report also recommend implementation of innovative solutions in classes accepting foreign children that do not yet have sufficient Polish language skills to prevent them from hindering the course of teaching Polish students. Adding another teacher who would assist foreign children during classes seems like a good solution. They also recommend enrolment of such children in intensive Polish language courses (a number of hours daily) before admission into a regular class. Further suggestions include providing additional inducement for parents to observe their children's education obligation, e.g. by suspending their benefits.

Legislation

The most important change in the realm of legislation to take place between October and December 2005 was elimination by the government of the Government Plenipotentiary for Equal Status of Women and Men [NFP/PL/0016].¹¹³ The Plenipotentiary's main field of activity were issues concerning gender equality, however, pursuant to the decree of the Council of Ministers dated 25 June 2002, the office also fulfilled the function of the Special Body described in art. 13 Race Equality Directive.¹¹⁴ However, the Plenipotentiary was not a Special Body to a full extent. Its duties included preparation of the office of the Discrimination Inspector, which was to be the actual Special Body pursuant to art. 13 Race Equality Directive, but until the Inspector's office was established, the Plenipotentiary performed the tasks assigned to the Special Body.¹¹⁵

According to the authorities eliminating the office of the Plenipotentiary, the tasks previously performed by that office are to be transferred to the jurisdiction of the Vice Minister of Labour and Social Policy. In fact, a Department for Women, Family and Discrimination Prevention Issues was established within that Ministry. However, pursuant to the Regulations of the Ministry of Labour and Social Policy, this department is responsible for coordination of activities related to the status of women and the family within society and executes tasks concerning prevention of discrimination for any reasons in all areas of social, economic and political life, excluding matters related to prevention of ethnic discrimination.¹¹⁶

Therefore, as of 3 November 2005, there is no entity in Poland fulfilling the role of the Special Body under art. 13 Race Equality Directive.

¹¹³ Decree of the Council of Ministers dated 3 November 2005 regarding abolition of Government Plenipotentiary for Equal Status of Women and Men. Poland / Dz.U. 2005/222/1913 (04.11.2006)

¹¹⁴ Decree of the Council of Ministers dated 25 June 2002 regarding Government Plenipotentiary for Equal Status of Women and Men, Poland / Dz.U. 2002/96/849 (01.07.2002) with subsequent amendments.

¹¹⁵ In 2003 the Plenipotentiary attempted to establish an office, but was not successful.

¹¹⁶ Poland, Ministry of Labour and Social Policy (2005), Statute of the Ministry, pa. 21, art. 1, available at: <http://www.mps.gov.pl/index.php?gid=654> (20.01.2006)

Housing

Between 15 October and 31 December 2005 there were no reports on any new publicly available evidence, issues or events regarding racism and discrimination in housing.

Racist violence and crime

There are no new publicly available statistics concerning racist violence and crime. At the request of HFHR, the Plenipotentiary of the High Police Commissioner for Human Rights Protection Issues [NFP/PL/0176] prepared information regarding hate crimes committed in the last quarter of 2005. In this period, the police recorded 12 such crimes – five under art. 256¹¹⁷ of the penal code and seven under art. 257¹¹⁸ of the penal code. Two matters were dropped; in the others, the perpetrators were charged or explanatory proceedings are in progress.

According to the Plenipotentiary's data for the prior three quarters, the number of hate crimes committed between January and September totalled 15, i.e. a total of 27 for the year. At first glance it may seem disturbing that nearly the same number of crimes were committed in the last quarter as in all previous three quarters combined. However, it seems the statistical growth is a result of increased awareness among police officers regarding the problem of hate crimes rather than evidence of increasingly racist attitudes. Such an interpretation is supported by the fact that a significant number of proceedings were instigated at the behest of the police rather than being filed by the victims. The only constant in the data is that the majority of assault victims were of African origin or had dark skin colour.

In the period between 11 October and 31 December 2005 the Team for Monitoring Racism and Xenophobia Issues [NFP/PL/0170] was informed about one case of anti-Semitism in the internet. Data collected by the Team are not publicly available.

The *Antisemitism Worldwide 2004: Poland*¹¹⁹ was published in the last quarter of 2005 and describes three anti-Semitic incidents.¹²⁰ The report notes the issue of distribution of racist publishers by the state press distribution company "Ruch", particularly the anti-Semitic publications of Leszek Bubel. The work also referenced right-wing circles. It noted that the anti-Semitic¹²¹ political party, League of Polish Families, received 15 per cent of the vote in European Parliamentary

¹¹⁷ Public propagation of Fascism, calling for racial, ethnic or religious hatred.

¹¹⁸ Insult or assault of persons or groups due to their racial, ethnic, religious or national affiliation.

¹¹⁹ Tel Aviv University, The Stephen Roth Institute (2005), *Antisemitism Worldwide 2004: Poland*, available at: <http://www.tau.ac.il/Anti-Semitism/asw2004/poland.htm> (20.01.2006)

¹²⁰ Swastika and star of David graffiti on the walls of the synagogue in Krakow's Kazimierz District, a tabloid-style weekly, *Angora*, hung anti-Semitic posters on its offices in Łódź; taunts and insults of people visiting the Auschwitz concentration camp.

¹²¹ Note: term used by authors of the *Antisemitism Worldwide* report.

Elections and one of its leaders was elected Chairman of the Warsaw city council. Also, Radio Maryja conducted a campaign defending Father Jankowski, who was charged with paedophilia. Meanwhile, Jankowski himself called the charges a “Judeo-communist plot”. The report’s general conclusion is that anti-Semitic activity in Poland maintained at a steady level in 2004.

In supplementing the above information concerning Leszek Bubel¹²² whose activities were noted in the majority of reports and works devoted to racism issues, it is noteworthy that on 28 October 2005, Bubel was convicted and fined for making anti-Semitic statements. The District Court in Warsaw ruled that he committed a crime by insulting the Jewish nation in his statement. The Court decided that Leszek Bubel’s publication entitled *Polsko-żydowska wojna o krzyże* [*The Polish-Jewish War over Crosses*] constitutes an infringement of the constitutional freedom of speech, and such statements as “their brains were circumcised” and “the Jewish seed is deceitful” objectively insult the entire Jewish nation. Art. 257 of the Polish penal code prohibits insulting individuals because of their ethnic, national, racial and religious affiliation, and the violation of this ban is subject to a penalty of imprisonment for up to 3 years. The Court departed from the punishment, which the prosecutor’s office demanded (half a year of imprisonment suspended for 2 years) and ruled that Leszek Bubel will pay 2,500 PLN to the Polish Red Cross. Justifying the verdict, the judge stated that the court wished to avoid a situation in which Leszek Bubel “would become the martyr of this case”, and sentencing him to the punishment of imprisonment, even if suspended, could lead to such a case.

¹²² Leszek Bubel was a presidential candidate of the Polish National Party during the last presidential elections in October 2005 and received 0.13 per cent of the total vote.

Conclusions

Conclusions of the Polish Annual Report need not to be modified after the above information is added.