

**OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD
PROSTITUTION AND CHILD PORNOGRAPHY**

**List of issues to be taken up in connection with the consideration of the initial
report of Poland (CRC/C/OPSC/POL/1)**

1. Please provide, if available, statistical data (disaggregated by nationality, age, sex, ethnic origin, religion, geographic location, and socio-economic status) for the years 2006, 2007, and 2008 on:

- (a) The number of reported cases of sale of children (including the purpose), child prostitution and child pornography; the number of cases prosecuted and the outcome of these cases, including withdrawals; any institutional measures adopted to investigate these cases; sanctions for perpetrators; as well as recovery and reintegration programs provided for the victims;**
- (b) The number of children trafficked to and from Poland as well as within the country for the purpose of sexual exploitation, the number of cases prosecuted with additional information on type of follow-up provided on the outcome of the cases, including withdrawals, as well as on sanctions for perpetrators;**
- (c) The number of child victims provided with recovery assistance and compensation as defined in article 9 paras. 3 and 4 of the Protocol; and**
- (d) The number of reported cases of crimes related to child sex tourism involving Polish citizens, with additional information on type of follow-up provided on the outcome of the cases, including prosecution, withdrawals and sanctions for perpetrators.**

(a) – see the statistics data in attachment 3

Estimates provided by Voivodeship (provincial) Police Units and the Warsaw Police Command, indicate that in 2008 751 persons were engaged in roadside prostitution, of whom 2 women under the age of 15, and 8 women between 15 and 18 years of age. In prostitution in escort agencies were engaged 2520 persons, of whom 1 woman under 15 years of age, 23 women from 15 to 18 years of age, and 15 men. Of 3271 persons engaged in prostitution in Poland, 3237 were adults, 3 aged 15-18 years, and 31 between 15 and 18 years of age.

Among persons involved in prostitution, the most numerous groups represent the following countries: Poland – 2496, Ukraine – 419, Bulgaria – 212 and Belarus – 119. As regards foreign women, roadside prostitution by 191 Bulgarians, and prostitution in escort agencies by 401 Ukrainians and 112 Belarusians has been recorded.

The number of persons involved in prostitution attributed to place, age, gender and nationality, is presented in the following table:

Citizenship	„Roadside prostitution”						Prostitution in escort agencies and other places (e.g. massage parlours, private apartments, hotels, etc.)						Total
	Age						Age						
	under 15		15 – 18		above 18		under 15		15 – 18		above 18		
	W	M	W	M	W	M	W	M	W	M	W	M	
Polish	2		7		517	3	1		23		1928	15	2496
Belarusian					7						112		119
Lithuanian					1						3		4
Ukrainian					18						401		419
Bulgarian			1		190						21		212
Russian											12		12
Czech					1								1
Romanian					4						1		5
Mongolian											1		1
Kazakh											2		2
TOTAL	2	-	8	-	738	3	1	-	23	-	2481	15	3271
COMBINED	751						2520						

Data from TEMIDA System of Criminal Offence Statistics

Art. 253 § 1-2 pc

As regards trade (trafficking) of people and organising illegal adoptions of children, 21 preparatory proceedings have been initiated. Also, 21 proceedings have been concluded. In 2008, 60 new offences were recorded, 59 detected. The detectability indicator was 98.3%. In course of proceedings, 59 motions for indictment were submitted. The perpetrators were 17 adults, of whom 14 men and 3 women, including 4 foreigners. 62 persons were identified as injured by the practice of human trafficking, including 14 foreigners.

The described data is presented in the below tables:

a) Art. 253 § 1 pc – Human trading

Number of proceedings

	Initiated	Concluded	Identified offences	Detected offences	Detectability indicator %	Motions for indictment
2004	5	5	44	42	95,5	42
2005	6	14	19	17	89,5	17
2006	12	13	18	15	83,3	14
2007	15	15	22	23	100	21
2008	18	18	60	59	98,3	59
I-VI 2009	13	10	12	12	100	59

Perpetrators

	Identified offences	Suspects			Foreigners
		Total	Women	Men	
2004	44	21	2	19	-
2005	19	9	2	7	-
2006	18	9	4	5	3
2007	22	23	7	16	4
2008	60	17	3	14	4
I-VI 2009	12	8	1	7	-

Injured persons

	Injured persons		
	Total	Foreigners	Minors
2004	35	3	3
2005	17	12	-
2006	16	-	-
2007	859	-	-
2008	62	14	-
I-VI 2009	19	8	6

b) Art. 253 § 2 pc – Human trading (illegal adoption)

Number of proceedings

	Initiated	Concluded	Identified offences	Detected offences	Detectability indicator %	Motions for indictment
2004	-	-	-	-	-	-
2005	-	-	1	1	100	1
2006	1	2	-	-	-	-
2007	1	1	-	-	-	-
2008	3	3	-	-	-	-
I-VI 2009	-	1	1	-	-	-

Perpetrators

	Identified offences	Suspects			Foreigners
		Total	Women	Men	
2004	-	-	-	-	-
2005	1	1	-	1	-
2006	-	-	-	-	-
2007	-	-	-	-	-
2008	-	-	-	-	-
I-VI 2009	1	-	-	-	-

Injured persons

	Injured persons		
	Total	Foreigners	Minors
2004	-	-	-
2005	-	-	-
2006	-	-	-
2007	-	-	-
2008	-	-	-
I-VI 2009	-	-	-

Art. 204 § 3 pc – gaining material benefit from practice of prostitution by a juvenile

In cases under the objective article of the Penal Code, 10 preparatory proceedings have been initiated. 17 proceedings were concluded. In 2008, 21 new offences were identified, also 21 were detected. The detectability indicator was 100%. The perpetrators were 18 Polish nationals, of whom 9 men and 9 women. Following the respective proceedings, 20 motions for indictment were submitted. In course of proceedings, 28 injured minors were identified.

The described data is presented in the below table:

Number of proceedings

	Initiated	Concluded	Identified offences	Detected offences	Detectability indicator %	Motions for indictment
2004	13	18	43	42	97.7	42
2005	19	28	59	59	100	57
2006	14	20	29	27	93.1	23
2007	10	16	44	43	99.7	43
2008	10	17	21	21	100	20
I-VI 2009	3	6	8	8	100	8

Perpetrators

	Identified offences	Suspects			Foreigners
		Total	Women	Men	
2004	43	18	5	13	-
2005	59	42	17	25	1
2006	29	27	10	17	-
2007	44	23	7	16	-
2008	21	18	9	9	-
I-VI 2009	8	2	-	2	-

Injured persons

	Injured persons		
	Total	Foreigners	Minors
2004	67	-	55
2005	78	1	67
2006	46	-	45
2007	242	1	242
2008	28	-	28
I-VI 2009	9	-	9

Art. 200 § 1 i 2 k.k. – sexual relationship with minor under 15 years of age

In cases under the objective article of the Penal Code, 1994 preparatory proceedings have been initiated. 2229 proceedings were concluded. In 2008, 1683 new offences were identified, also 1528 were detected. The detectability indicator was 90.6%. The perpetrators were 1082 persons, of whom 1062 men and 20 women. Among the perpetrators, 5 non-Polish citizens were identified. Following the respective proceedings, 1144 motions for indictment were submitted. In course of proceedings, 5635 injured minors were identified.

The described data is presented in the below table:

Number of proceedings

	Initiated	Concluded	Identified offences	Detected offences	Detectability indicator %	Motions for indictment
2004	1884	2036	1904	1766	92.5	1472
2005	1884	2071	1697	1572	92.1	1194
2006	1993	2084	1687	1573	92.9	1213
2007	2029	2361	1882	1730	91.2	1196
2008	1944	2229	1683	1528	90.6	1144
I-VI 2009	1002	1052	860	811	93,8	506

Perpetrators

	Identified offences	Suspects			Foreigners
		Total	Women	Men	
2004	1904	1052	12	1040	10
2005	1697	1053	14	1039	5
2006	1687	1101	23	1078	5
2007	1882	1148	23	1125	1
2008	1683	1082	20	1062	5
I-VI 2009	860	513	6	507	2

Injured persons

	Injured persons		
	Total	Foreigners	Minors
2004	2098	2	2080
2005	1811	-	1799
2006	4064	-	4053
2007	8151	-	8151
2008	5635	-	5635
I-VI 2009	2781	-	2781

Art. 202 § 2 pc – displaying, disseminating and providing pornographic contents to a minor under 15 years of age

In cases under the objective article of the Penal Code, 138 preparatory proceedings have been initiated. 176 proceedings were concluded. In 2008, 235 new offences were identified, also 214 were detected. The detectability indicator was 90.7%. The perpetrators were 90 persons, of whom 4 women. Following the respective proceedings, 100 motions for indictment were submitted. In course of proceedings, 786 injured minors were identified.

The described data is presented in the below table:

Number of proceedings

	Initiated	Concluded	Identified offences	Detected offences	Detectability indicator %	Motions for indictment
2004	79	71	128	121	94.5	105
2005	73	89	158	138	87.3	109
2006	93	93	209	201	96.2	106
2007	104	152	242	230	95.0	99
2008	138	176	235	214	90.7	100
I-VI 2009	72	96	139	131	94.2	39

Perpetrators

	Identified offences	Suspects			Foreigners
		Total	Women	Men	
2004	128	43	8	35	-
2005	158	25	2	23	1
2006	209	54	7	47	1
2007	242	91	10	81	-
2008	235	90	4	86	-
I-VI 2009	139	73	13	60	-

Injured persons

	Injured persons		
	Total	Foreigners	Minors
2004	137	-	111
2005	192	-	159
2006	658	-	657
2007	1006	-	1006
2008	786	-	786
I-VI 2009	484	-	484

Art. 202 § 3 pc – producing, recording, disseminating or publicly displaying pornographic contents featuring a minor

In cases under the objective article of the Penal Code, 268 preparatory proceedings have been initiated. 294 proceedings were concluded. In 2008, 581 new offences were identified, also 516 were detected. The detectability indicator was 88.7%. The perpetrators were 138 persons, of whom 127 men and 11 women. Following the respective proceedings, 141 motions for indictment were submitted. In course of proceedings, 122 injured persons were identified, of whom 83 minors.

The described data is presented in the below table:

Number of proceedings

	Initiated	Concluded	Identified offences	Detected offences	Detectability indicator %	Motions for indictment
2004	18	13	19	18	94.7	16
2005	112	93	83	68	81.9	64
2006	136	143	123	97	78.9	74
2007	197	199	187	154	82.4	107
2008	268	294	581	516	88.7	141
I-VI 2009	217	160	168	148	87.1	112

Perpetrators

	Identified offences	Suspects			Foreigners
		Total	Women	Men	
2004	19	14	2	12	-
2005	83	58	2	56	-
2006	123	72	2	70	1
2007	187	108	8	100	2
2008	581	138	11	127	1
I-VI 2009	168	72	15	57	-

Injured persons

	Injured persons		
	Total	Foreigners	Minors
2004	3	-	3
2005	27	-	2
2006	38	-	17
2007	72	-	24
2008	122	-	83
I-VI 2009	70	-	53

Art. 202 § 4 i 4a cp – recording, bringing and keeping pornographic contents featuring a minor under 15 years of age

In 2008, in cases under the objective article of the Penal Code, 229 preparatory proceedings have been initiated, 325 proceedings were concluded, 345 new offences were identified, also 315 were detected. The detectability indicator was 91.0%. The perpetrators were 180 persons, of whom 178 men and 2 women. Following the respective proceedings, 292 motions for indictment were submitted. In course of proceedings, 91 injured persons were identified, of whom 44 minors.

From January to June 2009, **1040** preparatory proceedings have been initiated in cases under Art. 202 § 4 i 4a cp, which shows an increase of effectiveness of all-country Police operations on combating cybercrime.

The described data is presented in the below table:

Number of proceedings

	Initiated	Concluded	Identified offences	Detected offences	Detectability indicator %	Motions for indictment
2004	14	12	11	11	100	8
2005	71	83	100	91	91.0	87
2006	128	150	356	340	95.5	327
2007	222	215	222	206	92.8	178
2008	229	325	345	315	91.0	292
I-VI 2009	246	192	1084	1067	98.4	1040

Perpetrators

	Identified offences	Suspects			Foreigners
		Total	Women	Men	
2004	11	7	-	7	-
2005	100	40	2	38	1
2006	356	91	-	91	1
2007	222	132	4	128	-
2008	345	180	2	178	1
I-VI 2009	1084	97	3	94	1

Injured persons

	Injured persons		
	Total	Foreigners	Minors
2004	43	-	43
2005	128	-	120
2006	80	-	49
2007	81	-	31
2008	91	-	44
I-VI 2009	74	-	52

The above police data from the TEMIDA System of Criminal Offence Statistics, focus on the objective topic in the phase of preparatory proceedings (from initiating to concluding proceedings, e.g. through developing a bill of indictment), therefore, it does not cover court verdicts nor specific sentences in cases relative to analysed criminality.

Court data are stated in the attachments to this document:

1. Adults sentenced in first instance by district and provincial courts under selected articles of the Penal Code in 2006, 2007, 2008.
2. Adults validly sentenced on indictment under selected articles of the Penal Code in 2006.
3. Penal Code – extract.

2. Please provide information on whether the Optional Protocol has the force and effect of law and whether it has been applied by the Courts.

Under art. 91 of the Constitution of the Republic of Poland (Journal of Laws 1997 No.

78, it. 483), the regulations of international agreements ratified by Poland, thus including the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, constitute a part of the national legal order and are directly applied, unless their applying depends on the issuance of the law. The Protocol was ratified at previous consent expressed in the law, and if its provisions result incompatible with the provisions of the law, then the Protocol shall prevail over the law.

The provisions of the Protocol relative to penalising pornography and child prostitution and the sale of children, have been introduced into Polish law. The commitments set forth in the Protocol are mainly met by the regulations of the Penal Code act (hereinafter: Pc; Journal of Laws 1997 No. 88, it. 553) and the law on foreigners (Journal of Laws 2006 No. 234, it. 1694) (their provisions crucial in the context of the analysed topic, are set forth in items 4-6, 11, 12, 16, 17, 23, 24, 26 of the report). The provisions of these laws, as well as of the Protocol, are applied by the Polish judiciary.

3. Please provide the definitions of sale of children and child prostitution under the Polish legislation. Please also indicate whether the State party has introduced or intends to introduce into the Criminal Code a specific prohibition of child prostitution in accordance with article 3, paragraph 1 of the Optional Protocol.

Definition of human trafficking

Under the provision of art. 91 of the Constitution of the Republic of Poland, described in the answer to question 2, the provisions of international agreements that mention the definition of human trafficking, primarily of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime*, and the *Council of Europe Convention on Action Against Trafficking in Human Beings*, are directly applied by Polish judiciary bodies. Nevertheless, striving to enhance the efficiency of action against human trafficking, the Polish Government has decided to include in the Penal Code the definition of human trafficking modelled on respective provisions of international law, primarily of the indicated Protocol and Convention. The respective draft amendment of the Pc is currently undergoing consultations between ministries, and is to be shortly submitted to the Government for approval.

Simultaneously, the Pc provides for sanctions for the offence of trafficking in persons, even done at their consent, and for other offences that may occur in relation to human trafficking, including i.a. abduction of a person to engage in prostitution abroad, and adoption of children against the provisions of the law.

Definition of child prostitution, protecting child from sexual abuse

Under Polish law, prostitution does not constitute an offence. However, it does state as offence all forms of achieving benefit from prostitution performed by another person, both adult and child. Therefore, there is no definition of child prostitution in the Pc. Nevertheless, it does provide for protecting child from sexual abuse. More information in this regard, mainly relative to legislative changes implemented in recent years with the purpose of enhancing the protection of children from sexual abuse, are set forth in item 6 of the report.

In this context, the following provisions of the Penal Code are of primary importance:

- Art. 197. § 1. Whoever by violence, unlawful threat or deceit brings another person to a sexual relationship,
Shall be subject to imprisonment from 2 to 12 years.

§ 2. If the perpetrator, in the way set forth in § 1, brings another person to submit to another sexual act or to perform such act, shall be subject to imprisonment from 6 months to 8 years.

§ 3. If the perpetrator commits rape jointly with another person, then he shall be subject to imprisonment for 3 years as minimum.

§ 4. If the perpetrator of the act set forth in § 1-3 acts with particular cruelty, then he shall be subject to imprisonment for 5 years as minimum.

– Art. 198. Whoever by taking advantage of the helplessness of another person or the inability of this person to recognise the meaning of the act, or to control his own behaviour due to mental disability or mental illness, brings this person to a sexual relationship or to submitting to another sexual act or to performing such act,

Shall be subject to imprisonment from 6 months to 8 years.

– Art. 199. § 1. Whoever by abusing the relation of dependence or by taking advantage of critical position, brings another person to a sexual relationship or to submission to another sexual act or to performing such act,

Shall be subject to imprisonment up to 3 years.

§ 2. If the act set forth in § 1 was committed to the injury of a minor, then perpetrator shall be subject to imprisonment from 3 months to 5 years.

§ 3. The penalty set forth in § 2 shall apply to whoever brings a minor to a sexual relationship or to submission to another sexual act or to performing such act, by abusing trust or providing him a material or personal benefit, or promising the same.

– Art. 200. § 1. Whoever maintains a sexual relationship with a minor under 15 years of age or commits towards such a person another sexual act or brings him to submit to such acts or to perform the same,

Shall be subject to imprisonment from 2 to 12 years.

§ 2. The same penalty applies to whoever with the purpose of achieving sexual satisfaction, presents to a minor under 15 years of age the exercising of a sexual act.

– Art. 201. Whoever commits a sexual relationship towards an ascendant, descendant, adopted, adopter, brother or sister,

Shall be subject to imprisonment from 3 months to 5 years.

– Art. 203. Whoever by violence, unlawful threat, deceit or by taking advantage of relation of dependence or critical position brings another person to engaging in prostitution,

Shall be subject to imprisonment from 1 to 10 years.

– Art. 204. § 1. Whoever with the purpose of achieving material benefit impels another person to engage in prostitution or facilitates the engaging in prostitution of this person,

Shall be subject to imprisonment up to 3 years.

§ 2. The penalty set forth in § 1 shall apply to whoever achieves material benefits from engagement in prostitution by another person.

§ 3. If the person stated in § 1 or 2 is a minor, then perpetrator

Shall be subject to imprisonment from 1 to 10 years.

§ 4. The penalty set forth in § 3 shall apply to whoever lures or abducts another person with the purpose of engaging in prostitution abroad.

Furthermore, changes in scope of sexual offences against children, are provided for by the draft amendment of the Pc and other laws, developed by the Ministry of Justice. Which provides for, i.a. penalising the so-called grooming. Only the appointment with and undertaking of actions to meet a person under 15 years of age, will constitute an offence penalised with 3 years of imprisonment. To this purpose, the introduction of the provision of art. 202a Pc of the following wording is anticipated: „*Whoever with the purpose of committing the offence set forth in art. 197 § 3 it. 2 or art. 200, as well as of producing or recording pornographic contents featuring a minor under 15 years of age, establishes contact with a minor through a data communication system or telecommunication network, and undertakes actions aimed at meeting the same, shall be subject to imprisonment of up to 3 years...*” The draft is currently in the process of parliamentary works.

4. Please provide information on legislative and other measures providing protection from prostitution for children between the ages of 15 and 18.

In Polish law, the minimum age of admissible sexual relationship is 15, what results from considering such person capable of consciously deciding whether to perform a sexual act. Under the provisions of the Pc a child, also aged 15-18, is more broadly protected against sexual abuse, than an adult: the qualified types (i.e. those for which a penalty is more severe than for the basic type) of offences set forth in art. 199 Pc and art. 204 Pc, are the offences committed to the injury of a minor i.e. a person under 18 years of age.

5. Please indicate if there are any legal provisions which application might lead to a prosecution of a child victim of sale, prostitution or pornography, and if so, under which conditions.

Under art. 10 Pc, penal responsibility may apply only to the person who at the time of committing the offence, had completed 17 years of age. As exception, in cases of committing the most serious offences on terms set forth in the Pc (as an adult) may be prosecuted a juvenile who completed 15 years, however, only when the case is backed by circumstances of the case, the personal development of the juvenile and his personal qualities and conditions, and in particular, when previously applied educational or corrective measures were inefficient. Therefore, against the victims of the offence of human trafficking, pornography or prostitution, who did not complete 17 years of age, the application of penal provisions leading to their indictment, would not be possible. As a rule, towards minors only the educational and corrective measures may be applied, as far as the minor demonstrates symptoms of demoralisation or commits an offence.

The penal responsibility mentioned in the question, could possibly apply only to children who completed 17 years of age and behaviours such as, e.g. illegal border crossing, or using false documents, etc. However, the revealing of such behaviour does not automatically generate the pressing of charges against such persons, nor subsequent indictment. In every case the behaviour of that person is assessed to certify whether any evidence exists, to enable to issue a decision to refuse to open criminal proceedings, or to dismiss criminal proceedings (art. 17 § 1 Ccp).

Depending on determined circumstances, there are the following legal possibilities to resign from prosecuting the actions of the victims of human trafficking:

- 1) Dismissal of penal proceeding, due to emergence of circumstance excluding the action.

The behaviour of a person may only constitute an offence under the condition that it has the features of a prohibited action. A circumstance excluding responsibility, is physical compulsion (*vis absoluta*), consisting in the use of physical violence that completely rules out a decision based on the will of the person against whom this form of coercion was used. It may apply to a situation when the victim is brutally abducted and the illegal border crossing occurs against his will.

2) Dismissal of penal proceeding, due to the emergence of a state of necessity.

If the victim is submitted to physical pressure (*vis compulsiva*, consisting in exerting physical measures to influence the decisions of the victim) or psychical coercion (punishable threat), then his legal situation should be assessed in terms of art. 26 Pc (state of necessity).

However, if none of the above circumstances excluding penal proceedings occurs, then there is the possibility to apply the institution of extraordinary mitigation of penalty, if the person who appears in a separate proceeding as accused of e.g. using a false passport, or illegal border crossing (who is actually a victim of human trafficking), has decided to reveal information on other offences (e.g. human trafficking), and their perpetrators.

6. Please briefly provide clarification as to the current Statute of Limitations for criminal offences committed against children pending the adoption of the draft amendment to the Penal Code that will allow the possibility to start and execute penal proceedings within five years of the moment the victim turns 18. Please also provide the Committee with an update as to the current status of the abovementioned amendment.

In December 2008 an amendment to the Pc entered in force, introducing to art. 101 the paragraph 4, that provides for more severe guidelines of the statute of limitations in sex offences committed against minors: „The statute of limitations in offences set forth in art. 199 § 2 and 3, art. 200, art. 202 § 2, and 4 and art. 204 § 3, as well as the offences set forth in art. 197, art. 201, art. 202 § 3, art. 203 and art. 204 § 4, in the case when the victim is a minor, shall not occur prior to the lapse of 5 years from the day the injured completed 18 years of age. "

7. Please inform the Committee if any research has been earned out on the issue of children used in prostitution in Poland and its outcome, as well as the estimated numbers of children used in prostitution disaggregated according to age, sex, ethnic origin, religion, nationality, geographic location and socioeconomic status.

see the statistics data in attachment 3

8. Please provide information on rules regarding deportation and repatriation of children who may have been trafficked to Poland for the purpose of sale within the meaning of article 2, paragraph (a) of the Optional Protocol or of child prostitution. Please also provide statistical data covering years 2004 -2008 on children victims of trafficking deported or repatriated from Poland disaggregated as above and according to country of return.

The provisions of the law of 13 June 2003 on foreigners (Journal of Laws 2006 No. 234, it. 1964 as amended), do not provide for any particular regulations on deporting from Polish territory the children who are victims of human trafficking. Whereas the law on foreigners does contain regulations relative to legalising the stay of foreigners, who are

victims of human trafficking.

Art. 53a clause 2 of the above law, states that residence permits for a determined time may be granted to a foreigner staying illegally in the territory of the Republic of Poland, if the organ competent in conducting proceedings on human trafficking, states that the foreigner in question is probably a victim of human trafficking in terms of the framework decision of the Council of 19 July 2002 on countering human trafficking (Official Journal of the EU L 203 of 01.08.2002, page. 1; Official Journal of the EU special Polish issue, chapter 19, vol. 6, page 52). The decision in the objective case is issued by the voivode (provincial governor) respective for the place of stay of the foreigner. The permit of residence for a determined time (not exceeding 3 months) may be in this case issued for a period necessary to take a decision to collaborate with the organ competent to conduct the proceeding to counter human trafficking. Also, art. 53 clause 1 it. 15 of the law on foreigners, states that the residence permits for a determined time shall be granted to the foreigner who is victim of human trafficking in terms of the framework decision of the Council of 19 July 2002 on countering human trafficking, and meets the following conditions combined:

- a) stays in the territory of the Republic of Poland,
- b) undertook collaboration with the organ competent in conducting proceeding to counter human trafficking,
- c) broke contacts with persons suspected of committing prohibited actions related to human trafficking,

- if the circumstance that is the basis for applying for the permit, justifies his residence in the territory of the Republic of Poland for a period exceeding 3 months. The above permit shall be granted by the voivode respective for the place of stay of the foreigner, for a 6-month period. The law of 16 November 2006 on stamp duty (Journal of Laws No. 225, it. 1635, of 2007 No. 64, it. 427, No. 124, it. 859, No. 127, it. 880 and No. 128, it. 883 and of 2008 No. 44, it. 262 and No. 63, it. 394) provides for exempting from stamp duty on the residence permit for a determined time, granted to a foreigner who is victim of human trafficking and undertook collaboration with law enforcement bodies (art. 53 clause 1 it. 15 of the law on foreigners).

It should be stressed that in 2005, Poland implemented the 2004/81/EC directive on the residence permit issued to victims of actions aimed at facilitating illegal immigration, or trafficking in human beings.

The law on foreigners separately regulates the issue of deporting minors from Polish territory. Art. 94 of the law, states that the decision to deport a minor foreigner to his country of origin or to another country, is exercised only when the minor is there ensured the guardianship by parents, other adults or care institutions, in line with the standards set by the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989 (Journal of Laws 1991 No. 120, it. 526 and of 2000 No. 2, it. 11). The minor foreigner may be deported only under the care of legal representative, unless the decision on deportation is exercised in a way to ensure that the minor is transferred to the legal representative, or the representative of the respective bodies of the country to which deportation takes place.

In the law of 13 June 2003 on granting foreigners protection in the territory of the Republic of Poland (Journal of Laws 2006 No. 234, it. 1695 as amended), Chapter 4 Section II art. 61-67 regulates the procedure of granting the refugee status to minors devoid of guardians, and the special duties of the bodies conducting the proceeding.

The body that accepts the application for refugee status submitted by a minor devoid of guardian, promptly addresses the guardianship court with an application to appoint a custodian to represent the minor in the proceeding to grant the refugee status, and to place the minor in an institution of care for children and the young. Moreover, it brings the minor

devoid of guardian to a professional foster emergency-family not related in blood with the child, or to a child care institution. The costs of stay of the minor devoid of guardian are financed by the state budget, from the part at disposal of the minister competent in internal affairs, from the resources at disposal of the Head of the Office. The head of the Office for Foreigners, as possible, shall undertake activities to find the members of the family of the minor devoid of guardian. Additionally, within the framework of his competence, instructs the minor devoid of guardian on the factual and legal circumstances that may affect the outcome of the proceeding to grant the refugee status, and on the possibility to demand that interrogation takes place in presence of an adult indicated by the minor. The questioning is held in a language understood by the minor devoid of guardian, in a manner adjusted to his age, maturity and mental development, with consideration of the circumstance that the minor may have limited knowledge on the actual situation in the country of origin. The minor devoid of guardian is questioned in the presence of a custodian, who is an adult indicated by the minor, and if the proceeding is not hampered as a result, by a psychologist or teacher, who develops an assessment of the minor's psychological and physical condition.

It should be stressed that the bodies conducting proceedings are obliged to contact the organs or organisations of the country of origin, whose statutory duties cover issues of minors, in case when the deportation of a minor is pronounced.

Under art. 97 clause 1 it. 1a of the law on granting foreigners protection in the territory of the Republic of Poland, a foreigner shall be granted consent to a tolerated stay in the territory of the Republic of Poland, if his deportation breaches the right to family life in terms of the Convention for the Protection of Human Rights and Fundamental Freedoms, drawn in Rome on 4 November 1950, or the rights of child set forth in the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989 (Journal of Laws 1991 No. 120, it. 526 and of 2000 No. 2, it. 11), in a scope importantly threatening his psychological/physical development.

Furthermore, the status of victim of human trafficking entitles every foreigner (also the minor) to take advantage of the *Programme of assistance and protection for victim/witness of human trafficking*, under which apart from material, medical and psychological support, the victim is also ensured safe return to the country of origin.

In 2006-2008, 4 foreign minors, including 2 minors devoid of guardians, took advantage of the assistance provided under the *Programme*.

9. Please indicate whether any specific measures have been taken to prevent particularly vulnerable children, such as street children, Roma children, unaccompanied asylum seeking children and children residing in residential care institutions, from becoming victims of such offences.

Governmental programmes and strategies:

1. Governmental programme to reduce delinquency and antisocial behaviour „Together safer”.

The programme was created by force of a resolution of the Council of Ministers of 18 December 2006, No. 218/2006. The executing of tasks implemented under the programme, is co-ordinated by the Minister of Internal Affairs and Administration. The programme is planned to be completed in 2007-2015.

Every year, in the state budget as part of target financial reserves, the amount of PLN 3 million is allocated to implementing the programme „Together safer”, to stimulate the activity of local communities. This amount is transferred to voivodeship (provincial) budgets, to finance tasks executed by non-governmental organisations and self-government units.

The main guideline of the Programme consists in reduction of events and attitudes that provoke universal condemnation and sense of threat. The Programme combines the activities of Police, state administration and self-governments and social partners, interested in improving public safety and order. Among the crucial points of the Programme is convincing citizens to establish permanent, continuous, natural partnership with the Police and other institutions responsible for public safety and order.

The programme covers, i.a. the following domains:

- Safety in public areas and place of residence.
- Violence in family.
- Safety in school.

2. In 2008, an all-Polish campaign called „I love. I don't batter” was carried out, meeting the guidelines of the governmental programme of reducing delinquency and antisocial behaviour “Together safer”. Its idea came out of the Foundation National Competence Centre "KCK".

The campaign was performed in September/October 2008. Its purpose consisted, i.a. in promoting slogans associated with countering violence in family and reducing its consequences, enhancing social engagement in preventing violence in family by strengthening social awareness of all aspects of violence, improving citizens' knowledge of violence at home, and disseminating family values.

On 2 September 2009 the second edition of the campaign was launched under the patronage of ministries of: internal affairs and administration, justice, health, national education, labour and social policy and with the participation of the Police, Ombudsman for the rights of the child and NGOs – partners of the action. An increasing number of police interventions on home violence cases is the evidence for the raise of social awareness on children harm having been done.

This year campaign slogans are: “I love. I response.“, “I love. I don't shout”, “I love. I've got time.”

3. Governmental Programme of Preventing Social Maladjustment and Delinquency Among Children and the Young.

One of the important elements of system actions designed to counter prostitution among children and teenagers, is – developed by the governmental Team at the Ministry of Internal Affairs and Administration and accepted by the Council of Ministers in 2003 – the „*Programme of Preventing Social Maladjustment and Delinquency Among Children and the Young*”. The Ministry co-ordinates the implementation of the Programme, by developing annual reports on its progress. The execution of the Programme was extended to 10 years, one of its elements are procedures to be followed by teachers and methods of collaborating with the Police, in situations when children and teenagers are threatened by delinquency and demoralisation, in particular drug addiction, alcoholism and prostitution.

4. As part of the working group of the Interministerial Team for Counteracting and Preventing Human Trafficking (operating on basis of the **National Action Plan Against Human Trafficking for 2009 – 2010**, adopted by the Government on 5 May of this year), a plan of activities has been developed and is in process of implementing, designed to prepare a comprehensive system for supporting and protecting the child – injured/victim of human trafficking. In course of works it was determined that the first phase of operations would focus on the following three aspects, apparently the most troublesome in context of children trafficking and ensuring to victims of this crime the proper assistance:

- a) Establishing a safe facility for minor victims of human trafficking: provided that the main purpose of activities is to protect children-victims of crime, the priority consists in offering them a safe haven and the possibility to recover as soon as possible from the traumas suffered. It especially applies to minor foreigners devoid of guardians, who in contrast to Polish citizens, in most cases do not have a permanent place of residence in Poland, nor family members or friends who could take care of them. These children are most often directed to emergency-type care institutions, that do not guarantee safety nor the care adequate to the needs of the injured. Thus it is planned to conclude a pilot accord between the Ministry of Internal Affairs and Administration and the Warsaw City Office, aimed at developing a permanent care institution, operating exclusively for minors identified by law enforcement organs as victims of human trafficking. Another move in this regard will be the developing of rules of collaboration (between the institution and other entities, Police included) to protect minor foreigners devoid of guardians, who fell victim to human trafficking.
- b) Improving the process of identifying minor victims of human trafficking: from the perspective of the Criminal Bureau of KGP, the crucial initiative in this regard (apart from other operations) seems to be the developing of adequate tools to improve the process of identifying minors injured by the objective practice, i.e. setting the guidelines on proceeding and scope of assistance, granted to minor victims of human trafficking. Those guidelines will compose the Algorithm of procedure for law enforcement officers, in event of revealing a minor victim of human trafficking; it will be analogous (considering differences between injured persons) to the current Algorithm of procedure that has been applied by law enforcement bodies for more than three years now, in cases when human trafficking is detected. Next, the above guidelines will be directed to be applied – initially on pilot basis in selected units – by law enforcement officers. Moreover, it is also planned to prepare similar tools for the personnel of care institutions.
- c) Developing an analysis of children trafficking in Poland: there is no reliable in-depth assessment of the phenomenon, based on a comprehensive analysis that would include legal solutions, procedures, experiences of institutions providing assistance to minor victims, and statistical data, that remain at disposal of law enforcement bodies. Execution of these measures will facilitate planning and operations aimed at counteracting children trafficking, and the assistance to victims of this practice.

The above mentioned National Plan of Action Against Human Trafficking for 2009 – 2010, as regards protecting minors from human trafficking, provides for carrying out an information campaign on human trade, addressed to school youth. The activities will be mainly performed through the Internet; under the project „Children at Risk”, an information network is to be created for children and teenagers, on possibilities of obtaining assistance in event of threat (on school websites), moreover thanks to www.childcentre.info, teachers and tutors will have access and option to use educational and research programmes, results of regional surveys, professional literature, including its proposed practical application.

In order to improve the operations aimed at counteracting children trafficking, the qualifications of functionaries and representatives of law enforcement bodies are in continual process of development, as is the efficiency of the judiciary in detecting and preventing this delinquency. Which also applies to the personnel of care institutions in scope of identifying children-victims of human trafficking, intervening in crisis situations, and rules of collaborating with other entities. Thus, in 2009 – 2010 in those institutions proper comprehensive training systems will be introduced to address the problem of human trafficking, with special focus on children trade: for instance, the Police has developed a

programme of a permanent specialist course for police functionaries responsible for preventing human trafficking. The first edition of the course is planned for late September of this year, at the Police Academy in Szczytno. Similar solutions have been anticipated for the Border Guards, prosecutors and judges, and also in these cases trainings will be permanent, thus performed in cycles, with the purpose of directing them to the broadest group of persons possible.

5. According to the guidelines of the *National Plan of Action Against Human Trafficking for 2009-2010*, providing for creation of a Model of support and protection of the child-victim of human trafficking, efforts have been launched for:

- Developing a network of safe care centres, indicated as adequate in case of identifying a minor victim of human trafficking;
- Establishing a training panel about human trafficking, addressed to employees of care centres;
- Developing an analysis of the phenomenon of child trading in Poland;
- Developing – for functionaries of law enforcement organs – of algorithm/guidelines of procedure in case when there is suspicion of committed offence of trading in children.

Moreover, within the framework of preventive measures, until 2010 an all-Polish information campaign is being carried out, addressed to students of upper secondary schools. As part of the campaign, information materials have been issued to be later provided to the young, at educational meetings specially organised to this purpose.

6. Institutions responsible for combating crimes of trafficking in human beings

Apart from the Central Combat Team for Trafficking in Human Beings established in September 2006 in the Criminal Department of the Criminal Bureau of the Polish National Police and teams of 2-3 permanently employed persons in 16 provincial headquarters and the capital city headquarters, at the same time supernumerary coordinators and their deputies (13 coordinators and 12 deputies) – officers from the operational and prosecution division - have been appointed in all departments of the National Border Guard Headquarters.

In June 2008 a Team for permanent monitoring and coordination of the Border Guard's activities within the scope of preventing and combating crimes of trafficking in human beings was established at the National Border Guard Headquarters.

At the National Public Prosecutor's Office a coordinator for trafficking in human beings was appointed as well as permanently employed coordinators were appointed at the appeal public prosecutor's offices.

6. Beggary and trafficking in human beings

In accordance with the Polish law the phenomenon of beggary constitutes a petty offence (Article 58 of the Code of Petty Offences - beggary in a public place; Article 104 CPO - inducing to beggary a minor child or an incapacitated person or a person who is a dependant or under the guardianship of the inducing person).

With regard to the allegations of connecting this practice with the phenomenon of trafficking in human beings, the Polish National Police prepared the *Concept of combating trafficking in human beings in the context of inducing the victims to beggary* the main assumption of which is the order to transfer information regarding the above acts to the criminal service to verify their connection with the crime of trafficking in human beings and to check the organised nature of this crime, and also taking preventive action in this respect.

So far in Poland there has been one court judgment with regard to forcing Ukrainian women to beg together with minor children.

7. Training sessions envisaged within the framework of the National Action Plan against Trafficking in Human Beings for the years 2009-2010.

- Specialised training sessions for **social services employees**, in particular personnel of the crisis intervention centres within the framework of trafficking victims identification, crisis intervention and principles of cooperation with other institutions (*permanent tasks*).
- Specialised training sessions for **special education centres employees**, within **the scope of children identification – victims of trafficking in human beings**, crisis intervention and principles of cooperation with other institutions (*new tasks*).

8. Adoption

In July 2009 the Ministry of Internal Affairs and Administration submitted a request to the Ministry of Justice to order the Institute of Justice to conduct analysis of the court files from the period of 1999-2009 with regard to circumstances of committing a crime of illegal adoption, in particular the profile of the perpetrators and their mode of action (including the role of the parent/parents of the child in committing the crime), the profile of the victim and prerequisites which constitute the basis for the court to find the perpetrators guilty of illegal adoption crime.

Due to the existing assumptions that individual cases of selling a child by the parent may be classified under Article 253 par. 1 of the Penal Code generally penalising trafficking in human beings, there has been a request submitted to conduct analysis of the court files comprising both Article 253 par. 2 PC and Article 253 par. 1 PC. The analysis will serve as the base for the discussion on the problem, in particular for diagnosis of the legal gaps and the practices and in the future for protection of the rights of the victims.

Co-operation with non-governmental organisations (NGOs):

1. In 2008, the Minister of Internal Affairs and Administration entrusted to non-governmental entities the execution of the public programme: „Countering the radicalisation in behaviours of children and the young” (**with financial support of nearly 100 000 PLN**). The task consisted, i.a. in conducting actions and campaigns promoting adequate attitudes that meet the law and social standards, implementing initiatives to develop among the young effective mechanisms to defend against and oppose such negative phenomena as violence, alcoholism, drug addiction.

2. In 2008, the Ministry of Internal Affairs and Administration also announced a contest for performing in 2009 the public programme to enhance the feeling of safety among children and to prevent violence in family, titled „Managing helpline for children” (**with financial support of nearly 200 000 PLN**). The programme consists in operating an all-Polish telephone helpline for children, and conducting informative and promotional activities addressed to society in Polish territory, on the functioning of helpline for children. The programme is designed to enhance the feeling of safety among children, by offering them the option of resorting to the telephone helpline, and to counteract violence in family. In addition, a website www.116111.pl has been operating which i.a. enables the minors to talk about their problems and ask for psychological support. Experts of the helpline have prepared a set of educational materials targeted students of lower secondary schools.

3. Regarding the initiatives aimed at protecting special types of minors, such as e.g. Roma children, in Poland thus far no cases have been recorded, in which children and teenagers of Roma origin would fall victim to trafficking of children, child pornography, or child prostitution. However, they are particularly exposed to negative phenomena generated by social exclusion, that affect a large part of the Roma community in Poland. Due to the need to

counteract this situation and to improve the difficult position of the Roma, the Council of Ministers by force of a resolution of 19 August 2003 has adopted the *Programme for the Roma society in Poland*. A large majority of solutions stated in the *Programme*, has been tested in the course of implementing the *Pilot governmental programme for the Roma society in Lesser Poland voivodeship for 2001 – 2003*, and is currently being continued in the all-Polish *Programme*. The process of implementing the *Programme* was launched on 1 January 2004, it is planned to be continued for 10 years, with the option of prolongation.

Under the *Programme*, state administration, self-government units and non-governmental organisations perform a broad range of activities to improve living and social conditions, reduce unemployment, promote health, safety, culture, and support Roma identity, disseminate knowledge about the Roma community, and raise civic awareness among the Roma. As in the earlier *Programme for Lesser Poland voivodeship*, educational tasks are the priority. The biggest successes have been achieved in this field. The number of children attending schools has risen significantly (in some voivodeships all children covered by compulsory education, attend schools), attendance of Roma students and scores in learning have improved. These successes are the result, i.a. of the work of assistants in Roma education and teachers supporting formation of the Roma, hired under the *Programme*, and complementary activities as well, mainly organised level equalising, and additional classes. Educational activities include subsidising summer camps and semi-camps, winter and scout camps, as well as tourist excursions and sports and leisure activities. The activities launched in the field of education are complemented by material assistance, which mainly consists in subsidising that enables Roma childrens' systematical attendance to nursery schools and reception "0" grade classes. In this domain, also other initiatives should be named, such as providing especially needy pupils with manuals, school aids, didactic aids, and co-financing transfers to and from school, as well as covering students' accident insurance.

Overall, until 2009 (inclusive) **budgetary resources exceeding PLN 54 million** have been allocated to finance operations under both *Programmes* (more than EUR 13 million), enabling to implement hundreds of initiatives mainly by self-government units and non-governmental organisations, Roma organisations included, whose share in financing the tasks of the *Programme* is approximately 20%.

4. Since 2006 as ordered by the Minister of Internal Affairs and Administration, a non-governmental organisation has been conducting the following task *Support and protection of the trafficking victim/witness programme*, within the framework of which help is provided to foreign victims of trafficking in human beings.

Within the framework of the *Programme* the victim, upon contacting law enforcement authorities in order to be identified and upon granting consent as to participation in the *Programme* and upon breaking contact with the perpetrators is entitled to the following help:

- accommodation in a safe institution and care of a qualified social worker,
- food,
- basic medical care,
- psychological support,
- legal counselling,
- help in contacts with law enforcement authorities and administration of justice (e.g. presence of the NGO employee during testimony of the aggrieved party),
- assistance of the interpreter/translator,
- organisation of a safe journey to the home country,
- legalisation of the stay (in the event of illegal stay in the territory of the Republic of Poland).

5. Since April 2009 Krajowe Centrum Interwencyjno-Konsultacyjne dla Ofiar Handlu Ludźmi (the National Intervention and Consultancy Centre for the Trafficking Victims) has been operating, which offers help for the trafficking victims who are Polish citizens or foreigners. Establishing the National Centre took place within the framework of *the National Action Plan against Trafficking in Human Beings for the years 2009-2010*.

The basic tasks of the Centre, run by La Strada Foundation, are the following:

- 24h hotline for victims and witnesses of human trafficking,
- supporting trafficking victims within the scope of their identification,
- crisis intervention,
- consultations for government and self-government institutions within the scope of working with victims of human trafficking,
- conducting preventive counselling for individual cases and institutions alike,
- ensuring safe accommodation.

6. Information campaign regarding trafficking in human beings addressed to schoolchildren

Within the framework of *the National Action Plan against Trafficking in Human Beings for the years 2009-2010* the Ministry of Internal Affairs and Administration is planning to conduct information campaign addressed to schoolchildren. The campaign will make use of the Council of Europe cartoon book called “You're not for sale” in the Polish language version and information leaflet designed for this purpose together with instruction materials for educators. The campaign assumes training on the trafficking in human beings issue for educators who will later conduct meetings with young people at schools. The meetings will also be conducted by police officers and other involved entities. Preventive activities may also be undertaken during mass events or carried out by centres supporting “difficult youth”.

Implementation time: September 2009 – October 2010.

7. Standard Operating Procedures on Sexual Gender Based Violence (SOP on SGBV)

The Office for Foreigners participates in the implementation of the SOP on SGBV agreement, which is aimed to identify, prevent and respond to cases of gender based sexual violence, which may be suffered by persons placed in centres for foreigners seeking the refugee status.

Within the meaning of the agreement, sexual gender based violence is any act of violence related to gender, which involves causing physical or mental harm, and threat to inflict such harm, in particular:

- inducing a person to have sexual intercourse;
- inducing a person to perform or submit to a sexual act;
- presentation of content of a sexual nature in such a manner that it can be imposed on a person who does not want this;
- other way of deprivation of sexual freedom and integrity;
- using family violence.

Under the agreement, the so-called **local cooperation teams** were established, which take coordinated measures to prevent cases of violence against foreigners staying at the centre for foreigners seeking the refugee status and to ensure an effective response to any cases of violence.

In order to monitor and evaluate the progress of implementation of the agreement, the so-called **Evaluation Group** was established, composed of representatives of: the Head of the

Office for Foreigners; the Chief of Police; the UNHCR National Office; “La Strada” Foundation; Halina Nieć Legal Assistance Centre (*Centrum Pomocy Prawnej im. Haliny Nieć*); the Ministry of Interior and Administration.

In addition, the Evaluation Group has decided to invite the following NGOs to work in local cooperation teams under the Agreement: Ocalenie Foundation; Caritas Polska; Rule of Law Institute.

For the first 6 months, the Head of the Office for Foreigners served as the chairman of the Evaluation Group. From September 2008 the chairmanship was taken over by a representative of the UNHCR National Office. Currently the function is served by the Halina Nieć Legal Assistance Centre.

3 training causes have been delivered so far:

1. training for representatives of the Evaluation Group, which was held in Warsaw on 30 September 2008;
2. training for local cooperation teams from the Mazovian Voivodeship, which was held on 17-18 November 2008 in Warsaw;
3. training for local cooperation teams from eastern Poland and south-eastern Poland, which was held on 15-16 December 2008 in Lublin.

In addition, **questionnaire surveys** were conducted in three centres for foreigners seeking the refugee status (Bielany, Dębak, Siekierki) based on a questionnaire prepared to examine the risk factors concerning gender-based violence or sexual violence against foreigners at the. On their basis, a **report on the cases of gender-based violence or sexual violence at the centres** was developed. The report contains a description of the current situation at the centres, and conclusions and recommendations concerning the improvement of security at the centres as well as the reduction or elimination of risk factors.

Information materials have also been issued for foreigners on gender-based violence and sexual violence, containing also information on where assistance should be sought and what activities and types of assistance foreigners can expect: 600 leaflets (in 3 languages: Polish, English, Russian), 50 posters.

8. A regular assignment carried out each year – *training to employees of the Office for Foreigners interviewing refugee status seekers in identifying victims of human traffic*

The training is conducted by representatives of La Strada, a non-governmental foundation against human trafficking and slavery.

The training entitled “Identifying victims of human traffic” covers the following subject range:

1. Poland’s triple role on the human traffic map
2. Human smuggling vs. human trafficking
3. Definition of human trafficking, features of forced labour, associated crimes
4. Polish law and procedures related to human trafficking
5. Risk groups
6. Identifying victims by means of questions, observation and conclusions
7. A programme of support and protection to victims of human trafficking – rules and procedures

9. A regular assignment carried out each year – *training to employees of the Office for Foreigners working at Refugee Centres in identifying and supporting victims of human traffic*

The training is conducted by representatives of La Strada, a non-governmental foundation against human trafficking and slavery and covers the following subject range:

- What is human traffic? – Polish law and the definition from the „Protocol”
- Methods used by perpetrators
- Poland’s triple role (with special focus on transit)
- Presentation of *doubtful* cases
- Universal barriers to self-identification of victims and their willingness to cooperate
- Identifying by means of questions, observation and conclusions
- Cultural factors obstructing identification among the group of persons in the refugee procedure in Poland
- A programme of support and protection to victims of human trafficking – rules and procedures, algorithm

10. As part of additional activities, the Office for Foreigners provided training to the staff of the Foundation Against Human Traffic and Slavery (LA STRADA) with a view to enhancing their knowledge about citizens of the Russian Federation of Chechen nationality, taking into account cultural aspects, the position of women in the Chechen community, the system of values, clan structures, family relations, main migration routes, etc.

10. Please provide updated information on how progress in the implementation of the Programme of “Preventing and combating violence against children, youth and women and the protection of victims and risk groups - DAPHNE III for the years 2007-2013” has improved protection of the child from the sale of children, child prostitution and child pornography.

Then role of the Ministry of Internal Affairs and Administration as national co-ordinator, consists i.a. in disseminating as broadly as possible among entitled Polish entities, of information on the possibility to apply for support from resources under the Programme, as well as actively participating in the works of the Committee Daphne III. The structure of the Ministry includes a domestic expert (member of the Committee Supporting the European Commission in implementing the Programme Daphne III).

In order to promote the Programme Daphne III in Poland, a dedicated website was created: www.mswia.gov.pl/daphne and e-mail address: daphne@mswia.gov.pl. Also, attention should called on the contactbase for entities interested in the Programme Daphne III, available at the website of the Ministry of Internal Affairs and Administration.

Under the Programme Daphne III, the Commission awarded in 2008 an „action grant”, for a project developed jointly with an entity from another EU member country, amounting to EUR 76,224 to the Warsaw Police Command, for the project „To serve children: Co-operation between Police and non-governmental organisations to counter violence against children”. Implementation of the project will enable to develop police functionaries’ awareness of the symptoms of injured child, on basis of the experience of partners. It will pave the way to developing educational materials, to be used in the process of police training.

Moreover, the Foundation Centre of Women’s Rights, has received under the Programme Daphne III an „operational grant” (to the activity of non-governmental organisation in a given year) of EUR 100,000, for its operations in 2009.

11. Please briefly provide information on, and examples of, awareness-raising activities relating to child pornography targeting the general public.

a. Institutional and political activities

Social informational campaigns:

- **“Child online”** – a campaign of Fundacja Dzieci Niczyje (the Nobody’s Children Foundation - FDN) conducted in the years 2004, 2006 and 2008 aimed at drawing attention to the issues of:
 - using the internet safely and the threat of paedophilia online (part 1 *You never know who is on the other end*),
 - the problem of dangerous content on the Internet – pornography, violence and other (part 2 *Internet is a window to the world. The whole world*),
 - the problem of peer violence with the use of Internet and mobile phones (part 3 *Stop cyber violence*);

Within the framework of the campaign TV commercials, radio and press advertisements and external advertisements (billboards, posters) are presented. Moreover, research on the threats awaiting children on the Internet and training sessions for professionals working with children are carried out.

- **“Stop paedophiles” campaign** – conducted since 2004 by Kidprotect.pl foundation and devoted to the phenomena of child prostitution, child seduction and child pornography, and the problem of paedophilia on the Internet.
- **Safer Internet Day** celebrated in February since 2005 at the initiative of the European Commission. The initiative aims at drawing attention to the issue of using the Internet resources safely by children and teenagers. Organisations participating in the Safer Internet project are responsible for organising Safer Internet Day in their countries. Safer Internet Day Europe-wide celebrations are accompanied by festivities, projects, discussions and exhibitions promoting responsible attitude of adults and the right of children to use the Internet safely. On the national level the programme is implemented by the Nobody's Children Foundation and Naukowa i Internetowa Sieć Komputerowa (the Scientific and Academic Computer Network - NASK).

Hotlines in Poland:

Currently there are three contact points (the so-called hotlines) accepting reports from children and adults regarding illegal or dangerous contents or actions on the Internet. These are help lines where children, teenagers and professionals working with children can report instances of threats on the Internet, such as child grooming, cyber violence, contact with harmful contents.

- **Helpline.org.pl** – a project of FDN and Fundacja Grupy TP (the PT Group foundation), which is a part of the Safer Internet programme in Poland and the framework for providing help in child threatening situations on the Internet. The project website contains advice on preventing dangerous situations and also information about what to do should a threat occur. Teenagers may contact the HELPLINE consultants on-line on a special chat or via e-mail. A free phone number is also available in order to contact the consultants.
- **Dyżurnet.pl** – a contact point for combating illegal contents on the Internet, which has been created by the Scientific and Academic Computer Network in cooperation with the European Commission within the framework of the Europe-wide programme “Safer Internet Action Plan”. It is possible to report here, among other things,

instances of illegal contents and child pornography on the Internet. Dyżurnet.pl is a member of an international helpline association INHOPE.

- **Kidprotect.pl foundation hotline** accepting reports of instances of paedophilia and child abuse on the Internet.

b. Social activities undertaken in cooperation with non-governmental organisations and other social institutions.

The need for complex activities with regard to prevention of crime against children by means of modern communication technologies caused that since 2006 teams have been created in Poland that are composed of representatives of governmental institutions, non-governmental institutions, central national in-service teacher training centres and commercial companies. The most important of these are:

- **Consultation Committee with the Safer Internet programme in Poland** established in January 2006 as a consulting body supporting the implementation of the Safer Internet programme in Poland. The tasks of the Committee comprise assistance in planning the activities safeguarding safety of children on the Internet and assessment of the Safer Internet programme implementation. Participants in the works of the Committee are representatives of: National In-Service Teacher Training Centre, the Polish National Police, The Capital City of Warsaw Police, Ministry of Education and Science, Ministry of Science and Information Technology, Ministry of Justice, Ministry of Internal Affairs and Administration, Ministry of Labour and Social Policy, the Polish Chamber of Information Technology and Telecommunications, the Ombudsman for Children, the Polish UNESCO Committee, the Office of Competition and Consumer Protection, and the Audio-Video Producers Association.
- **Ogólnopolska Koalicja na rzecz Bezpiecznego Internetu (The National Coalition for Safer Internet - OKBI)** established in February 2006. It is a cooperation platform for governmental and non-governmental institutions, schools and other education institutions and commercial companies for the safety of children and teenagers on the Internet. The coalition acts within the framework of the Safer Internet project in Poland and is coordinated by the Nobody's Children foundation and NASK - national project implementing bodies.
- **Team for the Prevention of the Discrimination of Minors in Electronic Media established by decision of the Government Plenipotentiary for Equal Treatment of 11 September 2008.** The main tasks of the team include introducing necessary changes to the Polish law within the scope of protecting children against threats, conducting social campaigns aimed at making parents, teachers and children aware of the issue of preventing cyber violence, promoting changes in education system, implementing good practices operating in the world.

Performance of the Team's tasks:

1. As of 31 March 2009, the following amendments were made to **Article 202 of the Criminal Code** (the Act amending Criminal Code Act and certain other acts, Journal of Laws of 2008, No 214, item 1344): § 4b was added after § 4a, reading as follows:

„§ 4b. Whoever produces, disseminates, presents, keeps or possesses pornographic content presenting a created or processed image of a minor involved in a sexual act shall be liable to a fine, penalty of restricted freedom or imprisonment for up to 2 years.”

§ 5 was amended to read:

„§ 5. The court may adjudicate the forfeiture of tools and other items that were used or intended to commit the offences defined in § 1- 4b, even if they were not the perpetrator’s property.”;

The first amendment enables courts to punish the individuals who use computer techniques to produce materials that did not differ substantially from the real image, but are equally drastic.

The second provision enables courts and public prosecutors to secure evidence in the form of discs, computers, CDs or DVDs with child pornography even if the owner of the electronic equipment is not suspected.

In Article 101, § 4 was added reading as follows:

„§ 4. The punishability of the offences defined in Article 199 § 2 and 3, Article 200, Article 202 § 2 and 4, and Article 204 § 3, as well as the offences defined in Article 197, Article 201, Article 202 § 3, Article 203 and Article 204 § 4, where the victim is a minor shall not be barred by the statute of limitation sooner than 5 years after the victim’s 18’th birthday.”;

The idea of the change is to enable those guilty of an offence to be punished effectively after the offence is reported by the victim. Minors often conceal the fact that they have fallen victim of an offence, and report the offence when they are adult persons.

The provision allows the victim 5 years after reaching majority to pursue his/her claims.

The amendments have entered into force.

Other proposals are currently under parliamentary consideration:

The governmental bill amending the Criminal Code Act, the Code of Criminal Procedure Act, the Executive Criminal Code Act, the Criminal Fiscal Code Act and certain other acts

Work is currently in progress at the Sejm Extraordinary Committee for code amendments.

The bill provides that **Article 202** will be followed by **Article 202a** and **Article 202b** reading as follows:

Article 202a. § 1. Whoever records pornographic content featuring a person without the person’s consent, shall be liable to imprisonment for a term of 3 months to 5 years.

§ 2. Whoever acquires, keeps or possesses pornographic content featuring a person who has not consented to the recording thereof shall be liable to imprisonment for up to 3 years.

The change is intended to ensure punishment for the recording and keeping of materials of a pornographic nature featuring a naked person without the person’s consent e.g. by means of a mobile phone camera. Acts to the detriment of such persons will be penalised.

Article 202b. Whoever disseminates an image of a naked person without the person’s consent, recorded with the use of violence, abuse of confidence or through deceit shall be liable to a fine, penalty of restricted freedom or imprisonment for up to 2 years.”;

This provision stipulates punishment for the dissemination of an image of a naked person without the person’s being aware of this, e.g. by means of a mobile phone camera, and

subsequent placement of such material e.g. on a blog or a social networking site, for instance in order to humiliate or ridicule such person.

The governmental bill amending the Criminal Code Act, the Code of Criminal Procedure Act, the Executive Criminal Code Act, and the Police Act

Work is currently in progress at the Sejm Extraordinary Committee for code amendments.

Article 202 will be followed by a new **Article 202a** reading as follows:

Article 202a. Whoever, with the intent to commit the offence defined in Article 197 § 3 point 2 or Article 200, and to produce or record pornographic content featuring a minor under 15 years of age, contacts a minor through a data communication system or a telecommunication network and takes steps in order to meet the minor shall be liable to imprisonment for up to 3 years.”.

An amendment is proposed to Article 4 of the Police Act of 6 April 1990 (Journal of Laws of 2007, No 43, item 277, as amended)

Article 19 paragraph 1 (2) will read as follows:

Article 19. 1. In investigation operations pursued by the Police prevent, detect, identify perpetrators, and to acquire and record evidence of intentional indictable offences:

„2) defined in Article 134, Article 135 § 1, Article 136 § 1, Article 156 § 1 and 3, Article 163 § 1 and 3, Article 164 § 1, Article 165 § 1 and 3, Article 166, Article 167, Article 173 § 1 and 3, Article 189, Article 200, Article 202a, Article 204 § 4, Article 223, Article 228 § 1 and 3-5, Article 229 § 1 and 3-5, Article 230 § 1, Article 230a § 1, Article 231 § 2, Article 232, Article 245, Article 246, Article 252 § 1-3, Article 253, Article 258, Article 269, Article 280-282, Article 285 § 1, Article 286 § 1, Article 296 § 1-3, Article 296a § 1, 2 and 4, Article 296b § 1 and 2, Article 299 § 1-6 and in Article 310 § 1, 2 and 4 of the Criminal Code,” where other measures have proven ineffective or there is a high probability that they will be ineffective or useless, the district court may, on written request from the Chief of Police, submitted with prior consent from the Prosecutor General or on written request from a voivodeship chief of Police, submitted with prior consent from the district prosecutor of competent jurisdiction, issue a decision ordering an operational check.

Those two amendments to the provisions of the Criminal Code and the Police Act are aimed to penalise the seduction of minors through the Internet (e.g. on different web chats and forums), and to enable the Police to use provocation in order to locate the person committing an offence, to ensure effective fighting of paedophilia.

The idea behind all the above legislative changes is to adjust the Polish law to the EU Council Framework Decision 22 December 2003 on combating the sexual exploitation of children and child pornography, and to enable the ratification by Poland of the Council of Europe Convention on Cyberoffence, which was opened for signature in Budapest on 23 November 2001 and entered into force as of 1 July 2004, and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which was opened for signature in Lanzarote on 25 October 2007. Poland signed both Conventions. The Agreement for Child Safety on the Internet is in its final stage of development, and it will be signed by business operators providing services with the use of the Internet, in particular Internet access services, data transmission, and providing access to the resources of ICT systems for the storage of data owned by their customers, as well as NGOs involved in the practical implementation of the protection of children from illegal

content and behaviour on the Internet.

2. Apart from activities aimed at joint development by the Team members of a joint social campaign, the Government Plenipotentiary is involved, based on cooperation with selected bodies represented in the Team, in activities such as: cyclic celebration of the International Safe Internet Day, the International Telecommunication Day, conferences dedicated to media education or commenced media campaigns.
3. On request from the Government Plenipotentiary for Equal Treatment, the priority of the teaching supervision service in the coming school year 2009/2010 is to be the prevention of the discrimination of pupils and teachers in cyberspace, and consequently taking specific measures at school level for the improvement of pupil safety, as defined in the action plan, the performance of which will have to be reported by schools to the local education authorities. An important issue targeted by the Team is that of changes in the basic curriculum, which include the subject of safe use of the computer and the Internet by children.
4. The Plenipotentiary has requested the Minister of Interior and Administration to include him in the *Protection of the Polish Cyberspace for 2009 – 2011* programme, which involves educational campaigns on cyber offence, targeted at the general public.
5. At the international level, the Team is in continuous contact with international organisations dealing with the setting of standards and monitoring the situation as regards the protection of minors and preventing their discrimination, specifically with the European Union (European Parliament, European Commission, Council of Europe, Interactive Software Federation of Europe – ISFE). As Internet issues are of cross border reach, the Plenipotentiary is involved in cooperation for the implementation of the European Commission's programme Safer Internet under the Consultation Committee of the Safer Internet Programme in Poland, the Pan European Game Information project, and international cooperation based on embassies in Poland.
6. The signing of the „Best Practice Code” by representatives of the computer and video game market was initiated, and consultations on the „Agreement for Child Safety on the Internet”, by the largest Internet service suppliers and portal owners in Poland. **Both signed in 2009.**

The “Television Broadcasters’ Code on Content Presented to the Juvenile Viewer” **has also been developed and agreed.**

7. The Government Plenipotentiary has sent to the Minister of Education the assumptions for the Knowledge-based Economy programme, which is aimed at strengthening the educational process in Poland and using advanced technology in teaching, drawn up by a sub-team member, and has established cooperation with the Academy of Social Learning.
8. The National Broadcasting Council was requested to examine, in the light of the existing law, the possibility of placing social campaign logos on television.
9. The Team was also discussing draft amendments to the Telecommunication Law, e.g. with the intention to eliminate the transmission of „unwanted” information through electronic channels, and tender documentation for the launching of mobile television in terms of protection of young users’ interests at the documentation level and in the licence decision-making process.

10. It was decided to provide support to the Financial Coalition of banks targeted at blocking transactions involving the purchase and sale of child pornography.
- The www.dzieckokrzywdzone.pl site is entirely devoted to the problem of child abuse. Its goal is to collect, share, and popularize knowledge on the problem. It contains articles presenting theoretical models, research findings, and information on innovative diagnostic, therapeutic and preventive approaches. The site offers an extensive list of references (both in Polish and in English). It provides contact data of institutions that help abused children, as well as information on forms and availability of support. Some of the articles published on the website come from the Foundation's quarterly Dziecko krzywdzone. Teoria, badania, praktyka (Abused Child. Theory, research, practice). www.dzieckokrzywdzone.pl (the website is held in Polish)

c. Activities undertaken in cooperation with the private sector:

- **PT Group foundation** (established by Polish Telecommunications and Orange)
The foundation is involved among other things in the implementation of *PT Education with Internet* programme addressed to primary schools, secondary schools and grammar schools, which is aimed at promoting information technologies in education. Within the scope of the programme, among other things, activities conducted with regard to child safety on-line are conducted. It is the main partner of the *Child on-line* campaign and *Sieciaki* educational project of the Nobody's Children Foundation. Together with the Nobody's Children Foundation it is implementing the Helpline.org.pl project.
- **Microsoft** – seminars, conferences, publishing,
- **UPC** – implements e-Safety Academy educational programme of UPC addressed to parents and children, supports media campaigns,
- **Gemius SA** – conducts non-profit research on threats to children.
- In June 2009 a group of Polish organizations providing assistance to abused children and children at risk joined **ECPAT International Network** as a new affiliate group. The cooperation was initiated and is coordinated by the Nobody's Children Foundation.
- **Polish Network against Commercial Sexual Exploitation of Children** is composed of the Nobody's Children Foundation, Association for Children and Young People CHANCE, Association for Children and Youngsters STACJA PROGRAMME, Local Committee for the Protection of Children's Rights in Poznan and Committee for the Protection of Children's Rights in Warsaw.

e. Preventive activities within the scope of child safety on the Internet are conducted by way of various means:

1. Educational classes for children, educational websites and publications:

- Educational offer of the Nobody's Children foundation for children, parents and professionals on-line available within the scope of the "Child on-line" campaign on the website <http://www.dzieckowsieci.pl>
- <http://www.sieciaki.pl> and <http://przedszkolaki.sieciaki.pl> are devoted to child safety on the Internet. Cartoons, videos, films and other multi-media materials may be found there that teach children to use the Internet safely and protect their

personal data. The website also contains information on children-friendly websites. It is run by the Nobody's Children foundation.

- In the school year 2009/2010 a new core curriculum prepared by the Ministry of National Education has been introduced to schools which in a comprehensive manner addresses the issue of child safety on the Internet.

2. Technological solutions

In order to prevent the children from accessing inappropriate Internet resources, filtering software has been produced for several years. The leading software in the Polish language are: Benjamin, Cenzor, Motyl, Ochraniacz, Opiekun Dziecka w Internecie, Strażnik Ucznia, Weblock, X Guard II.20.