|  |
| --- |
| **Annex 21** |
| **MINISTRY OF JUSTICE, Al. Ujazdowskie 11, 00-950 Warsaw** |
| District/Regional Court\*)  ………………………….. | **MS-S28** **Statistical card**  **in a penal case**  **on public indictment**  **on final judgement**  **1. Intolerance, xenophobia, hate crimes**  **2. Human trafficking**  **3. Lewd acts (pedophilia)** | Addressee:  Ministry of Justice  Strategy and European Funds Department |
| **The card shall be transmitted as soon as the judgement has become final and binding** |
| Territorial jurisdiction of the District Court  ……………………………….. |
| Ref. of I instance case-file  ………………………………….. | **in ………… (year)** |

|  |  |
| --- | --- |
| **1. Case data** | **Date** (DD/MM/YYYY) |
| 1.1 Date on which the case was originally submitted to court |  |
| 1.2 Date of receipt by the court issuing the final decision |  |
| 1.3 Date of the decision |  |
| 1.4 Date of the decision becoming final |  |

|  |  |
| --- | --- |
| **2. Data concerning the convicted person** | **Breakdown** |
| 2.1 Date of birth (DD/MM/YYYY) |  |
| 2.2 Sex |  |
| 2.3 Place of residence |  |
| 2.3.1 Province |  |
| 2.3.2 Town |  |
| 2.3.3 City/village |  |
| 2.4 Nationality |  |
| 2.5 Occupation (learned or practised)/Source of subsistence |  |
| 2.5.1 group of professions |  |
| 2.5.2 profession |  |
| 2.6 Previous criminal record (Y/N) |  |
| 2.7 Recidivism – if so in conjunction with: Art. 64 § 1 of the PC or Art. 64 §2 of the PC or Art. 64 §1 and 2 of the PC in conjunction with Art. 65 of the PC |  |
| 2.8. Involvement of the offender in an organised criminal group (Y/N) |  |
| 2.9. The role of the offender in the human trafficking chain (see explanation in pt 3) |  |
| 2.9.1. document forger (Y/N) |  |
| 2.9.2 recruiter (Y/N) |  |
| 2.9.3 transporter (Y/N) |  |
| 2.9.4 extortionist (person directly monitoring and contributing to the exploitation of the victim) (Y/N) |  |
| 2.9.5 boss of the organised group (Y/N) |  |
| 2.9.6 other |  |
| 2.10 Form of human trafficking (according to Art. 115 § 22 of the PC) |  |
| 2.10.1 use in prostitution |  |
| 2.10.2 use in pornography |  |
| 2.10.3 other forms of sexual abuse |  |
| 2.10.4 use for work |  |
| 2.10.5 use in forced services (e.g. coercion to commit crimes) |  |
| 2.10.6 use for begging |  |
| 2.10.7 use in slavery or other forms of exploitation that degrade human dignity (e.g. domestic slavery) |  |
| 2.10.8 use to procure cells, tissue or organs contrary to the provisions of the Act  of 1 July 2005 on the collection, storage and transplantation of cells, tissues and organs (Journal of Laws of 2015, item 793) |  |
| 2.10.9 other |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **3. Offence** (Legal classification of the act (i.e. Art., §, pt., qualifier), ground for mitigation or enhancement) | **4. Motives of the offender's actions** (only applicable to crimes of intolerance, xenophobia and hatred - (see explanations in point 4) | **5. Date of the offence** (DD/MM/YYYY) | **6. Place of the offence** (province/town/city or village) | **7. Content of the decision**  (see explanation in point 6) |
| main offence: ……… |  | continuing offence:  Yes/No |  |  |
| further legal classification: …………….. | if not – Date: ……….. |  |
| if yes –  start of the offence: ……..  end of the offence: …….. |  |

|  |  |
| --- | --- |
| **8. Use of pre-trial detention** | **Breakdown** |
| 8.1 Use of PD in the case (Y/N) |  |
| 8.2 Commencement of PD (DD/MM/YYYY) |  |
| 8.3 End of PD (DD/MM/YYYY) |  |

|  |  |
| --- | --- |
| **9. Appeal proceedings** | **Breakdown** |
| 9.1 Appeal against the judgement (Y/N) |  |
| 9.2 Appeal by (prosecution/defence) |  |
| 9.3 Appeal considered (Y/N) |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **10. Data relating to the victim(s)** | Victim 1. | Victim 2. | Victim ... | … |
| 10.1 Date of birth (DD/MM/YYYY) |  |  |  |  |
| 10.2 Sex |  |  |  |  |
| 10.3 Place of residence |  |  |  |  |
| 10.3.1 Province |  |  |  |  |
| 10.3.2 Town |  |  |  |  |
| 10.3.3 City/village |  |  |  |  |
| 10.4 Nationality |  |  |  |  |
| 10.5 Occupation (learned or practised)/Source of subsistence |  |  |  |  |
| 10.5.1 group of professions |  |  |  |  |
| 10.5.2 profession |  |  |  |  |
| 10.6 Compensation awarded to the victim (Y/N) |  |  |  |  |
| 10.6.1 Court order on the obligation to redress damage, compensate for suffered injury or vindictive damages for the victim obtained in a conviction for the crime of human trafficking (Y/N) |  |  |  |  |
| 10.6.2 Award of compensation under the provisions of the Act of 7 July 2005 on State Compensation for Victims of Certain Crimes (Journal of Laws No 169, item 1415, as amended) (Y/N) |  |  |  |  |
| 10.7 Relation to the convicted person – immediate family within the meaning of Article 115 § 11 of the PC (Y/N); if yes: |  |  |  |  |
| 10.7.1 Type of relationship (spouse, ascendant, descendant, sibling, relative by affinity, adopted, spouse of the adopted, cohabitant) |  |  |  |  |

**11. Administrative burden on respondents:** Please specify the time (in minutes) spent on:

|  |  |
| --- | --- |
| preparing the data for completing the form |  |
| completing the form |  |

Card completed by: ………………….………….…… Card approved by: ………………………..

(name, surname, phone number) (name, surname, phone number)

........................................................................................., on (place)

(place)

**Explanations**

**The card shall be filled in electronic form only.**

**Printing of the card serves only the purpose of data verification.**

1. The card shall be filled in for final and binding decisions for the offences listed below:.

a) intolerance, xenophobia, hatred –Article 118 § 1, 2, 3 of the Penal Code, Article 118a § 1, 2, 3 of the Penal Code, Article 119 § 1 of the Penal Code, Article 126a of the Penal Code, Article 126b § 1 and 2 of the Penal Code, Articles 194, 195 § 1 and 2, 196 of the Penal Code, Article 256 § 1, 2 of the Penal Code, Article 257 of the Penal Code, Article 55 in conjunction with Article 1 of the Act of 18 December 1998 on  *the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation* (Journal of Laws of 2016, item 152);

b) human trafficking –Article 189a § 1, 2 of the Penal Code, and former Article 253 § 1 of the Penal Code, and former Article 204 § 4 of the Penal Code;

c) lewd acts, pedophilia –Article 200 § 1, 2 of the Penal Code, Article 200a § 1, 2 of the Penal Code, Article 202 § 1, 2, 3, 4, 4a of the Penal Code.

2. One card relates to one convicted person.

3. **Roles in the human trafficking chain**:

3.9.1 **Document forger** = Person responsible for the preparation and processing of documents (legal, false or falsified) for the use of traffickers and/or victims of human trafficking, aware or unaware of the purpose for which the documents will be used.

3.9.2 **Recruiter** = Person dealing in direct (e.g. persuading to take up a particular job) or indirect (recruitment through running an employment agency, model agencies, placing advertisements on the Internet, in the press, etc.) recruitment of victims of human trafficking. The category should also include persons who use physical violence to recruit victims.

3.9.3 **Transporter** = Person responsible for the transport of victims of human trafficking, including the organisation of the various components of the transport process. The person accompanying the victim in the process of transferring them to another offender (including crossing a state border together), as well as only their receipt, should be considered a transporter as well. A person who distributed victims or held their documents should also be considered a transporter.

3.9.4 **Extortionist** = Person who exploits victims by forcing them to provide sexual services, work, beg, commit crimes, engage in organ trafficking or other forms of human trafficking.

3.9.5 **"Boss"** = Person who performs overall control and profits from human trafficking; they may participate in one or more of the above tasks or only supervise, organise, finance or direct the above tasks.

4. A hate crime is a forbidden act, with the features specified in criminal law, in which the motive of the perpetrator or perpetrators' actions is the fact that this person or a group of persons (selected by the perpetrator) belong to the following group:

national - Articles 118, 118a §3, 119 §1, 126a, 126b, 256 §1 and 2, 257 of the Penal Code,

ethnic - Articles 118, 118a §3, 119 §1, 126a, 126b, 256 §1 and 2, 257 of the Penal Code,

racial - Articles 118, 118a §3, 119 §1, 126a, 126b, 256 §1 and 2, 257 of the Penal Code,

political - Articles 118, 118a §3, 119 §1, 126a, 126b. of the Penal Code,

religious - Articles 118, 118a§3, 119 §1, I26a, 126b, 194, 195, 196, 256 §1 and 2, 257 of the Penal Code,

non-religious - Articles 118, 118a§3, 119§1, 126a. 126b, 194, 256 §1 and 2, 257 of the Penal Code,

of a specific worldview - Articles 118, 118a §3, 119 §1, 126a, 126b of the Penal Code,

cultural - Articles 118a §3, 126a, 126b of the Penal Code,

sex - Articles 118a §3, 126a, 126b of the Penal Code,

age group

the disabled

of a specific sexual orientation

declaring a specific gender

or

whoever denies the crimes of Nazi (Fascist), Communist and other crimes against peace, humanity or war crimes – Article 55 in conjunction with Article 1 of the Act on *the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation* (Journal of Laws of 2016, item 152).

5. If the date of the offence is a day, please enter this date. If there was a continuous offence, please check this option and enter the starting date of the offence and the end date of the offence. If the exact daily date of the offence is not known, please establish a date according to the following guidelines:

|  |  |  |
| --- | --- | --- |
| known day date | YYYY-MM-DD | YYYY-MM-DD |
| known month and year | YYYY-MM | YYYY-MM-15 |
| known year | YYYY | YYYY-06-15 |
| known season (winter) and year | YYYY-WINTER | YYYY-01-15 |
| known season (spring) and year | YYYY-SPRING | YYYY-04-15 |
| known season (summer) and year | YYYY-SUMMER | YYYY-07-15 |
| known season (autumn) and year | YYYY–AUTUMN | YYYY-10-15 |
| known quarter (1.) and year | YYYY-1.QUARTER | YYYY-02-15 |
| known quarter (2.) and year | YYYY-2.QUARTER | YYYY-05-15 |
| known quarter (3.) and year | YYYY-3.QUARTER | YYYY-08-15 |
| known quarter (4.) and year | YYYY-4.QUARTER | YYYY-11-15 |

6. Point 7 *Content of the decision* should include all relevant information on the decision, i.e. acquittal, discontinuance of proceedings, conditional discontinuance of proceedings (length of probation period), abandonment of sentence, type and amount of the basic penalty (combined penalty), amount of fine imposed in addition to the custodial sentence, punitive measures applied, probation measures applied, security measures taken, conditional suspension of sentence execution (length of probation period), surrendering of the sentenced person under the supervision of the court superintendent.