

Information submitted by Poland for the Universal Periodic Review

Methodology

The national report has been prepared by the Ministry of Justice and the Ministry of Foreign Affairs on the basis of their own materials and those supplied by the Ministry of Interior and Administration, the Ministry of Labor and Social Policy, the Ministry of Health and the Ministry of National Education. Requests for comments on the preliminary draft of the report were also addressed to representatives of NGOs, the relevant parliamentary committees and the Civil Rights Ombudsman (Commissioner for the Protection of Civil Rights)

Normative and institutional mechanisms of human rights protection and promotion

I. Human rights in the Constitution of the Republic of Poland

The standards of protection of freedoms and human rights are enshrined in Chapter II of the Constitution. They reflect regulations contained in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter.

Article 30 of the Constitution recognizes human dignity as the source and grounds of a whole catalog of rights and freedoms, stipulating that it is inalienable and that the respect and protection thereof is the obligation of public authorities.

The obligation to respect human dignity and observe human rights is the overriding principle of the conduct of public authorities towards citizens, hence, it has been laid down in a number of bills, e.g. those governing the activity of the Police and the Border Guard, and in the Executive Penal Code.

Article 31 of the Constitution ensures respect for the freedom of the person, stipulating that it is subject to legal protection. Everyone is obligated to respect the freedoms and rights of others. No one may be compelled to do anything that is not required by law. Any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute and only when necessary in a democratic state for the protection of its security or public order, protection of the natural environment, health or public morals or the freedoms and rights of other persons, with the proviso that such limitations cannot violate the essence of freedoms and rights.

II. Constitutional means of the protection of freedoms and rights

Article 77 of the Constitution grants every person the right to compensation for damage caused by unlawful actions of an organ of public authority.

The State Treasury is liable for damage caused in the execution of public authority (through the actions of public official – both civil persons and managers of public enterprises, persons acting on their behalf, for damage caused by elected officials, judges and prosecutors, as well as members of the armed forces).

The subjective right of the individual to compensation for unlawful actions of public authorities has specified in the provisions of the Civil Code – Article 417 et al.

Following a 2001 judgment of the Constitutional Tribunal, the liability of the State Treasury for damage caused by a public official no longer depends on proving that official's culpability in penal or disciplinary procedure.

III. Means of legal protection in penal law

The Penal Code constitutes the basis for the prosecution of an array of crimes that result in the violation of fundamental freedoms and human rights, including: genocide, homicide, rape, injury to health, torture, use of threat or use of force against a person (also for reasons of national or ethnic origin, race, political views or religion), illicit deprivation of liberty, restriction of religious freedom and others.

The Code stipulates that all penal measures and penalties have to be applied in compliance with humanitarian principles, respect for human dignity being foremost among them. The Code does not provide for capital punishment. Life imprisonment is the most severe form of punishment. Furthermore, the Code of Penal Procedure bans extradition when there is a reasonable suspicion that the state seeking extradition could impose capital punishment or subject the extradited person to torture.

The Executive Penal Code highlights the significance of the rights and duties of a convicted person and contains a number of appropriate legal guarantees. It ensures the convict's right to:

- lodge a complaint with the competent court against decisions concerning execution of the sentence due to their incompatibility with the law,
- submit complaints to the competent domestic and international institutions concerned with human rights,
- communicate with his/her defender while serving the sentence.

Civil Rights Ombudsman

The office of Civil Rights Ombudsman (Commissioner for the Protection of Civil Rights) was established in 1987. The Ombudsman is appointed by the Sejm, with the consent of the Senate, for a five-year term. The Ombudsman is independent of other state organs and is tasked with safeguarding the freedoms and rights of persons and citizens specified in the Constitution and other laws.

Everyone, whether a Polish citizen, an alien or a stateless person, may petition the Ombudsman for help in protecting his/her freedoms or rights violated by public authority. Applications addressed to the Ombudsman are exempted from official charges and do not

require a specific form. The Ombudsman may also undertake actions on his/her own initiative.

The Civil Rights Ombudsman, among other things, may:

- direct petitions to organs, organizations or institutions in whose activity he/she has ascertained violation of the freedoms and rights of persons and citizens, presenting his/her opinions on the way of dealing with the case, and may demand the application of disciplinary or professional penalties;
- apply to the competent organs for legislative initiative or the issuance or amendment of legal acts concerning the freedoms and rights of persons and citizens;
- submit motions to the Constitutional Tribunal for the assessment of the constitutionality of legal acts;
- demand that prosecutors initiate preparatory proceeding in cases prosecuted ex officio, demand the initiation of proceedings in civil cases, and to participate in any ongoing proceedings;
- lodge appeals in cassation to the Supreme Court against legally binding judgments;
- take up cases conveyed to him/her by the Ombudsman for Children's Rights;
- collaborate with associations, civic movements and other voluntary organizations and foundations for the protection of the freedoms and rights of persons and citizens.

Other institutions devoted to the protection of the rights and freedoms of various groups, including children and patients, have also been established in Poland. Furthermore, any persons whose constitutional rights and freedoms have been violated has the possibility of lodging a complaint with the Constitutional Tribunal concerning the constitutionality of a law or other normative act used by a court or public administration organ to pass final ruling on his/her freedoms, rights and duties defined in the Constitution. Polish citizens and other persons under the jurisdiction of the Republic of Poland may lodge individual complaints:

- in the framework of the UN system, to the following Treaty Bodies: the Human Rights Committee, the Committee Against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination Against Women,
- in the framework of the regional, European system of protection of human rights - to the European Court of Human Rights, in connection with the violation of their rights or freedoms guaranteed by the Convention for the protection of human rights and fundamental freedoms.

Achievements, problems and challenges in the sphere of human rights

Phenomenon of discrimination

The Government actively cooperates with a number of NGOs in countering discrimination in any form. These endeavors are addressed, on the one hand, to the respective groups vulnerable to discrimination, and on the other are designed to enhance public awareness as to the need to fight discrimination.

I. Countering racism and xenophobia

The Ministry of Interior and Administration is the leading ministry in the process of countering racism and xenophobia. A Team for Monitoring Racism and Xenophobia has been

established at the Ministry for the purpose of ensuring effective implementation of the principle of equal treatment of all ethnic groups.

The Team has been allocated the tasks assigned to the Ministry in connection with the implementation of the *National Program Against Racial Discrimination, Xenophobia and Related Intolerance*. The Program constitutes fulfillment of Poland's international obligations stemming from the final documents of the *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance* (Durban, August 31- September 7 2001).

The *Program* is designed to launch actions against xenophobia and racism, including anti-Semitism, and to nurture in Polish society a broadly perceived culture of tolerance. The beneficiaries of *the Program* include Polish citizens belonging to national and ethnic minorities, aliens – including migrants and refugees, as well as other persons vulnerable to discrimination for ethnic or racial reasons. *The Program* covers the following spheres: situation diagnosis and monitoring, activity of public administration, the labor market and socio-economic situation, health, education, culture and international cooperation.

The Team also coordinates the implementation of the *Law Enforcement Officer Program Against Hate Crime*, initiated by ODIHR-OSCE, which Poland joined in October 2006. *The Program* includes the training of Police officers to deal with all aspects of hate crimes, elaboration of strategies against hate crime based on active Police leadership and public initiatives, elaboration of effective procedures for collecting and disseminating data on hate crimes and the training of prosecutors to determine on the basis of evidence whether a hate crime has occurred.

The Ministry of Interior and Administration cooperates with NGOs in suppressing racist, anti-Semitic and xenophobic content on the Internet, and to enhance public awareness concerning the need to counter discrimination for racial, national or ethnic reasons.

The Ministry of Justice also conducts training activity designed to counter discrimination. The relevant undertakings are coordinated by the National Center for the Training of Staff for Courts and Prosecutor's Offices. Last year, the Center, in collaboration with the Ministry of Labor and Social Policy, continued a project under the theme of "The role of prosecutors in effective countering of discrimination", addressed to prosecutors tasked with countering discrimination for reason of race, ethnic origin, religion, age or sexual orientation. The project was implemented in the framework of the Community Action Program to Combat Discrimination 2001-2006. It included training for some 240 prosecutors and involved identification of instances of discrimination, methods of countering such occurrences, and the participants' sensitization to situations that can lead to the discrimination of various social groups.

The agenda of training for prosecutors in 2008 also covers racist and xenophobic crime committed through the Internet.

In 2007, the National Center, in collaboration with the European Law Academy in Trier, conducted training for judges devoted to the issue of counteracting discrimination, with special reference to Community law on discrimination. Further training courses for prosecutors on the European Union's anti-discrimination law is planned in 2008.

The Roma minority is especially at risk of discrimination for ethnic reasons. The long-term *Government Program for the Roma Community in Poland*, implemented since 2004 and coordinated by the Ministry of Interior and Administration, is designed to bring about full participation of Roma in the life of the civil society and to level the differences between that group and the rest of society. Educational tasks are highlighted in *the Program*, since they determine the possibilities of improving Roma's situation in other spheres. These undertakings are designed to equalize educational opportunities and also disseminate knowledge about the Roma community.

II. Discrimination in the labor market

In 2006 the State Labor Inspection received 208 complaints concerning discrimination (0.35% of all complaints submitted to the SLI). In 29 cases sex was cited as the reason for discrimination, and in 13 cases – age.

The principle of equal treatment is deemed to have been violated when the employer discriminates against an employee for one or several reasons specified in the Labor Code, which may result in refusal to hire a person, dismissal of an employee, unfair pay or conditions of work, denial of promotion or other benefits, refusal to let an employee undergo qualification-enhancement training. The principle of equal treatment is not considered to have been violated when measures are introduced for a specified period of time for the purpose of equalizing the chances of all or many employees.

The regulations in force ban discrimination in the workplace for reasons of sex, age, disability, race, religion, nationality, political views, union membership, ethnic origin, sexual orientation, or because a person has been hired for a specified or unspecified period of time, or because someone is a part-time or full-time employee.

The injured party may pursue his/her claim connected with employment in a court of law and is exempted from the obligation of proving that discrimination has occurred. The employee is supposed to demonstrate that he/she was treated differently, and it is up to the employer to prove that such differentiation did not have discriminatory character.

The Ministry of Labor and Social Policy has prepared a draft law on equal treatment, which was to have been submitted to parliament in February. In view of the serious problems encountered in the work (precise definition of the subjective and objective scope of application of the law, determination of its relationship with other laws, position of the authority supervising the law's implementation) the date of conveying the law to parliament has been delayed. The law will ban discrimination for reasons of sex, race, ethnic origin, nationality, religion, political views, disability, age, sexual orientation, marital status or family situation. The law will apply to the following spheres:

- initiation and conditions of professional activity, including the conditions of access to employment, criteria of recruitment, conditions of employment, undertaking and conducting of business activity and performance of work on the basis of civil law contracts,
- access to the instruments and services offered by labor market institutions and to the instruments and services offered by other entities devoted to the development of human resources and prevention of unemployment,
- accession to and activity in trades unions, employers' organizations, professional self-governments and NGOs,

- social security,
- health care,
- education and higher schooling.

The Government is implementing various measures as part of the policy to ensure equal opportunities in the labor market. *The National Strategy for the Growth of Employment and Development of Human Resources* envisages the following undertakings:

- increasing of the employment of disabled persons and their integration in the workplace,
- introduction of preferences in the system of skill enhancement for disabled persons seeking work,
- introduction of procedures involving various educational undertakings to allow senior employees to upgrade their qualifications,
- eradication of barriers and discriminatory treatment of women in the labor market,
- publicity campaign to discourage employers from discrimination during recruitment, organization of work posts, remuneration and assessment of workers,
- pro-employment undertakings for the rural population.

The Government has also sponsored media campaigns to promote employment and enterprise among women, particularly those over 45, and to stimulate their involvement in public life.

Judiciary

The Polish Government is striving to enhance the efficiency of the judiciary, focusing on the main challenges in this sphere, that is elimination of undue court delays and prison overcrowding, as well as enhancement of the rights of victims and better access to legal assistance.

I. Prison overcrowding

As the number of inmates increased rapidly after 1999, Polish penitentiaries sought quick ways of accommodating higher numbers of convicted persons. Various organizational and adaptive measures were introduced, as a result of which premises previously used for other purposes were converted into cells. Investment and renovation works were also launched, as a result of which 5591 places were added in penitentiaries and detention facilities between 1999 and 2005. Overcrowding is to be further reduced through the addition of 17 thousand cell places in the period 2006-2009. A Government program has resulted in the acquisition of 5414 prison places from the beginning of 2006 till November 30 2007. Full implementation of the program by the end of 2009 will give the prison system a total of 88 thousand places, with 3 square meters of cell space per inmate.

Legislative measure have been undertaken to create the possibility of convicts serving their sentences outside penitentiaries, under a system of electronic surveillance (law of September 7 2007 on the serving of sentences of deprivation of liberty outside penitentiaries under the system of electronic surveillance). Though that measure does not directly result in increased cell space, it does release a certain amount of room in penitentiaries and reduces the number of convicted persons who are not serving their sentences.

Since 1998 Poland has been a member of the Permanent Conference on Probation and Aftercare, one of the objectives of which is to organize at an international level an exchange of experiences concerning the application of probation measures.

II. Delays in Courts' proceedings

The elimination of delays in court proceedings is one of the main objectives of the supervisory activity conducted by the Minister of Justice, court presidents and court department chairmen. The supervisory activity is designed to reduce delays in case hearings and shorten the time of court procedures. Since 2003 the presidents of district courts have been obligated to examine the reasons for delays in all cases lasting more than 3 years. Moreover, the Ministry of Justice coordinates inspections and visits to courts where the average duration of cases significantly exceeds the average.

In accordance with the Polish Constitution, everyone has the right to a court hearing without undue delay. In view of the high number of complaints being lodged with the European Court of Human Rights because of court delays, in a number of instances considered justified, the law makers have introduced separate appeals procedures, making it possible to challenge delays in proceedings. A law introducing the right of complaint against undue court delays was adopted in June 2004. In 2005 4473 such complaints were submitted - of which 987 were allowed, in 2006 there were 2659 complaints – with 597 allowed, and in the first half of 2007 there were 1374 complaints – of which 275 were allowed.

A number of legislative changes have been introduced in recent years to prevent court delays. For example, the Code of Penal Procedure introduced the possibility of holding hearings in the absence of an accused person who refuses to take part in the proceedings or does not justify his/her absence. Amendments to the Code of Civil Procedure extended the competencies of apprentice judges, which reduced the work load of judges and streamlined proceedings concerning economic cases. Furthermore, the introduction of the institution of mediation provided an alternative to court proceedings in civil cases. Further proposed amendments to the Code of Civil Procedure are aimed at accelerating executory and admonitory proceedings and proceedings in economic cases.

Organizational moves have also been adopted to enhance the efficiency of courts. These include a program of introducing IT technologies in the judiciary.

III. Guarantees of free access to legal aid

Access to free legal aid at the stage of court proceedings is guaranteed by the provisions of the Code of Penal Procedure and the Code of Civil Procedure, as well as the law on court charges in civil cases. In both penal and civil proceedings, free legal aid is provided on condition that the accused, the injured party or physical person who is a party to civil proceedings demonstrates that he/she cannot afford counsel.

Legal aid provided ex officio is performed by lawyers and legal advisers assigned by courts and remunerated by the State Treasury. The Sejm is currently working on legislation concerning cost-free pre-trial and non-court legal aid.

IV. System of assistance to victims

In July 2007 the Prime Minister appointed a Team for the Elaboration of the National Program of Assistance to Crime Victims. The Team is tasked with elaborating the standards of conduct with crime victims and establishing a national legal and organizational structure to help such persons. A pilot program of the Network of Assistance to Crime Victims is being currently implemented. The program provides for the creation of eleven Local Support Centers, at which psychologists and lawyers will provide specialist assistance to crime victims. The institution of volunteer victim guardian is also envisaged. The pilot program is to continue until June 30 2008.

The Ministry of Justice has also prepared a project called “Network of Assistance to Crime Victims”, in the framework of the Union “Criminal Justice” Program. It envisages financial support for the Network of Assistance to Crime Victims and the arrangement of study visits to centers providing aid to crime victims in partner countries.

In January 2006, the Ministry of Interior and Administration granted a public task assignment to an NGO for the implementation of the “*Program of support/protection to victims/witnesses of human trafficking*” (currently the program is being implemented by the La Strada Foundation Against Trafficking in Women). It is addressed to aliens who have fallen victim to human trafficking. *The Program* has the basic objective of providing support and protection to the victims of human trafficking. *The Program* ensures:

- accommodation in a safe facility under the care of a trained social worker,
- board,
- basic medical care,
- psychological support,
- assistance of an interpreter,
- assistance in contacts with law-enforcement and judiciary officials (e.g. the presence of an NGO representative during the submission of testimony by a victim/witness),
- transportation within Poland,
- arrangement of safe return to the country of origin,
- in the case of aliens without regulated status in Poland – legalization of their status through the obtainment of two-month visas (time for reflection), or of permits for residence of specified duration, i.e. for 6 months, with the possibility of extension for another 6 months if the victim/witness decides to cooperate with law enforcement organs.

The implementation of the “*Program of support/protection for victims/witnesses of human trafficking*” has led to the elaboration of guidelines titled “*Algorithm of conduct by law enforcement officers in the event of disclosure of human trafficking*”. In February 2006 the document was conveyed to the Police and in March 2006 to the Border Guard. It is primarily meant to systematize the conduct of law enforcement organs in the event of disclosure of human trafficking and to enhance the awareness of international standards in the treatment of victims and their rights. Currently, the Working Group of the Inter-Ministry Team for the Combating and Prevention of Human Trafficking is preparing a corresponding system of support for children who become victims of human trafficking.

Protection of human rights in the context of Police activity

Motivated by concern for the observance of human rights by the Police and within the force, in 2005 the Chief Commander of Police took the decision to establish the posts of Human Rights Advisers to the Chief Commander and Voivodship Commanders of Police. The network of Human Rights Advisers is a notable achievement of the Polish Police and has no counterpart in any other police force. The Advisers have the following tasks:

- promotion of human rights and care for the observance of the standards of their protection within Police structures,
- ongoing monitoring of Police operations to ensure that human dignity and human rights are respected, and also proposing of solutions to maintain high standards in this sphere,
- initiation of cooperation and maintenance of regular contacts with NGOs capable of assisting the Police in matters relating to human rights protection,
- initiation, monitoring and coordination of the activity of the organizational units of the Police at voivodship (province) level with regard to the implementation of the recommendations of domestic and international institutions and organizations concerned with human rights protection, and implementation of tasks ensuing from national human rights protection programs,
- preparation of information, opinions and positions concerning the compatibility of the conduct of police officers with the standards of human rights protection,
- analysis of training needs, initiation or own organization of training essential for ensuring the appropriate level of observance of human rights by Police officers at voivodship level,
- representation of the Chief Commander/Voivodship Commanders of Police at national and international undertakings devoted to human rights,
- compilation of annual reports on the activity of the Police in the sphere of human rights protection.

When the network was first founded, the position of Human Rights Adviser was not a full time job. Recognizing the need to beef up the structure, last November the Chief Commander of Police decided to create full-time, autonomous positions of officers for human rights protection at the National Police Headquarters and Voivodship Police Headquarters, with special emphasis on strict observance by the Police of human rights standards. Particular importance is attached to monitoring Police activity through the analysis of complaints against Police behavior and misconduct exposed in other ways.

Seeking to elaborate the best standards of human rights protection for the Police, in November 2007 the National Police Headquarters drafted an action plan to implement the recommendations formulated by the Council of Europe Commissioner for Human Rights, the Committee Against Torture and the provisions contained in the government program on the implementation of the judgments of the European Court of Human Rights concerning Poland.

Social and economic issues

Poland is taking the appropriate efforts to ensure the realization of the social rights of citizens. These rights are being implemented gradually, in line with democratically defined priorities, actual social needs and to the extent made possible by state resources. However, the Government does recognize the existence of certain problems as regards the implementation

of social rights in the sphere of employment, reduction of poverty, exclusion of certain social groups and domestic violence.

I. Poverty and exclusion of certain social groups

The structural factors leading to social exclusion include: a person's situation in the labor market (unemployment, low wages, protracted illness and disability), his/her family situation (many children, single parent), education level (low level of education, skills not corresponding to labor market demand), place of domicile (countryside, small town or under-developed region). The above may be compounded by institutional factors (unequal access to social services in the sphere of education, healthcare, housing and culture). The third group of factors includes unfavorable individual characteristics (homelessness, disability, orphanhood, addictions).

In 2006, 19% of the population lived below the poverty threshold (income level entitling to social security benefits). According to the Central Statistical Office, 12-13% of the population had incomes below the level of extreme poverty (in 2006 that level was set at 398 PLN per month per person and 1296 PLN per month for a family of four). Families whose income consisted of social security benefits and certain rural families were in the most difficult situation.

For a number of years we have witnessed the phenomenon of *working poor*, that is workers whose wages do not ensure decent living conditions. This group includes unskilled workers and some farmers. We also note the phenomenon of juvenilization of poverty. The poverty rate among children is higher than among adults: 44% of the poor population is below 19, even though that age group constitutes only 24% of the total population.

II. Labor market

Between 1998 and 2002 the rate of unemployment rose from 10.6% to 19.9%. Since 2003 the situation in the labor market has been improving: in 2006 the rate of unemployment amounted to 13.8% and in the third quarter of 2007 – to 9% (Economically Active Population Data). The employment rate for persons aged 15-64 rose from 51.4% in 2003 to 54.5% in 2006, reaching 57.8% in the third quarter of 2007.

The situation in the labor market is largely determined by structural and institutional factors, including: insufficient flexibility of the labor market, professional skills not matching those sought by employers, high tax burden on employers, barriers to geographic mobility, delays in the initiation of vocational activity by young people and social transfers encouraging withdrawal from the labor market. The groups encountering particular difficulties in the labor market include women (mainly those seeking employment after a period of caring for children), young persons, people over 50 with low skills or low education, people unemployed for protracted periods of time and the disabled. Persons experiencing protracted unemployment (48% of the unemployed) often display low skills, low adaptive ability, passivity, despondency and limited social activeness. Protracted unemployment tends to become ingrained and be inherited by whole families and social groups. Particular problems are encountered by young people with little vocational initiative, particularly those from dysfunctional families, poorly educated and suffering from numerous deficits (family, social,

educational). Their activation is a drawn-out and difficult process, requiring costly, multi-faceted assistance and monitoring of their further fates. The situation of the disabled in the labor market is very unfavorable. That is a consequence of their discrimination by employers, the attitude of the disabled themselves (passivity, low motivation), as well as their poor education and skills. The majority of disabled persons are vocationally passive.

Since 2003, labor policy has been implemented in conditions of an economic upturn, which enhances the creation of jobs and reduction of unemployment, allowing a greater scope of active undertakings (improvement in the labor market has been particularly evident since 2006). Significantly higher funds are being allocated to active forms of countering unemployment, particularly through the initiation of business activity and equipping of work posts, as well as internship stipends and vocational training in the workplace. The number of vocationally activated persons is increasing systematically, even though the groups considered most difficult to activate dominate among job-seekers registered at labor offices, which necessitates high expenditures to restore such persons to the labor market. The employment effectiveness of labor market programs has also increased notably.

A response to the challenges in the sphere of employment and social exclusion is contained in the Government program elaborated in the National Strategy of Employment Growth and Development of Human Resources, the National Program of Reform in the years 2005-2008 for the implementation of the Lisbon Strategy, the National Strategic Reference Framework (2007-2013), the National Employment Action Plans (annual) and the Human Capital Operational Program for the year 2007-2013.

Priority is given to measures designed to boost the vocational activity of persons or groups encountering special difficulties in the labor market, or vulnerable to social exclusion. The key task consists in adjusting skills to the requirements of the labor market, promotion of active integration and constant education.

The National Employment Action Plan for 2008 envisages:

- growth of employment and improvement of its quality – the employment rate for persons aged 15-64 (EAPD) is to reach 58% during the 4th quarter of 2008,
- containment of unemployment – the jobless rate (EAPD) is to amount to 9% in the 4th quarter of 2008.

The undertakings designed to counter the above negative phenomena are directed at:

- promotion of employment through the development of enterprise, stimulation of infrastructural investments and development of the building industry,
- introduction of measures facilitating access to the services of the labor market, enrichment and improvement of the quality of services provided by institutions of the labor market and entities collaborating with them,
- improvement of information about the labor market,
- vocational activation of persons from groups facing particular problems in the labor market, vocational activation of disabled persons,
- promotion of flexible forms of employment and work organization.

Since social exclusion and poverty primarily result from an unfavorable situation in the labor market, the following undertakings have been launched:

- projects enhancing the ability of taking up employment: social employment, training, vocational reintegration in the workplace,

- services of an educational, medical and social character to facilitate mobility in the labor market,
- programs for the development of new forms of individual and community support, allowing the vocational and social integration of persons facing special difficulties in the labor market,
- support for undertakings designed to promote the social and vocational integration of disabled persons.

Since the threat of exclusion and the problem of poverty mainly affects large families and families with jobless members, one of the priorities is to help families and children to eliminate educational deficits and to improve access to services that make it possible to combine work with parenting. Work is progressing to upgrade income support through the creation of an integrated system of family benefits, scholarships and housing allowances.

One of the shortcomings of the policy against social exclusion consists in the low share of prophylactic measures addressed to the potential clients of the social security system. The scale of such undertakings is increasing, though till now they have mainly taken the form of pilot projects conducted by the government administration, or, to a lesser extent, by local self-governments and NGOs.

Persons vulnerable to social exclusion usually have low awareness of the threats that can lead to exclusion (alcoholism, drugs addiction, lack of socio-vocational and educational activeness), which necessitates intensification of counseling and preventive measures, to counter the marginalization of certain groups.

III. Domestic violence

In 2007 the Ministry of Labor and Social Policy commissioned a public opinion poll on domestic violence, which revealed that

- the problem of domestic violence is recognized, violence is considered a frequent problem, but something that affects others; almost two-thirds of those polled said they knew of families affected by domestic violence; psychological and physical damage is noticed most frequently, while there is low awareness of economic violence,
- more than one-third of those polled have experienced some form of violence from a member their family; psychological violence is the most frequent, with a lower incidence of physical, economic and sexual violence; persons who experience violence frequently apply it in the future against their own family,
- violence against children is relatively frequent, children most often experience psychological and physical violence, economic violence is less frequent and sexual violence is very rare.

The law of July 29 2005 on the prevention of domestic violence facilitates the initiation and support of actions designed to enhance public awareness of the causes and consequences of domestic violence. It is designed to strengthen the relevant activity of the government administration and self-governments through a diagnosis of domestic violence, stimulation of public sensitivity to violence, improvement of the qualifications of the officials tasked with these issues, help to violence victims, work with the perpetrators. Assistance is extended to both victims and perpetrators.

The implementation of the National Program Against Domestic Violence, adopted by the Council of Ministers on September 25 2006, will reduce domestic violence, change public

attitudes towards violence, increase the number of workers professionally helping the victims and perpetrators of domestic violence, increase the number of support centers, and reduce the number of families affected.

The Program Against Domestic Violence provides for the following measures:

- training of staff concerned with the prevention of domestic violence,
- highlighting of the causes and effects of domestic violence in the vocational education of persons concerned with domestic violence,
- sensitization of the public through educational and support programs,
- collecting of information about the phenomenon of domestic violence and its analysis,
- assistance to victims through the activity of specialist support centers, elaboration of procedures for granting legal aid and psychological support to victims of domestic violence,
- effectiveness analysis of the assistance granted to families.

The Program also envisages measures addressed to the perpetrators of violence, including:

- isolation of the perpetrators from the victims, eviction of the perpetrators, even when they are the chief tenants or owners of the home in question,
- elaboration and implementation of rehabilitation programs for the perpetrators,
- assignment of perpetrators to public works.

A Team for Monitoring the Implementation of the National Program Against Domestic Violence was established in 2007. Its tasks include:

- elaboration and unification of the standards of assistance granted to victims, witnesses and perpetrators of violence, collection of data on the scale of domestic violence, analysis of local community needs,
- initiation of and support for undertakings to counter domestic violence,
- preparation of expert opinions on selected aspects of domestic violence.

Aid to victims of domestic violence is granted by specialist support centers, counseling points, crisis intervention centers, and homes for mothers with small children and women.

Numerous public campaigns against domestic violence have been initiated. The year 2007 saw the launching of a campaign against domestic violence (posters, leaflets with the telephone number and e-mail address of the national Blue Line emergency service for victims of domestic violence displayed in public places). A national campaign under the theme of "Childhood Under Protection" was kicked off on February 7 2006. It has the aim of highlighting various aspects of violence against children and enhancing the effectiveness of state institutions tasked with the protection of children against domestic violence.

The Ministry of Interior and Administration is responsible for the national implementation of the EU's DAPHNE III program to "Prevent and combat violence against children, young people and women and to protect victims and groups at risk". The Ministry also conducts direct cooperation in this regard with NGOs, based on an exchange of experience and joint undertakings, including the assignment of public tasks.

The provision of effective protection to victims of domestic violence is served by a judicious selection of preventive and penal measures, as well as penalties. The perpetrator of domestic violence may be subjected to preventive detention, pursuant to the general rules under the Code of Penal Procedure. Furthermore, special provisions concerning the application of

preventive measures against this category of perpetrators are envisaged by the law against domestic violence.

Polish law provides for the possibility of banning a person convicted of an intentional crime with the use of violence from contacting the victim, or of prohibiting specific contacts with specified persons, or the duty of leaving premises jointly occupied with the injured party – in the event of conditional suspension of the sentence.

The Ministry of Justice participates in the works of the Coalition for Friendly Interrogation of Children, which led to the preparation of the concept of certification of interrogation rooms, to ensure stress-free interrogation of children. Moreover, last October, the Ministry of Justice joined the campaign “Child – a Witness of Special Concern”.

IV. HIV/AIDS

As UN member, Poland has adhered to the International Guidelines on HIV/AIDS and Human Rights.

The first National Program for the Prevention of HIV and Care for Persons Living with HIV/AIDS covered the years 1996-1998. A leading role in its implementation was played by the Minister of Health (operating through the National AIDS Center), who was responsible for coordinating and initiating preventive measures. The next two editions of the Program were conducted in the years 1999-2003 and 2004-2006. They reflected the state priorities in the campaign against HIV/AIDS:

- upgrading of the existent system for the prevention of HIV infections;
- public education, protection and promotion of human rights, enhancement of the role of women;
- introduction of an integrated system of caring for persons living with HIV/AIDS.

In 2005 the Council of Ministers adopted a regulation on the *National Program of Combating AIDS and Preventing HIV Infections*. The experts who prepared the “Timetable for the Implementation of the National Program of Combating AIDS and Preventing HIV Infections for the years 2007-2011” took into account the recommendations of UNAIDS and WHO.

The achievements scored in the campaign against HIV/AIDS can be attributed to the consistent state strategy and, in particular, the establishment of the National AIDS Center. It is tasked with ensuring proper implementation of the state policy against AIDS/HIV, including the establishment of a national network of specialist antiretroviral therapy centers as well as consultation-and-diagnostic centers, which offer anonymous, cost-free tests and counseling before and after testing. As a result of the above measures, it has been possible to achieve the following:

- stabilization of HIV/AIDS incidence despite the rapid spread of the epidemic in countries to the east of the Polish border;
- significant reduction of mother-to-child HIV infections in the group of children born to HIV-infected mothers, as a result of the availability of antiretroviral therapy for pregnant women;
- elimination of HIV infections due to professional exposure, thanks to broad prophylactic use of antiretroviral drugs;

- improved detection of HIV thanks to a network of points providing anonymous, cost-free testing and counseling.

With regard to persons living with HIV/AIDS, the following effects have been attained:

- lowering of death rates due to AIDS thanks to the broad availability of antiretroviral therapy, which (despite the high cost of the therapy) has been offered free of charge by the Ministry of Health since 1996;
- systematic improvement in the quality of life of persons living with HIV, or affected by the disease, thanks to the financing of civil society institutions out of the Health Minister's budget.

The universal and equal access to antiretroviral therapy in Poland constitutes implementation of the postulates contained in the UN Declaration of Commitment on HIV/AIDS of June 2001. The Declaration underlines that full realization of human rights and fundamental freedoms for all and prevention of stigma and related discrimination is the key to effective countering of HIV/AIDS. In Poland, free antiretroviral treatment is available to all (including prison inmates), on the basis of medical prescription.

V. Respecting patients' rights

In 2001, the Minister of Health established the Bureau for Patients' Rights. Its basic tasks include: monitoring of the observance of patients' rights by healthcare institutions; provision of information and processing of requests and complaints submitted to the Bureau and to the Health Minister. The Bureau operates a toll-free phone line, manned by medical specialists and lawyers. It is used to disseminate information about patients' rights in Poland and the possibilities of obtaining medical services in other member states of the European Union. The Bureau collaborates with the Civil Rights Ombudsman, the Children's Rights Spokesman, National and Voivodship Consultants for the respective branches of medicine and the superior organs of the respective health care facilities.

Every patient has the right to lodge a complaint with

- the director of the relevant healthcare facility,
- the National Health Fund,
- the organ (entity) which established the healthcare facility in question,
- the registration body of the healthcare facility,
- the self-management organs of the medical professions
- the Civil Rights Ombudsman;

and also to assert his/her claim in court.

The activity to date of the Bureau of Patients' Rights, attached to the Minister of Health, and the number of cases it has handled, affirms the need for this kind of institution. From the beginning of 2002 until the end of November 2007 the Bureau registered and processed some 50 thousand cases.

One of the specific tasks assigned to the Bureau is help in ensuring the rights of mental patients. For that purpose, since January 2006, the Bureau has employed persons performing the function of Spokesmen for the Rights of Psychiatric Patients. The Spokesmen are tasked with the protection of the patients of mental hospitals.

The Spokesmen follow three basic guidelines: accessibility – that is devotion of most of their time to visiting hospital wards, visibility and credibility, and independence from hospital directors. The fact that the Spokesmen are employees of the Bureau is meant to ensure more effective observance of the rights of mental patients and to facilitate better supervision of the Spokesmen's work. The organizational status of the Spokesmen for the Rights of Psychiatric Patients makes them objective participants in the process of provision of health care to the patients of mental hospitals and rehab facilities. Since, as a rule, the Spokesmen work in more than facility, they have the possibility of conducting comparative analyses of the problems occurring in them.

As regards care for mental patients, it is crucially important that the National Program for the Protection of Psychiatric Health receive appropriate legislative basis. The program has the following objectives:

- promotion of mental health and prevention of mental disorders;
- provision of mental patients with comprehensive, integrated and accessible health care and other forms of assistance essential for life in the community (including the family and workplace),
- development of research and information systems concerned with mental health protection.

Government Action Plan on the implementation of the judgments of the European Court of Human Rights concerning Poland

On May 17 2007 the Council of Ministers adopted the Government Action Plan on the implementation of the judgments of the European Court of Human Rights concerning Poland. The Program is designed to enhance the effectiveness of the implementation of the Court's judgments concerning Poland and to prevent future ascertainment by the Court of violations by Poland of the Convention for the protection of human rights and fundamental freedoms and its Protocols. The Government Action Plan is meant to strengthen the observance of human rights and the rule of law in Poland.

The Program also contains proposals on amending the law, improving its practical application, training on human rights and dissemination of the Court's case law. In particular, the Program addresses such issues as:

- principles of applying detention of remand and deprivation of liberty,
- court and administrative delays,
- broader access to courts,
- censorship of inmates' correspondence to the Court,
- enhancement of the right of parents to contacts with their children,
- effective implementation of the right of Bug River resettlers to compensation,
- introduction of mechanisms ensuring a balance between the interests of landlords and the interests of the society at large in the sphere of regulated rents.

A crucial part of the Action Plan consists of provisions concerning collaboration between the Minister of Foreign Affairs and other ministers in connection with the complaints communicated by the European Court of Human Rights and the implementation of its judgments. The Program also contains a decision to establish a permanent inter-ministry Team for matters relating to the European Court of Human Rights.

The Government Program will serve as the basis for further undertakings aimed at the improvement of Polish law and its practical application as well as the dissemination of knowledge about human rights.

Promotion and protection of human rights

Much attention is devoted in Poland to the promotion of and teaching about human rights. Human rights have been included in the curricula of primary and secondary schools. Regular lectures on them are also given at academic schools. Detailed instruction on human rights is part of the training and educational programs for the Police, the Prison Service and Border Guard. There is systematic publication of monographs on human rights. The daily press and legal journals carry information on the recommendations of the Human Rights Committee and the judgments of the European Court of Human Rights.

The Ministry of Justice organizes training for judges and prosecutors, while the Supreme Court conducts regular seminars on human rights. Intensive training on the subject is also conducted by the Polish Bar Association and the Polish Judges Association "Iustitia". Issues relating to the protection of human rights are included in the training programs of lawyers and legal advisers. Training in human rights is also provided by a number of NGOs, including the Helsinki Foundation for Human Rights and Amnesty International.

After the Human Rights Committee, Committee Against Tortures and Committee on the Elimination of Racial Discrimination considered the last three Polish periodic reports, the Ministry of Justice issued publications containing information on the obligation to submit the reports, the report texts, the lists of issues compiled by the Committees, the responses of the Polish Government, summary records of the Committee meetings and the Concluding Remarks. These publications were widely circulated and, along with current information on the instruments for protection of human rights, including individual complaints, are also accessible at the website of the Justice Ministry.

Initiatives to enhance the respecting of human rights

On March 21 2000 Poland signed the *Second Facultative Protocol to the International Covenant of Civil and Political Rights on the abolition of the death penalty, adopted in New York on December 15 1989*. Work is currently in progress on the ratification of the Protocol. In January 2008 the Ministry of Justice initiated the relevant procedures.

Warsaw, 25 February 2008