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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Fifth periodic reports submitted by States parties  
under articles 16 and 17 of the Covenant**

**Addendum**

**POLAND\* \*\***

[5 September 2007]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the Secretariat.

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## I. PART OF THE REPORT RELATING TO SPECIFIC RIGHTS

### Article 6

#### Right to work

#### Question 1

1. Poland submitted reports concerning the implementation of International Labour Organization (ILO) Conventions No. 111 (1958) concerning Discrimination in Respect of Employment and Occupation and No. 122 (1964) concerning Employment Policy (in 2004 and 2006. The report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women was submitted in 2004. In 2003, the report on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination was considered by the Committee.

#### Question 2

##### (a) Levels and trends in employment and unemployment

2. Professionally active persons, fourth quarter

	1999	2000	2001	2002	2003	2004	2005
Number of professionally active persons, in thousands	17 214	17 300	17 229	17 097	16 991	17 139	17 283
Professional activity rate	56.6	56.4	55.8	55.0	54.8	54.9	55.2
Employment rate ( per cent)	48.0	47.4	45.5	44.1	44.2	45.1	45.9

3. Number of persons in work, fourth quarter

	1999	2000	2001	2002	2003	2004	2005
Total	14 573	14 540	14 043	13 722	13 718	14 058	14 390
Agriculture	2 627	2 751	2 681	2 555	2 537	2 555	2 482
Industry	4 555	4 476	4 205	3 910	3 921	4 047	4 178
Services	7 391	7 313	7 157	7 257	7 260	7 452	7 723
Private sector	9 316	9 659	9 611	9 220	9 395	9 876	10 143
Public sector	5 256	4 881	4 432	4 502	4 323	4 182	4 246

4. Employment rate, fourth quarter

Fourth quarter	1999	2000	2001	2002	2003	2004	2005
Number of persons in work, in thousands	14 573	14 540	14 043	13 722	13 718	14 058	14 390
including persons employed on a full-time basis	13 048	12 916	12 531	12 255	12 243	12 492	12 819
on a part-time basis	1 525	1 624	1 512	1 467	1 475	1 566	1 570
Number of persons in work, in thousands	14 573	14 540	14 043	13 722	13 718	14 058	14 390
including: hired workers:	10 630	10 550	10 107	9 942	9 940	10 295	10 701
Of these for a definite period	610	642	1 284	1 673	2 082	2 466	2 841
for an indefinite period	10 020	9 908	8 822	8 270	7 858	7 829	7 860
Employers and self-employed persons	3 264	3 254	3 231	3 083	2 990	2 956	2 972

## 5. Registered unemployment:

As at the end of:		Number of unemployed, in thousands	Unemployment rate, in %
1999	I quarter	2 170.4	12.0
	II quarter	2 074.0	11.6
	III quarter	2 177.8	12.1
	IV quarter	2 349.8	13.1
2000	I quarter	2 531.7	14.0
	II quarter	2 437.4	13.6
	III quarter	2 528.8	14.0
	IV quarter	2 702.6	15.1
2001	I quarter	2 898.7	17.8
	II quarter	2 849.2	17.7
	III quarter	2 920.4	18.1
	IV quarter	3 115.1	19.4
2002	I quarter	3 259.9	20.1
	II quarter	3 090.9	19.4
	III quarter	3 112.6	19.5
	IV quarter	3 217.0	20.0
2003	I quarter	3 321.0	20.6
	II quarter	3 134.6	19.7
	III quarter	3 073.3	19.3
	IV quarter	3 175.7	20.0
2004	I quarter	3 265.8	20.4
	II quarter	3 071.2	19.4
	III quarter	2 970.9	18.9
	IV quarter	2 999.6	19.0
2005	I quarter	3 052.6	19.2
	II quarter	2 827.4	18.0
	III quarter	2 760.1	17.6
	IV quarter	2 773.0	17.6
2006	I quarter	2 822.0	17.8
	II quarter	2 487.6	15.9
	III quarter	2 363.6	15.2
	IV quarter	2 309.0	14.9

6. For statistical data, see annex I, items 1-6.

**(b) Employment policy**

**Plans and action programmes**

7. Between 1999 and 2007 the Government focused on:

- (a) Active policy of full and productive employment;
- (b) Improving the operation of labour offices;
- (c) Increasing the efficiency of activities aiming at counteracting unemployment.

8. On 4 January 2000 the Council of Ministers adopted the National Strategy for Employment Growth and Human Resources Development for 2000-2006, according to which growth in employment and limiting unemployment and its effects would be achieved thanks to:

- (a) Improving employability (improving skills how to find the employment);
- (b) Development of entrepreneurship;
- (c) Supporting capabilities of enterprises and their employees of adapting to the labour market conditions;
- (d) Implementing equal opportunities on the labour market policy.

9. As the improvement of employability was regarded as depending on the improved quality of human resources, activities were planned aiming at:

- (a) Establishing the education system complying with the needs of the labour market;
- (b) Improving the education and social integration of excluded young persons;
- (c) Establishing an adult education system;
- (d) Strengthening the institutions of the labour market;
- (e) Implementing prevention actions addressed to those unemployed or threatened with unemployment;
- (f) Promoting labour market programmes fostering the improvement of qualifications;
- (g) Improving the system of labour market forecasting.

10. Development of entrepreneurship was to involve the following:

- (a) Improvement of the tax system;
- (b) Elimination of administrative barriers;
- (c) Dissemination of modern technologies;
- (d) Developing entrepreneurship counselling;
- (e) Promoting development of investment funds;
- (f) Entrepreneurship-related education of young people;
- (g) Developing regional and local institutions supporting entrepreneurship.

11. The National Action Plan for Employment 2000-2001, developing in detail the principles of the Strategy, was adopted by the Council of Ministers on 20 June 2000. The following were considered as priority issues:

- (a) Limiting the risk of undertaking business activity, facilitating enterprises' adaptation to the requirements of the market and increasing mobility of employees;
- (b) Reduction of labour costs;
- (c) Continuation of the tax system reform aimed at decreasing the administrative burdens, particularly those concerning SMEs;
- (d) Implementing a new model of supporting employment restructuring processes (abandoning the policy of deactivation of older workers, supporting the creation of new jobs, improving qualifications of employees);
- (e) Applying active forms of counteracting unemployment (individual and group programmes for professional activation, active employment intermediation);
- (f) Rationalization of the division of competences among public administration institutions pursuing labour policy (mainly regarding active forms of counteracting unemployment, control of employment legality and employment of foreigners);
- (g) Prioritization of human resources projects in programming assistance funds;
- (h) Implementing a new model of continuous education.

12. The policy of the Government was pursued in unfavourable economic conditions. In 2001 the growth of the GDP fell to 1 per cent (as compared with 4.1 per cent in 1999). Investment spending drop in processing industry between 1999 and 2001 exceeded 25 per cent. The year 2001 also saw a crisis in public finances, which resulted in the growth of the budget deficit to PLN 32.4 billion (4.3 per cent of the GDP). Due to the necessity to seek savings in budget spending social spending fell, also with regard to counteracting unemployment. As a consequence of the unfavourable economic phenomena and the demographic and social conditions, the situation on the labour market deteriorated to a considerable extent.

13. This was one of the prerequisites for the adoption of "Entrepreneurship - Development - Work" - A Strategy for the Economic Development of Poland in January 2002. It consists of four programmes:

- (a) "Entrepreneurship above all";
- (b) "First job";
- (c) "Infrastructure - key to development";
- (d) "Restructuring the selected sectors of the economy".

14. The “Entrepreneurship above all” programme assumes certain legal changes. As a consequence several hundred amendments were made in the business law. Other amendments were introduced to the Labour Code and the Acts on:

- (a) Special Principles of Terminating Employment Relationships with Employees for Reasons Attributable to the Enterprise;
- (b) Trade Unions;
- (c) Personal Income Tax;
- (d) The Company Social Benefits Fund.

15. The amendments were aimed at facilitating the operation of enterprises and supporting the employers in sustaining the existing jobs and creating new ones by increasing the flexibility of employment relations and decreasing labour costs.

16. The programme “Entrepreneurship - Development - Work” was supplemented by the “Plan of anti-crisis activities regarding protection of the market and jobs” with the following elements:

- (a) Programme “Capital for entrepreneurs”;
- (b) Act on Public Assistance for Entrepreneurs of Special Importance for the Labour Market;
- (c) Act on Bankruptcy and Restructuring;
- (d) Act on Restructuring of Certain Public and Legal Liabilities of Entrepreneurs.

17. The purpose of the programme “Capital for entrepreneurs”, implemented in 2002-2006, was establishing a network of strong regional local funds (extending loans and guarantees) for SMEs. In the late 2005, 81 loan funds operated, with the capital of PLN 558.2 million and 60 credit funds, whose capital amounted to PLN 288 million. New jobs are the direct effect of the financial support extended by loan funds to enterprises. In 2005 the funds extended loans amounting to PLN 240.8 million, and thus contributed to the creation of 5 400 jobs.

18. In July 2003 the Council of Ministers adopted Pro-Growth Action Plan 2003-2004 - Entrepreneurship-Development-Work II. As stimulation of entrepreneurship and, in particular limiting the barriers in the development of enterprises was decided to be a primary condition for the accelerated economic development, activities were intended in order to:

- (a) Set out the principles of business operation (the new Act on the Freedom of Economic Activity), simplify the registration process of new enterprises;
- (b) Increase the participation of enterprises in the public procurement market;

(c) Reform of the credit portfolio of banks and establish a loan and guarantee fund for medium size enterprises;

(d) Use the assets of open pension funds (OFE) for infrastructural investment and financing development of enterprises;

(e) Improve debt and receivables collection;

(f) Simplify and streamline dealing with entries to land registers.

19. As a consequence, in 2003-2004:

(a) The Act of 14 November 2003 on Amending the Act - Business Activity Law and Certain other Acts was adopted, which allowed making coherent provisions concerning business activity records, was passed. In order to simplify registration of new enterprises the so-called single counter was introduced, thanks to which an entrepreneur starting his business activity can submit the application for the REGON (statistical number) and NIP (Tax Identification Number) at one place;

(b) The Act of 2 July 2004 on Freedom of Economic Activity was passed (to replace the Act - Business Activity Law), and the most important solutions provided for in the Act concern:

(i) Principles of undertaking and carrying out business activity, including limiting the time required to register individuals undertaking business activity to 3 days and extending the “single counter” organization to include the possibility to register as entity paying social insurance contributions;

(ii) Restrictions regarding business activity - the number of permits to perform business activity was limited;

(iii) Obtaining binding written interpretations concerning the scope and applications of regulations providing entrepreneurs’ obligation to pay public levies;

(iv) Regulating the principles of State control activities over entrepreneurs (restrictions regarding the duration of such controls in a given calendar year, a ban on conducting more than one control at the same time).

20. The following were implemented in order to assist persons with serious difficulties on the labour market:

- The “First Job” programme (from June 2002 to December 2005) - a programme of integrated activities undertaken to limit unemployment among young people, including the following segments

(i) SMEs;

(ii) Self-employment;



- (iii) Education;
- (iv) Voluntary work;
- (v) Information, professional counselling and job placement.

21. The programme included 794 488 persons, out of which 248 023 found employment (31.2 per cent of participants):

(a) Programme “Work for the young” (from July 2002 to May 2004 as “Work for Graduates”). Bank Gospodarstwa Krajowego extended preferential loans to finance the costs of young people’s starting business activity and loans for employers to finance the creation of new jobs for young unemployed persons;

(b) Grants to establish Municipal Information Points (Gminne Centra Informacji - GCI, since 2002). GCIs are specialized establishments offering young people free access to information and knowledge available through the Internet, particularly as concerns labour market, training, undertaking and pursuing business activity. As many as 963 GCIs are operating now;

(c) Grants for the development of the Academic Career Centres (since 2002), aimed at helping students and graduates of higher education to increase their chances to find and maintain employment and providing assistance regarding starting a business. The number of co-financed projects amounted to 346;

(d) Grants to establish School Career Centres - SZOK - (2003-2005) in junior secondary schools and post-junior secondary schools having the status of public schools, assisting young persons in using information and communication technologies in the process of learning and solving educational and vocational problems and preparing to enter the labour market;

(e) Programme establishing Mobile Centres of Vocational Information (MCIZ, since 2003), whose tasks include helping in breaking the information barrier regarding vocational information and social exclusion of young people. Activities of the MCIZ are addressed to people living in rural municipalities and small towns. The Centres complement the activities of voivodship labour offices. Their main tasks include conducting group classes, individual counselling and providing vocational information;

(f) The programme of establishing multimedia kiosks helping young persons in access to job offers in Poland and abroad, a guide entitled “ABC dla poszukujących pracy i pracodawców” [Guide for Persons Seeking Work and Employers], classification of professions and specializations, legal regulations. The kiosks currently operate in all district labour offices of Poland, in Voluntary Labour Corps (OHP) and in Information and Career Planning Centres (CiiPKZ) at the voivodship labour centres;

(g) Contest regarding a subsidy for the promotion and development of cooperative-based form of business activity among young persons (since 2004), designed to help young persons to get familiar with various forms of business, particularly with cooperatives and help them to gain the first experience in finding employment;

(h) The “Green jobs” programme (since 2002) facilitated vocational activation of graduates and unemployed persons thanks to employing in the framework of traineeships programmes and public works in environment protection and forestry sector;

(i) The programme “My municipality in the EU” (since 2003) - a programme of traineeships assisting in the organization of the information campaign of the Polish Government regarding the EU and preparation of the European referendum;

(j) The programme “Ekokariera” [Eco-career], which offers the possibility to organize on-the-job training for students and post-university internships for the graduates of State owned and private high schools whose studies were related to environment protection. The training and internships are organized in entities of the Ministry of the Environment.

22. The programme 50 PLUS, supporting the employment of persons over 50 years of age, was implemented in compliance with the provisions of the EU Lisbon Strategy regarding active aging and acknowledged the necessity to change the perception of the old age towards increasing the professional activity of older persons. This had particular regard to demographic forecasts for Poland and difficult situation of older persons on the labour market.

23. The activities were addressed to:

- (a) Employed persons, threatened by being made redundant;
- (b) Unemployed persons and persons entitled to pre-retirement benefits;
- (c) Persons losing their benefits.

24. Programme objectives:

- (a) Changing the policy of employers towards employees and job seekers aged over 50;
- (b) Active pro-employment policy towards persons who may acquire rights to pre-retirement benefits and early retirement pensions;
- (c) Establishing a social support system for persons in difficult situations.

25. Implementation of the programme, which covered over 1 600 persons, was closed in December 2005 and its employment effectiveness rate exceeded 45 per cent.

26. The following are also implemented to support access to work of persons most at risk of unemployment or most affected by unemployment:

(a) Programmes of employment activation of persons from rural areas, including persons formerly employed by state-owned farms, persons of up to 25 years of age, graduates and long-term unemployed:

- (i) The “Green jobs” project (since July 2002), including activities meant to limit unemployment and improve the environment in compliance with the sustainable growth principle;
- (ii) Programme of professional activation of unemployed persons of up to 25 years of age and graduates of high schools consisting of helping farmers to obtain EU funds, including direct payments,

(b) JUNIOR programme implemented by the State Fund for the Rehabilitation of the Disabled (PFRON): programme of vocational activation of disabled school leavers within the Programme of Vocational Activation of School Leavers “First Job”. The objective of the programme is to help young disabled persons to start their professional lives (by traineeships, finding jobs);

(c) Computer for Homer 2003, implemented by the PFRON - a programme of assistance in purchasing modern electronic equipment (basic and specialized) and software helping in the professional and social rehabilitation of blind and visually impaired persons: employment and self-employment in various areas, education and acquiring the knowledge and skills thanks to which the beneficiaries may become self-dependent;

(d) Programme Disabled Persons in the Public Service, implemented by the PFRON, which provides assistance by subsidizing or reimbursement of the costs of equipping workplaces for disabled persons, subsidizing or reimbursement of the costs of the training organized for the employed disabled persons, reimbursement of their remuneration and the employers’ contributions to social insurance of disabled persons.

27. Activities implemented within the Human Resources Sectoral Operational Programme Development (SPO RZL) are to ensure that:

(a) Tasks connected with the implementation of services regarding active counteracting of unemployment will prevail in the structure of labour offices’ tasks;

(b) Public employment services will facilitate a new start for all persons over 25 years of age within the first 12 months of their unemployment;

(c) Larger population of long-term unemployed will participate in activation projects;

(d) Educational offer will focus on improving the knowledge and qualifications of young people and adults, with particular attention paid to distance learning and module-based education;

(e) Work quality of establishments offering vocational education and advancement will be improved;

(f) New forms of work organization will be propagated;

(g) Level of specialist knowledge and skills of public administration staff will be improved.

28. As a consequence, the following will be achieved:

(a) The effects of long-term unemployment as one of the reasons of social exclusion will be limited and chances to move out of social exclusion will be increased;

(b) The number of people receiving social assistance benefits on a long-term basis will be decreased;

(c) The situation of young people entering the labour market will be significantly improved, and the phenomenon of social marginalization among young people will be limited;

(d) Awareness of guaranteeing equal opportunities to men and women will be raised;

(e) The participation of adults in continuous education will be increased along with the level of the general education;

(f) The number of quality jobs will grow, particularly in SMEs;

(g) Qualifications of the managerial staff and employees of enterprises will be improved, cooperation between enterprises and the R&D sector will be intensified.

29. The SPO RZL focuses on the support for rural areas, which are at a particular risk of structural unemployment, including high concealed unemployment and where deficits occur in the infrastructure and access to information. The activities undertaken within the programmes consist of:

(a) Vocational activation and improving the qualifications of unemployed persons;

(b) Creating jobs;

(c) Improving access to education at all levels;

(d) Establishment of distance learning centres;

(e) Providing assistance in the establishment and organization of Centres for Social Inclusion;

(f) Supporting entrepreneurship and self-employment among women.

30. Activities implemented under SPO RZL are mainly addressed to unemployed persons under 25 years of age and to unemployed school leavers, to unemployed persons over 25 years of age, disabled persons, persons threatened with social exclusion and to women. By the end of the 1st quarter of 2006 as many as 439 000 persons were included in the “Active Labour Market and Vocational and Social Inclusion Policy” Priority, and 33.7 per cent of them were long-term unemployed, whereas persons of up to 25 years of age and school leavers included in professional activation programmes accounted for 47.5 per cent and 16.7 per cent, respectively.

31. Under the Community Initiative Programme EQUAL (PIW EQUAL) for Poland for the period 2004-2006, innovative solutions are tested with a view to counteracting and combating discrimination and inequality in the labour market, as well as in order to come up with new solution models to disseminate them as good practices and/or implement them as model solutions at the national, regional or sectoral level. Activities undertaken under PIW EQUAL are targeted at social groups that experience the most serious difficulties in the labour market: the unemployed (including the long-term unemployed), those threatened with job loss, persons returning to the labour market, those threatened with permanent vocational deactivation, job seekers, persons who look after dependent persons, persons from certain professional groups such as soldiers and sportspeople, persons from rural areas, especially from the former state-owned collective farming areas or post-industrial areas, persons raised in orphanages, the disabled, post-psychiatric patients, persons threatened with exclusion, or who have already been excluded, convicted criminals, the homeless, persons afflicted by the so-called social diseases (alcoholism, drug addiction), immigrants, refugees, asylum-seekers and ethnic minorities.

32. By the end of December 2006, PIW EQUAL, under Measure 2, had been implementing 99 Development Partnership projects. During the testing of innovative models in project conditions, 16,475 persons were provided with support in the form of training, workshops, vocational, psychological and legal consultancy, and in other forms.

33. Human Capital Operational Programme (PO KL), co-financed by the European Social Fund (ESF), will be implemented since 2007. Activities aiming at professional activation of persons unemployed and seeking employment will be primarily implemented at the regional level. Special attention will be paid to offering assistance to persons encountering the most serious difficulties with entering and staying on the labour market (women, young people, school leavers, persons with disabilities, persons aged 50 and above) in order to increase their professional qualifications as well as their geographical and professional mobility. Support will also be given to persons residing in rural areas and leaving agriculture in order to help them find employment in non-agricultural professions.

34. The main objective of the National Reform Programme (KPR) 2005-2008 for the implementation of the EU Lisbon Strategy is maintaining high economic growth, fostering the creation of new jobs, in accordance with the principle of sustained development. This will be achieved by eliminating entrepreneurship development barriers, increasing the quality of operation of public institutions and reducing the fiscal burdens imposed on business activity.

35. The KPR includes two priorities in the field of labour market policy: "Creation and sustaining new jobs and reduction of unemployment" and "Improving adaptation capabilities of employees and enterprises by investment in human capital". Activities undertaken within the KPR are to lead to the reduction in the unemployment rate to 14.6 per cent in 2008.

The Programme includes in particular actions regarding the functioning of public employment services:

(a) Implementing new organizational and financial solutions increasing access to labour market services (implementing the same standards of services in labour offices, introducing the division of competences among labour market institutions, increasing the scope of outsourced services), increased possibilities of the services being used by a broader group of the interested persons;

(b) Extending the offer and improving the quality of the services offered by the district and voivodship labour offices (increased importance of vocational intermediation and counselling, improving qualifications of the staff, monitoring the effectiveness of the services provided by public employment entities and increased individualization of the services offered).

36. KPR is implemented - as concerns the labour market - in the framework of annual national action plans for employment. The priorities of the National Action Plan for Employment (KPDZ) for 2006 included:

(a) Activation of unemployed young people;

(b) Professional activation of persons aged 50 and above;

(c) Professional and social inclusion of disabled persons at various stages of life;

(d) Improving the institutional service of the labour market;

(e) Strengthening links between education, economy and labour market (development of continuous education, organization of general and vocational education for young people outside the general education system, development of programmes aimed at equalizing educational opportunities of students);

(f) Development of social dialogue and partnership in order to ensure balance on the labour market (conclusion of a social pact for limiting unemployment and creating new jobs, improved compliance with the labour law, promotion of flexible forms of employment, reduction of tax and quasi-tax costs of labour);

(g) Increased use of ESF funds on effective labour market programmes.

37. Performance indicators:

(a) Employment rate of persons at the age of professional activity (15-64 years) - 54.0 per cent;

(b) Employment rate of women - 47.6 per cent;

(c) Decreasing the unemployment rate to 16.0 per cent,<sup>1</sup> including unemployment rate among women - to 17.5 per cent;

(d) Economic activity of disabled persons at the age of professional activity - 24 per cent.

38. Draft KPDZ for 2007<sup>2</sup> assumes the following priorities:

(a) Development of entrepreneurship;

(b) Improving adaptation capabilities of employees and enterprises by investment in human capital;

(c) Activation of the unemployed and persons at risk of social exclusion;

(d) Improving social dialogue and partnership to ensure balance on the labour market;

(e) Defining the principles of effective migration policy;

(f) Improving the institutional service of the labour market.

39. The following performance indicators have been adopted in the KPDZ for the end of 2007:

(a) Employment rate of persons at the age of professional activity - 56 per cent;

(b) Curbing unemployment rate to 13 per cent.

40. Developing entrepreneurship is of primary importance, particularly by supporting business diversity in rural areas, which helps create new jobs connected with agriculture and out of the agricultural sector.

41. Between 1996 and 2004 a credit line for entrepreneurs creating new jobs was operated by the Agency for Restructuring and Modernisation of Agriculture (ARiMR). The Agency subsidized the interest of the credits (investors took 4 003 credits totalling to PLN 496 million, thanks to which 18 653 were created in rural areas). In the years 1995-2003 ARiMR offered interest-free loans (under the small entrepreneurship programme) to individuals and legal entities conducting or undertaking non-agricultural business activities (6 337 agreements were concluded totalling to PLN 240 million, thanks to which 21 189 jobs were created).

42. In the years 2000 - 2005 the Rural Areas Activation Programme was implemented pursuant to the credit agreement signed with the International Bank for Reconstruction and

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<sup>1</sup> In the explanation to the Budget Act draft for 2006 the unemployment rate registered as at the end of 2006 was specified at 16.9 per cent. In the government programme documents and in compliance with the Eurostat standard the BAEL unemployment rate is used.

<sup>2</sup> Adopted by the Council of Ministers on 27 March 2007.

Development. The programme obtained a subsidy from the World Bank amounting to PLN 118.8 million. The number of SMEs established as a consequence was 3 000 and 23 000 persons found employment. Non-agricultural jobs were created thanks to the activities within the micro-loan funds, vocational reorientation and investments in infrastructure.

43. Since July 2002 entrepreneurship in rural areas and creating new jobs has been supported within the SAPARD programme, particularly through:

(a) Improvement of the processing and marketing of agricultural and fishing products, 1342 contracts concluded for 1663.6 mln zł;

(b) Development and improvement of infrastructure in rural areas, 4493 contracts concluded for 2023.6 mln zł;

(c) Diversifying economic activity in rural areas, 4854 contracts concluded for 435.1 mln zł;

(d) Vocational training, 14 training programmes, 13 000 persons trained.

44. The programme entitled "Restructuring and modernization of the food sector and development of rural areas 2004-2006" is being implemented. Particular support is extended to projects involving investments thanks to which farmers and members of their households undertake additional economic activities. Until the end of December 2006, within the activity "Diversification of agricultural activities and activities close to agriculture to provide multiple activities or alternative incomes" 1 810 projects had been implemented, amounting to PLN 283 880 million, thanks to which 4 637 jobs were sustained or created. Actions fostering the development of rural areas and creation of new jobs are also undertaken by numerous non-governmental organizations (NGOs), including the European Fund for the Development of Polish Villages, the Rural Development Foundation and Foundation for the Development of Polish Agriculture.

45. For additional information, see the response to comment No. 6 of the Committee on Economic, Social and Cultural Rights.

### **Legal regulations**

46. Act of 14 December 1994 on Employment and Counteracting Unemployment provided for the following active forms of counteracting unemployment:

(a) Financed from the budget subsidies for the functioning of labour offices:

(i) Job placement;

(ii) Job clubs;

(iii) Vocational information and counselling;

(iv) Controlling the legality of employment;



- (b) Other activities financed by the Labour Fund:
  - (i) Intervention works;
  - (ii) Public works;
  - (iii) Reimbursement of the social insurance contributions;
  - (iv) Loans to finance the creation of new jobs;
  - (v) Loans for the unemployed for starting their businesses;
  - (vi) Readjustment and training;
  - (vii) Special programmes (for groups at risk of long-term unemployment);
  - (viii) Subsidies for the employment of school leavers;
  - (ix) On-the-job training for school leavers in enterprises.

47. The Act of 31 March 2000 on the Amendment of the Act on Employment and Counteracting Unemployment defined new tasks for self-governments of voivodships and districts, involving initiating undertakings aimed at assisting employees who are to be made redundant if such redundancies have considerable influence on the local labour market, and tasks of supporting the regional and local labour markets.

48. The amendment to the Act on Employment and Counteracting Unemployment, passed on 20 December 2002, provided for:

- (a) Including municipal self-governments in the group of entities cooperating in the implementation of the tasks fostering employment and counteracting unemployment;
- (b) Extending the competencies of voivodship self-governments in order to:
  - (i) Establishing the regional policy of counteracting unemployment, including the policies within voivodship programmes and contracts;
  - (ii) Allocate the funds of the Labour Funds in a more rational manner, having regard for the local conditions and opportunities;
  - (iii) Provide for the combining of funds from various sources;
  - (iv) Extend the group of entities authorized to provide job intermediation and introduce agencies of temporary work and personnel counselling.

49. The Act on Employment and Counteracting Unemployment was replaced by the Act of 20 April 2004 on Promotion of Employment and Labour Market Institutions in order to extend the scale and effectiveness of the active forms of counteracting unemployment. The Act places special emphasis on the professionalism of employment services and introduces mechanisms which discourage passive attitudes among the unemployed.

50. The Act identifies six groups of the unemployed in particularly difficult situation on the labour market:

- (a) Unemployed of up to 25 years of age;
- (b) Long-term unemployed;
- (c) Unemployed of over 50 years of age;
- (d) Unemployed with no professional qualifications;
- (e) Unemployed single parents raising at least one child of up to seven years of age;
- (f) Unemployed disabled persons.

51. Special instruments of professional activation have been provided for with regard to those persons:

(a) On-the-job trainings in enterprises - addressed to unemployed of up to 25 years of age, who have difficulty in entering the labour market due to no professional experience;

(b) On-the-job vocational preparation - addressed to those persons who have no qualifications adapted to the needs of the labour market;

(c) Scholarships for the unemployed of up to 25 years of age with no professional qualifications thanks to which they may continue education in a post-primary school, post-junior secondary school for adults or undertake evening or extramural high studies;

(d) Reimbursement of costs of care over a child of up to seven years of age - for single parents referred to on-the-job trainings, trainings, vocational preparation at the workplace or undertaking employment or other paid work;

(e) Reimbursement of costs of care over a dependent person, in similar situations.

52. The Act introduced regulations aimed at improving the quality of continuous education:

(a) Establishing the register of education institutions interested in gaining commissions for training persons who are unemployed or seek employment;

(b) Obliging the minister competent for labour to coordinate the definition of professional qualifications standards and module-based vocational training curricula, adapted to the needs of labour market.

53. The Act introduced instruments stimulating the development of human resources, particularly the training fund providing resources to finance or co-finance continuous education for employees and employers. Employers establishing the fund may receive support from the Labour Fund for the following:

(a) Reimbursement of 50 per cent of the costs incurred to train employees at risk of being made redundant;

(b) Reimbursement of 80 per cent of the costs of training of employees delegated to paid training leaves (for leaves lasting the minimum of three weeks);

(c) Reimbursement of the remuneration of the unemployed person replacing an employee sent to a training leave (of up to 40 per cent of the average remuneration);

(d) Reimbursement of the contribution to the retirement and disability pension insurance of the dismissed employee who undertook training and receives the training benefit paid by the employer.

54. On 1 November 2005 the amendment of the Act on the Promotion of Employment and Labour Market Institutions came into force introducing certain measures to increase the effectiveness and efficiency of public labour services particularly with regard to job placement and counselling. In particular the unnecessary administrative and bureaucratic activities were eliminated. The amendment made it possible to finance the tasks co-financed by the ESF from the Labour Fund to a greater extent.

55. In 2006 the Government decided to review the legislation in order to prepare the amendment of the Act on the Promotion of Employment and Labour Market Institutions to strengthen the active labour market policy and create conditions for effective use of funds allocated to perform the relevant tasks.

56. The Act of 13 June 2003 on Social Employment provides for the establishment of new entities of social economy: social inclusion centres (CIS) and clubs as well as implementation of individual programmes of social employment. At the end of 2006 50 social inclusion centres were active along with 54 social cooperatives.

57. In order to support the implementation of the Act on Social Employment programmes “Active Forms of Counteracting Social Exclusion” and “Support for Social Cooperatives” have been started.

58. One of the objectives of the “Active Forms of Counteracting Social Exclusion” programme is promoting good cooperation patterns for various partners, including CIS, social assistance centres and labour offices in the area of a district or voivodship. Its tasks include the establishment of two or three education and training centres based on the existing CIS for the future staff of the inclusion centres.

59. The programme “Support for Social Cooperatives” is aimed at promoting the idea of social cooperatives as a way to create jobs by groups at risk of social exclusion, providing financial support for the founding groups of the cooperatives and establishing the catalogue of the cooperatives’ activities and monitoring of their operation.

60. The Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Persons with Disabilities provides for support of employers employing disabled persons as well as the following forms of disabled persons employment support from the funds of PFRON:

(a) Training, internships, intervention works, vocational preparation for the disabled registered as seeking work and not in employment;

(b) Training for disabled persons registered as unemployed or in the notice period regarding their employment contracts for various reasons not attributable to employees;

(c) Loans to start business or agricultural activity;

(d) Subsidy of the interest on bank credits taken to continue a business or agricultural activity.

### **Vocational counselling**

61. According to the Act on Promotion of Employment and Institutions of the Labour Market vocational counselling and information in public employment services is to assist the unemployed and persons seeking employment in the choice of their profession and place and employment, in particular by:

(a) Providing information on the professions, labour market and opportunities regarding training and education;

(b) Providing advice with the use of the methodology helping in the selection of a profession, change in the qualifications or undertaking employment, including interests and professional abilities tests;

(c) Referrals to specialist psychological and medical tests thanks to which opinions on vocational usability of candidates for the given type of work, profession or training;

(d) Initiating, organizing and conducting group vocational counselling;

(e) Assisting employers in the selection of candidates for work, consisting, in particular, of providing information and counselling in this regard.

62. Vocational counselling and information in public employment services are provided in compliance with the following principles:

(a) Availability of the services to the unemployed and seeking work and for employers;

(b) Voluntary participation;

(c) Equality regardless of the gender, age, disability, race, ethnic origin, nationality, sexual orientation, political views, faith and trade union membership;

- (d) Freedom of choice regarding the profession or place of employment;
- (e) Free-of-charge basis;
- (f) Confidentiality and protection of personal data.

63. Vocational counselling is offered by 339 district labour offices and 52 CiPKZ, functioning at 16 voivodship labour offices. Labour offices offering vocational counselling services are evenly located throughout the country. Within voivodships, the number of district labour offices ranges from 11 to 38 (in proportion to the number of districts), whereas the number of the CiPKZ - from one to six.

64. The improvement and growth in the competences of the staff of labour offices are provided for by the Regulation of the Minister of the Economy and Labour of 20 October 2004 on the Procedure of Issuing Professional Licences of Job Placement Agents and Vocational Counsellors and the Regulation of the Council of Ministers of 21 March 2005 on the Amounts and Procedure of Granting and Payment of Remuneration of Employees of Public Employment Services. In April 2006 the Regulation of the Minister of the Economy and Labour on the Adaptation Internship and Skills Test in the Procedure regarding the Recognition of Qualifications for the Profession of a Job Placement Agent and Vocational Counsellor came into force.

65. High quality of the vocational counselling services will be fostered by the currently prepared regulations of the Minister of Labour and Social Policy on the basic standards of labour market services and detailed conditions of public entities providing services regarding job placement, EURES services, vocational counselling and information, organization of training courses for the unemployed and other persons entitled to such assistance, and assistance in active employment seeking.

66. For statistical data: on the number of persons who have used vocational counselling services, see annex I, item 7.

67. Public employment services centres offering vocational counselling are equipped in uniform data resources. These resources include: classification of professions and specializations, information files concerning individual professions, leaflets, professional orientation films, profession guidebooks (descriptions of 546 professions) and catalogues, information guides and books. In the years 2004-2005 a Professional Interests Questionnaire was developed, allowing for a complete diagnosis of the professional preferences and interest of labour offices' clients. The Questionnaire has been gradually implemented since 2006. Vocational counsellors can also use the "Doradca 2000" [Counsellor 2000] computer software. Thanks to the use of the ESF resources works are being conducted on a new version of the software, largely web-based. Access to information on professions and education institutions will be possible for every interested person thanks to the use of the Internet.

68. A research project entitled "Comprehensive Analysis of Providing Assistance to Employers in Personnel Selection" is also conducted within the SPO RZL 2004-2006.

69. “The National Resource Centre for Vocational Guidance” project has been implemented since 1999 within the Leonardo da Vinci programme. Its objectives include the development of the European dimension in the national vocational counselling systems and promoting educational and professional mobility of citizens by providing access to reliable information on education and training in their own country and other States of Europe.

70. The activities of the Centre are addressed to vocational counsellors and primarily include:

(a) Collecting, developing and dissemination of information, materials and publications regarding vocational counselling;

(b) Organization of meetings, seminars and trainings for vocational counsellors;

(c) Participation in Polish and international conferences regarding vocational counselling;

(d) Providing responses to queries from Poland and abroad.

71. In the years 2001-2004 training and education programmes were developed for vocational counsellors regarding distance counselling and transnational vocational counselling.

72. Between 2004 and the end 2006 the project “European Guidance Counsellor” ([www.ergoinnet.net](http://www.ergoinnet.net)) was implemented in order to prepare a manual for vocational counsellors, thanks to which more effective assistance will be possible with regard to persons interested in using the opportunities of education and work in other states of Europe.

73. In 2007 a new edition of the National Resource Centre for Vocational Guidance will be released and results of the following projects will be disseminated: “Ergo-in-net”, “Distance Counselling”, “Transnational Vocational Counselling”.

74. Vocational counselling services for unemployed persons with disability and disabled persons seeking work are offered by district labour offices and CiPKZ of the voivodship labour offices in compliance with general principles. A manual “Podręcznik oceny zawodów z punktu widzenia różnych rodzajów niepełnosprawności” [Profession assessment with regard to various types of disability] was issued and the Doradca 2000 software was adapted.

75. Services for disabled persons are also provided by NGOs. For example:

(a) Stowarzyszenie Przyjaciół Integracji (Friends of Integration Association) provides job placement and vocational counselling services for persons with disabilities within the “Active on the Labour Market. Programme of Counselling and Training for Disabled Persons” project, co-financed from the EU Phare funds;

(b) Fundacja Pomocy Matematykom i Informatykom Niepełnosprawnym Ruchowo (Foundation for Supporting Physically Disabled Mathematicians and Computer Scientists) within the Phare fund organized a Counselling Centre and Career Centre for the Disabled, which promote disabled employees among employers and extend the system of free counselling services in order to include disabled persons who are unemployed and seek employment from the Mazowieckie voivodship (directly) and from the whole of Poland (indirectly);

(c) Polska Organizacja Pracodawców Osób Niepełnosprawnych (Polish Organization of Employers of Disabled Persons) provides vocational counselling through its branches situated throughout Poland and organizes trainings for vocational counsellors.

76. Vocational counselling for young people provided by the public psychological and pedagogical advice centres, schools (employing psychologists, school pedagogy specialists and vocational counsellors), Continuous Education Centres and Practical Education Centres are regulated by the following regulations of the Minister of National Education and Sport:

(a) Of 11 December 2002 on Detailed Principles of Operation of Psychological and Pedagogical Advice Centres, including Specialist Centres;

(b) Of 7 January 2003 on the Principles of Providing and Organization of Psychological and Pedagogical Assistance in Public Kindergartens, Schools and Establishments;

(c) Of 13 June 2003 on the Types, Organization and Operation of Public Continuous Education Centres and Public Practical Education Centres, including Public Vocational Training and Development Centres.

77. Assistance is available to all students. It involves: counselling, defining the mental and physical capabilities of students, developing the skill to make rational choices in the field of education and career and active attitude towards professional life, teaching how to plan the professional career and the ability to function in the labour market as well as the close cooperation with teachers and parents. The most common form of assistance is group sessions.

78. Students with health problems which limit their choices regarding the school and vocational education use individual counselling. In the process of enrolment to post-junior secondary schools, in the event of equal results obtained in the classification process priority is given to candidates with health problems limiting their choices and education options, confirmed by the opinion of a public psychological and pedagogical advice centre. Candidates with certificates on the necessity of special education issued by the certifying team of a public psychological and pedagogical advice centre are enrolled to the first grade of special schools preparing for work at the request of their parents (legal guardians). Candidates applying for enrolment to the first term of the post-secondary school should hold a medical certificate on the lack of any medical contraindications for their education in the given profession issued pursuant to the regulation of the Minister of National Education of 20 February 2004 on the Conditions and Procedure of Enrolment of Students to Public Schools and their Transfers from One Type of School to Another.

79. Candidates to post-junior secondary schools and students of such schools who are or will be exposed to harmful agents during the practical vocational training are referred to medical tests. Following such tests medical certificates are issued on the existence or non-existence of medical contraindications.

80. The Education law provides for the possibility of establishing non-public specialist centres providing vocational counselling services for young people. Their services are paid.

81. The number of public psychological and pedagogical advice centres ranged from 590 in 1999 to 557 in 2004. The difference in the figures results from, inter alia, demographic changes: in 2004 the number of children and young people was by 896 000 lower than in 1999. Consequently, the managing bodies could liquidate some of the centres.
82. Thanks to their geographical distribution their services are available to all students.
83. For statistical data on persons using vocational counselling services in psychological and pedagogical advice centres, see annex I, item 8.
84. The services offered by the SZOK are used by approximately 100 000 persons annually.
85. OHP is a state organization specializing in activities for the benefit of young people, particularly those at risk of social exclusion and unemployed under 25 years of age.
86. The tasks of the OHP regarding employment and counteracting marginalization and social exclusion are performed as vocational counselling services. The services are rendered by:
- (a) 21 Youth Career Centres (MCK);
  - (b) 49 Mobile Centres of Vocational Information (MCIZ).
87. Vocational counselling services provided by the MCIZ were used by 192 205 persons in 2005, including 41 235 persons who used individual counselling. The services of the MCK, which were established on 15 September 2005, were used by 9 776 persons, including 1 935 persons who used individual counselling.
88. Vocational information is provided by the publications of the National Centre for the Support of Vocational and Continuous Education and the Education Publishing House "Perspektywy". Psychological and pedagogical advice centres use over 1 600 profiles of professions and specializations, over 100 information files concerning individual professions, profession guidebook (containing the descriptions of 546 professions) and information guides, leaflets and folders.
89. In 2005 the Ministry of National Education prepared a publication entitled "Zawody szkolnictwa zawodowego" [Professions in vocational education], which is a vade-mecum of a vocational counsellor. The publication contains information on 193 professions to which students can be prepared when leaving basic vocational schools, technical colleges and post-secondary schools. The website of the Ministry of National Education offers link to the educational portal PLOTEUS, established in 2004, with the following parts: learning opportunities, education systems, exchange, contacts, moving to a different country. The National Centre for Supporting Vocational and Continuous Education within the National Resource Centre for Vocational Guidance project prepared numerous publications for vocational counsellors, students, parents and teachers, and organized seminars and training courses for vocational counsellors.



90. Social and professional promotion are supported by the services offered by the district labour offices in cooperation with CliPKZ, aimed to develop individual action plans including objectives and manners of handling the subsequent stages of the career, including the basic services and instruments of the labour market supporting employing unemployed persons and persons seeking work.

91. Establishing a system of “offensive”, generally accessible vocational information and improving the quality of vocational counselling and increasing its availability are the objectives of two projects financed by the ESF between 2004 and 2006:

(a) Providing computer equipment for psychological and pedagogical advice centres, including the purchase of software;

(b) Developing and dissemination of methodological and teaching materials for career planning. These materials are addressed to vocational counsellors, teachers teaching rudiments of entrepreneurship, and counselling and consultant teachers from in-service teaching training centres.

#### **Other special activities addressed to disabled persons**

92. Principles of supporting disabled persons employment were amended in 2004 following Poland’s accession to the EU (adaptation of the system of support for entrepreneurs to the Community regulations, including those concerning group exclusions and state aid). The assistance provided in the form of subsidising remunerations and leaving the obligation to pay social insurance contributions was connected with the reimbursement of additional costs related to the employment of disabled persons to employers (costs which would not have arisen if the employer had employed a person with no disability). The mechanism of VAT reimbursing to entrepreneurs operating on the protected labour market (running a protected labour establishment or professional activity establishment) ceased to be applied. It was replaced with subsidies of the remunerations of disabled workers.

93. Within the framework of the reimbursement of the increased costs incurred in connection with employing persons with disability, employers may also receive the reimbursement of monthly costs of employment of staff members helping the disabled employee in his/her work with regard to his/her communication with the working environment and activities which may be difficult or impossible for the disabled persons to perform on their own at the workplace. Such reimbursement is made from the PFRON funds.

94. The presently prepared amendment to the Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities is aimed at increasing the efficiency of the instruments supporting the social and vocational rehabilitation of the disabled, including improving the operation efficiency and effectiveness of entities enjoying the support of PFRON. Thanks to the new solutions it will be possible to reimburse the costs of equipping the workplace of a disabled person up to the amount of 15 average remunerations, and the reimbursement of 60 per cent of the remuneration costs for a year will be possible in the case of disabled persons who have been registered in district labour offices as unemployed or seeking work, not in employment. A one-time loan for disabled persons to start their business will be replaced with a one-time donation to start a business activity.

**(c) Increasing productivity**

95. As productivity is related to such factors as technologies in use, equipment, work organization, qualifications of employees, improved productivity was a result of activities taken to improve the operating conditions of SMEs (consultancy, training and financial assistance).

96. In May 1999 the Council of Ministers adopted the Government Policy Guidelines for Small and Medium-sized Enterprises until 2002. Thanks to the programme it was possible to offer assistance to entrepreneurs with regard to their access to information on business activity, promote quality and improve access to external sources of financing the business activity. Actions taken within the programme consisted of counselling and training assistance regarding the business activities, facilitating access to external financing sources, supporting development of export and promotion of quality.

97. In February 2003 the Council of Ministers adopted the Government Policy Guidelines for Small and Medium-sized Enterprises from 2003 until 2006. The Government assumed that activities aimed at supporting small and medium-sized enterprises will consist of stimulating their economic activities ensuring the growth in employment, increase of their competitiveness and better functioning on the Single European Market, whereas policy will be implemented thanks to legal, organizational, information and training-related and financial instruments in the following areas:

(a) Supporting activities fostering the development of enterprises;

(b) Improvement of the legal and administrative environment of small and medium enterprises;

(c) Development of the institutional environment of SMEs;

(d) Support for such entities on the international arena.

98. Entrepreneurs may obtain support to subsidize the following costs:

(a) Counselling and training services involving increasing the quality of products and services and obtaining certificates regarding quality, environment, health and safety management systems, undertakings regarding innovative activity, implementing innovative solutions and new technologies;

(b) Counselling services regarding companies' development and starting companies operations based on the Internet technologies;

(c) Counselling services regarding development and implementation of individual development plans regarding export and participation in fairs and exhibitions;

(d) Purchase of new machines and equipment.

99. SPO RZL activities involve implementation of instruments influencing the improvement of work efficiency both in institutions and offices and in private enterprises. The main factors improving the work efficiency of the staff of public employment services and other labour market institutions include the organization of training courses and post-graduate studies as well as support, counselling and relevant instructions. Work efficiency is increased by:

- (a) Training and counselling assistance for managerial staff and employees of enterprises focusing on increasing management efficiency (particularly with regard to human resources), identification of needs concerning employees' qualifications, improving work organizations, health and safety management and achieving greater flexibility regarding forms of labour provision;
- (b) Training, counselling assistance and post-graduate studies for managerial staff and employees of enterprises;
- (c) Training and internships for employees of enterprises in scientific entities;
- (d) Projects improving the quality of training and counselling services for enterprises;
- (e) Training for entrepreneurs regarding flexible forms of employment with special attention paid to modern technologies and methods of work organization (telework, work done from home, replacement work etc.);
- (f) Training courses for women regarding self-employment.

100. On 4 September 2006, the Council of Ministers adopted "The Strategy for Increasing the Innovativeness of the Economy for 2007-2013". It contains the assessment of the economy's innovativeness and recommends actions helping build knowledge-based economy in which the strength of entrepreneurs in competitive markets will consist of their high innovativeness. In accordance with the Strategy, growth of innovativeness of enterprises aimed at maintaining the economy on the path of swift growth and the creation of new and better jobs is now a strategic goal.

101. The document provides for the following directions:

- (a) Staff for the modern economy;
- (b) Research for the benefit of the economy;
- (c) Intellectual property for innovation;
- (d) Capital for innovation;
- (e) Infrastructure for innovation.

102. Implementation of the Strategy will be based on the implementation system regarding operational programmes within the National Strategic Reference Frameworks 2007-2013. Implementing the actions proposed in the Operational Programme Innovative Economy, PO KL and 16 Regional Operational Programmes is of key importance.

**(d) Freedom to choose employment**

103. Article 65, paragraph 1 of the Constitution of the Republic of Poland provides that everyone shall have the freedom to choose and to pursue his work and to choose his place of work. Similarly, the principle of freedom of work is expressed in article 11 of the Labour Code, according to which commencing an employment relationship, regardless of its legal basis, requires a concordant declaration of will of the employer and employee. Also specific labour regulations and other legal acts regulating employment relationships relate to the voluntary character of the relationship. In accordance with article 65, paragraph 2 of the Constitution, an obligation to work may only be imposed by statute.

104. Obligation to work is provided for in the Act of 6 September 2001 on Communicable Diseases and Infections. Staff of health-care establishments and other persons whose qualifications are useful in combating an epidemic may be sent to work in combating an epidemic by means of an administrative decision. Restrictions regarding the possibility to send to work in combating an epidemic provided for in the Act concern:

- (a) Persons who have not reached the age of 18 or have reached the age of 60;
- (b) Pregnant women or women raising children aged under 14;
- (c) Disabled persons.

105. Persons sent to work at combating an epidemic are guaranteed employment in their existing place of work (their employers are under an obligation to grant them unpaid leaves and can not terminate the employment relationship), whereas in the new workplace indicated in the decision, preference-based remuneration is provided for (not less than 150 per cent of the average basic remuneration at the given position in a health-care establishment) as well as the reimbursement of costs of transport, board and accommodation.

106. Obligation to work may be imposed pursuant to the Act of 18 April 2002 on the Natural Disaster Status, according to which administration bodies may, by means of legal acts, order employers to delegate employees to be at the disposal of the body managing the activities aimed at counteracting the effects of the natural disaster.

107. Special discipline principles apply to the service of the functionaries of the State Fire Brigades, Border Guards, Police and Government Protection Bureau, which due to their service-related subordination may be delegated to temporary service in another organizational unit (Act of 24 August 1991 on the State Fire Brigades, Act of 6 April 1990 on Police, Act of 12 October 1999 on Border Guards, Act of 16 March 2001 on the Government Protection Bureau).

108. According to article 116, paragraph 4 of the Act on Penal Executive Code, a person convicted to imprisonment is obliged to perform work unless detailed regulations, also those following from international law, provide for releasing such persons from the obligation, and is obliged to perform some tidying work in the penal institution. The practical significance of “using the obligatory work of convicts” applies only to tidying performed by such persons in the penal institutions. Convicts are not entitled to remuneration for their work performed for the

benefit of the penal institution. The working hours cannot exceed 90 hours a month. The same principle applies with regard to tidying related works performed for the benefit of the territorial self-government (art. 123<sup>a</sup>, para. 2 of the Penal Executive Code).

109. Work performed by the convict also include work performed upon the consent of the convict under a referral to work or pursuant to the possibility of performing paid work upon an employment contract, an agency agreement, a task-specific agreement, an outwork contract or other legal basis being made available to the convict (art. 121, para. 2 of the Penal Executive Code).

110. The obligation to perform the work indicated by the court is an integral part of the restriction of freedom penalty. According to article 34, paragraph 1 of the Penal code, such penalty may be adjudged for 1 to 12 months. The obligation to work consists of performing unpaid, controlled work for social purposes in an enterprise, health-care establishment, social assistance establishment, charity organization or institution or an organization or institution providing assistance to the local community. A court may impose the obligation to perform such work for 20 to 40 hours a month.

111. With regard to a person in employment the court may adjudicate deductions of 10 to 25 per cent of their work remuneration for the benefit of the State Treasury or a social cause indicated by the court instead of the obligation of unpaid controlled work. During the time of serving the sentence, the convict may not terminate the employment relationship without the consent of the court.

112. Activities of the National Labour Inspectorate (PIP) relating to the control of the work as adjudicated by the court during the sentence of restriction of freedom and socially useful work adjudicated in lieu of an uncollectible fine concern the issues of the employer's ensuring working conditions in compliance with general safety and health regulations.

113. Consequences of violating the order of forced or obligatory work are provided for by the Penal Code. According to Article 232, paragraph 1 of the Code, "a public functionary who by exceeding their competences or failing to perform their duties acts against the public or private interest shall be liable to a penalty of imprisonment of up to three years". If the guilty party commits the act in order to for the purpose of unlawful economic or personal gains, they shall be liable to a penalty of imprisonment of up to ten years (art. 231, para. 2 of the Penal Code). These regulations penalize all abuse of competences or failure to perform the duties on the part of officials that result in infringement of public or private interest. They may apply if a functionary of a penal institution infringes the regulation regarding employment of convicts by forcing them to perform work against the regulations in force. In the event of the abuse of their competences, public functionaries are additionally liable to disciplinary penalties provided for in specific legislation regarding individual public services. Also, according to article 190, paragraph 1 of the Penal Code "whoever uses violence against a person or an unlawful threat in order to force another person to perform a certain act, failure or endurance shall be liable to a penalty of imprisonment of up to three years". This regulation penalizes all behaviours consisting of unlawful forcing of other persons to perform certain behaviours (including e.g. performance of work without the relevant legal title) by using threats or violence.

**(e) Vocational training programmes**

**Continuous education of employees**

114. Research on continuous education in 2002 (according to the Eurostat methodology) indicate that 41 per cent of Polish firms financed or co-financed training courses for their employees (in 1999 - 36.6 per cent). The average percentage of employees improving their qualifications was 16 per cent. In companies, 36 per cent of employees participated in continuous education. These included primarily employees aged 25-44 (70.3 per cent of the age group participated in training courses), whereas young people aged up to 24 were relatively rarely trained (22.1 per cent). Groups in which trainings were used to a limited extent included persons at risk of redundancy (1 per cent), persons working on a part-time basis (4.3 per cent) and persons without the proper qualifications (6.2 per cent). The average duration of training courses in companies per participant was 29 hours of classes. Costs of trainings in 2000 amounted to 0.8 per cent of labour costs in enterprises, whereas in 2004 the figure stood at 0.7 per cent.

**Training of the unemployed**

115. The participation of registered unemployed persons in training courses has been systematically rising. In 2005 labour offices referred 151 thousand persons to training courses (in 2004 - 126 thousand, in 2001 - 50 thousand). In 2005, 148 thousand persons finished the training courses (98 per cent of all persons referred to trainings).

116. Most of the trained unemployed persons (80 per cent) participate in group training, whose subjects are planned by labour offices and contracted in the training institution selected by the offices. A special group of training courses are these organized by labour offices in response to the needs reported by the employees. In 2005 persons trained pursuant to tripartite agreements (concluded between the labour office, the training institution and the employer) accounted for 10 per cent of all persons who underwent training.

117. The effectiveness of individual training courses organized was almost twice as high as that of group courses. The notable difference in the employment ratio results primarily from the conditions which participants in the courses were obliged to satisfy: persons applying for referrals to individual training courses must present to the labour office documents indicating that after the training they will be employed (most often this is a declaration of the future employer or a statement on the intention to undertake economic activity).

118. Statistical data regarding:

- (a) Number of persons unemployed and seeking work trained by labour offices -annex I, items 9-13;
- (b) Expenditure of the Labour Fund on training - annex I, item 14;
- (c) Targets of the trainings organized by labour offices - annex I, item 15;
- (d) Employment rate among registered unemployed - annex I, item 16.

119. In 2002-2005 a number of activities were undertaken in order to better coordinate vocational training and the needs of the labour market:

(a) National standards of professional qualifications were developed for 53 professions on the basis of employers' requirements study. The standards are the basis for the vocational and continuous education system, employment policy and human resources policies of enterprises. In 2006-2007 another 200 qualification standards will be developed;

(b) Eighty-nine module-based training curricula and teaching materials have been developed on the basis of the ILO concept, focusing on teaching the skills necessary to pursue individual professions, in 2006-2007 another 20 programmes will be developed, addressed to the staff of public employment services;

(c) Databases containing professional qualification standards and module-based training curricula, available on the Internet ([www.standardyiszkolenia.praca.gov.pl](http://www.standardyiszkolenia.praca.gov.pl));

(d) Classification of professions and specializations occurring on the labour market has been updated, the code of switching from the national classification to the ISCO88 classification has been developed for the purposes of the EURES system, descriptions of professions and specializations are updated and made available on the Internet;

(e) Monitoring of deficit professions (where the demand exceeds the supply) and excess professions (where the number of unemployed is higher than the number of the reported jobs) has been introduced;

(f) An electronic register of training institutions trying to obtain public funds to conduct training courses for the unemployed has been developed to help the unemployed and employment services collect information on training offers, the register contains information on the training subjects, staff and teaching background of the institution. Between December 2004 and September 2006 information on over 5 100 training institutions interested in training the unemployed were entered in the register.

120. Continuous education of the unemployed and seeking work are supplemented by vocational training and information facilities provided by employment services. For detailed information, see the answer to Question B on article 9).

### **Question 3**

#### **Equal treatment in employment or occupation**

##### **(a) Legal regulations**

121. The Act of 24 August 2001 on Amendment of the Act - Labour Code and Certain Acts introduced a number of regulations banning discrimination. The amendment:

(a) Establishes the obligation of equal treatment of employees of both sexes in all employment-related aspect, starting from the initiation of the employment relationship through amending the relationship, access to promotion and training to termination of the employment relationship (art. 18<sup>3a</sup>);

(b) Introduces the ban on gender-related discrimination of employees in the form of direct or indirect discrimination and introduced the definition of indirect discrimination (art. 18<sup>3a</sup>);

(c) Defines actions which are classified as those infringing the principle of equal treatment of women and men and indicates the premises of differentiation regarding employees' rights which do not constitute an infringement of the principle (art. 18<sup>3b</sup>);

(d) Introduces the principle of invalidity of the provisions of collective labour agreements and other collective agreements based on the Act, regulations, statutes defining the rights and obligations of the parties to employment relations, and provisions of employment agreements and other acts on the basis of which employees are employed in the event that such documents should contain provisions violating the principle of equal treatment of employees with regard to work, provides that regulations which do not violate the principle of equal treatment (arts. 9, para. 4 and 18, para. 3) are to replace the invalid regulations;

(e) Grants to the employees whose rights were violated as a result of an infringement of the principle regarding equal treatment of women and men the right to a compensation amounting to not less than the lowest remuneration for work and not more than six times the remuneration (art. 18<sup>3d</sup>);

(f) Provides that a dismissal of an employee which is a repression for the employee's using the rights under the anti-discrimination regulations is deemed unjustified (art. 18<sup>3e</sup>);

(g) Introduces separate principles of providing evidence in disputes regarding violation of the principle of equal treatment of women and men, the employee needs only to evidence facts confirming discrimination, the sued employer must establish evidence to refute the charges by proving that the actions taken with regard to the employee were justified with other reasons than the employee's sex (art. 18<sup>3b</sup>);

(h) Obliges employers to propagate the contents of the provisions regarding equal treatment of women and men art. 94<sup>1</sup>) at the workplace,

(i) Introduces a ban on including such requirements regarding candidates in job offers which disqualify them due to their gender or other criteria considered discriminating (the Act on Employment and Counteracting Unemployment);

(j) Classifies as offences cases of refusals to employ a person with discrimination background (the Act on Employment and Counteracting Unemployment).

122. Further amendments to the Labour Code, passed on 14 November 2003, regarded a ban on discrimination and the principle of equal treatment with regard to employment. Regulations regarding a ban on discrimination due to gender were extended to include cases of discrimination due to age, disability, race, religion, nationality, political views, trade union membership, ethnic origin, faith, sexual orientation and also with regard to being employed for definite or indefinite period or full or part-time.



123. In compliance with article 18<sup>3a</sup>, paragraph 1 of the Labour Code, employees should be treated equally with regard to entering in and terminating employment relationships, employment conditions, promotion and access to training to improve their professional qualifications, in particular with regard to gender, age, disability, race, religion, nationality, political views, trade union membership, ethnic origin, faith, sexual orientation and also with regard to being employed for definite or indefinite period or full or part-time. Equal treatment with regard to employment means non-discrimination in any manner, direct or indirect, for reasons specified in article 18<sup>3a</sup>, paragraph 1 (art. 18<sup>3a</sup>, para. of the Labour Code). A definition of harassment was introduced; the Act also provides that harassment is a manifestation of discrimination.

124. According to article 18<sup>3a</sup>, paragraph 6 of the Labour Code, gender discrimination includes also all unaccepted behaviour of sexual nature or relating to the gender of an employee, whose purpose or effect is a violation of the employee's dignity or humiliation of the employee. Such behaviours may include physical, verbal or non-verbal elements (sexual harassment).

125. The Labour Code defines both direct and indirect discrimination. Direct discrimination occurs if an employee, for one or several reasons specified in article 18<sup>3a</sup>, paragraph 1, has been or is or could be treated in a comparable situation in a manner less favourable than other employees. Indirect discrimination occurs if as a result of an apparently neutral decision, criterion or action disproportions occur in employment conditions unfavourable for all or a considerable number of employees belonging to a group distinguished due to one or more reasons specified in article 18<sup>3a</sup>, paragraph 1 if such disproportions cannot be justified with other objective reasons (art. 18<sup>3a</sup>, paras. 3 and 4 of the Labour Code).

126. The principle of equal treatment with regard to employment is considered as violated if the situation of an employee is differentiated by the employer for one or several reasons specified in article 18<sup>3a</sup>, paragraph 1, resulting in particular in:

- (a) A refusal to enter into or a termination of an employment relationship;
- (b) Unfavourable conditions regarding the remuneration for work or other employment conditions, the employee's being omitted with regard to promotion or other work-related benefits;
- (c) Omission with regard to training courses for improving professional qualifications, unless the employer proves that he/she took the relevant decisions on the basis of objective reasons.

127. An employee whose employer terminated the employment agreement violating the ban on discrimination in employment may file a claim with a labour court provided for cases of an unjustified or unlawful termination or dissolution of an employment agreement. When pursuing the reinstatement into work or compensation, the employee may indicate improper behaviour of the employer consisting of a violation of the ban on discrimination in employment relationships.

128. A person towards whom the employer violated the principle of equal treatment in employment is entitled to a compensation not lower than the minimum remuneration for work (art. 18<sup>3d</sup> of the Labour Code). Such compensations are decided upon by labour courts in proceedings initiated by the interested employee.

129. The employee's exercising his rights pursuant to a violation of the principle of equal treatment in employment must not be a reason justifying the employer's termination of the employment relationship or its termination without notice (art. 18<sup>3e</sup> of the Labour Code).

130. The Act on Employment and Counteracting Unemployment contained the following provision of anti-discrimination nature:

(a) Article 12, paragraph 2, point 3 - job placement services are based on equal treatment principle, which means that district labour offices are obliged to provide assistance to everyone seeking assistance in finding employment;

(b) Article 12, paragraph 3(a) - an employer's information on a vacancy or a position of vocational preparation must not contain requirements discriminating candidates with regard to gender, age, disability, race, nationality, views, particularly political or religious, or with regard to their trade union membership (introduced by the Act of 22 June 2001 on Amendment of the Act on Employment and Counteracting Unemployment and the Act on Social Assistance);

(c) Article 15, paragraph 1(a) - in the selection of candidates requirements discriminating candidates with regards to gender, age, disability, race, nationality, views, particularly political or religious, or with regard to their trade union membership (introduced by the Act of 26 April 2002 on Amendment of the Act on Employment and Counteracting Unemployment);

(d) Article 17, paragraph 1, point 3 - vocational counselling shall be guided by the principle of equal treatment in using the vocational counselling services regardless of nationality, gender, faith, membership in political and social organizations or other circumstances.

131. Article 6(c), paragraph 1, point 3 of the Act on Employment and Counteracting Unemployment provided that criteria regarding the issuance of work promises and permits for foreigners may not discriminate candidates with regard to gender, age, disability, race, nationality, views, particularly political or religious, or with regard to their trade union membership. An employer who refuses to employ a candidate due to his gender, age, disability, race, nationality, views, particularly political or religious, or with regard to their trade union membership is liable to a fine (art. 66, point 3 of the Act on Employment and Counteracting Unemployment).

132. Pursuant to the Regulation of the Minister of Labour and Social Policy of 9 February 2000 on Detailed Principles of Providing Job Placement Services, Vocational Counselling, Organization of Training for Unemployed Persons, Establishing Methodological Background for Vocational Information and Counselling and Organization and Financing of Job Clubs, district labour offices accept every notification of an employer regarding a vacancy and a place of vocational preparation providing that such a notification contains no requirements discriminating candidates with regard to their gender, age, nationality, faith or other circumstances.

133. The Act on Promotion of Employment and Institutions of the Labour Market contains the following anti-discrimination provisions:

(a) Job placement services are based on equal treatment principle under which district labour offices are obliged to provide assistance with finding employment to all persons seeking work regardless of their nationality, membership in political organizations, gender, faith or other circumstances;

(b) Employer's notification on a vacancy or a place for vocational preparation may not contain requirements discriminating candidates due to gender, age, disability, race, nationality, views, particularly political or religious, or with regard to their trade union membership;

(c) In the process of selecting candidates for training courses no requirements discriminating candidates with regard to gender, age, disability, race, nationality, views, particularly political or religious, or with regard to their trade union membership may be applied;

(d) Vocational counselling is guided by the principle of equality in using the vocational counselling services regardless of nationality, gender, faith, and membership in political and social organizations or other circumstances.

134. Whoever refuses to employ a candidate on a vacant working position or a place for vocational preparation due to the candidate's gender is liable to a fine not lower than PLN 3 000 (art. 123 of the Act).

**(b) Actual situation**

135. Suits for compensations due to discrimination in the workplace as a separate category of cases have been recognized by courts since 1 January 2002, and cases involving mobbing since 1 January 2004.

136. For statistical data on suits for compensation for violating the principles of equal treatment of men and women, see annex I, item 17.

137. Between 2000 and 2003 the PIP conducted a pilot study whose purpose included:

(a) Evaluation of the influence of education and gender determinant on promotion opportunities and position at work;

(b) Evaluation of the access to training courses offered by the enterprise;

(c) Determination of the employment conditions of employees regarding work in inconvenient hours and overtime;

(d) Measurement of the degree to which employees used their rights pursuant to the Labour Code, i.e. parents' rights regarding childcare.

138. The study was conducted in the following voivodships: Dolnośląskie, Mazowieckie, Łódzkie, Podlaskie, Warmińsko-Mazurskie and Wielkopolskie. In each of them a random sample of 30 enterprises was selected (6 employers employing between 30 and 50 persons,

six employers employing between 51 and 100 persons, six employers employing between 101 and 250 persons, six employers employing between 251 and 500 persons and six employers employing over 500 persons).

139. The results indicated that:

- (a) Men held higher positions almost twice as often as women;
- (b) In the private sector women were employed on higher managerial positions by 42 per cent less often than men;
- (c) Women prevail on lower managerial positions in the public sector (in the proportion of five to four), but in general (in both private and public sectors) men prevail in this category as well (by 2 per cent);
- (d) Gender-based discrimination does not occur with regard to accessibility to higher managerial positions through “internal” promotion within the same company, on average women are promoted a year earlier (at the age of 39) than men, but they work for the promotion three months longer (women for ten years and seven months, men for ten years and four months);
- (e) A similar number of men and women work in inconvenient hours and on Sundays and on holidays, there are slight differences (3.9 per cent) between the number of women and men working overtime;
- (f) Women use their right to take two days off due to childcare four times more often than men.

140. Results of the subsequent studies indicated that in 2004 women occupied by 40 per cent fewer higher managerial positions than men (the difference lower by 0.7 per cent as compared with 2003). The unfavourable proportions occur more often in the private sector. On average, women work three years and eight months longer to be promoted to a higher position. No discrimination was observed with regard to any group of employees in terms of their work during inconvenient hours or overtime. The right to take two days off due to raising at least one child below 14 years of age is used by every fifth woman and every eleventh man. In higher managerial positions this right is used considerably less often, both among women and among men. Women in higher managerial positions use maternity and childcare leaves much less often than women in other positions; men in higher managerial positions included in the study did not use those rights at all.

141. Among the 96 complaints considered by the end of 2004 by the PIP only 12 were justified. In the cases of ten complaints it was found that discrimination could have actually occurred, but the evidence collected during the inspections did not clearly indicate this, and consequently a decision was taken to refer the cases to court. Seventy complaints were considered unjustified, because inspections did not confirm the accusations of discrimination. The accusations included in the complaints regarded discrimination due to trade union membership, age, health condition and disability, work experience, and gender (e.g. pregnancy) to a lesser extent.

142. The issue of equal treatment of women and men in employment relations was included in planned inspections of the PIP. Single cases of gender discrimination were found, mostly the unjustified differentiation of the remuneration of women and men in comparable positions. Differences unfavourable to men were also found.

143. Apart from the inspections, the issue of equal treatment of employees was also included in the legal advice provided by the PIP staff.

144. The National Strategy for Employment Growth and Human Resources Development 2000-2006 contains guidelines aimed at supporting the policy of equal opportunities on the labour market:

- (a) Activities aimed at increasing employment chances of persons with disabilities, particularly their chances of inclusion in the work environment;
- (b) Introduction of preferences for persons with disabilities seeking work in the system of acquiring and improving qualifications;
- (c) Including revitalization procedures in the practice of economic entities management, consisting of applying various educational processes to groups of employees more advanced in terms of age, in order to revitalize their professional qualifications;
- (d) Removing barriers and discriminatory behaviours towards women on the labour market;
- (e) Conducting an information campaign to promote employers' refraining from discriminatory practices in the recruitment process, in organization of jobs, remuneration and evaluation of employees;
- (f) Pro-employment activities with regard to persons living in rural areas.

145. Various actions supporting the policy of equal opportunities in the labour market were undertaken within the KPDZ 2000-2001, and included:

- (a) Development of the social dialogue for defining incentives to employ women;
- (b) Popularization of the effects of the social dialogue concerning women's employment problems;
- (c) Developing and implementing a system of compensatory training courses;
- (d) Research on the scale and reasons of unequal opportunities of women and men on the labour market - developing the government recommendation;
- (e) Developing and implementing programmes supporting professional activation of women;
- (f) Propagating the idea of equality of sexes in school curricula and media;

- (g) Verification of the curricula for various types of schools and supplementing the contents to include gender equality issues;
- (h) Preparing a cycle of radio and TV programmes regarding gender equality;
- (i) Publication of materials promoting employment of women.

146. The Activity “Vocational Integration and Reintegration of Women” is implemented within the SPO RZL in order to support women on the labour market. The goal of the projects is increasing the employment of women and their professional and social status. This goal will be achieved by promoting equal access of women and men to employment, supporting continuous education of women, activities aimed at increasing their employability and promoting those forms of work and employment which make it possible to combine professional and social life.

147. From the beginning of the SPO RZL implementation to the end of the second quarter of 2006, the programme included 14 970 women. They most often used those forms of assistance which led to the improvement or change in their professional qualifications (training courses, vocational, psychological and legal counselling) and those promoting entrepreneurship and self-employment.

148. The goal of the PIW EQUAL 2004-2006 includes promoting innovative solutions combating all forms of discrimination and inequality on the labour market. Five priority subjects are implemented within the Initiative:

- (a) Facilitating access and return to the labour market for those who have difficulty in being integrated or reintegrated into a labour market which must be open for all;
- (b) Strengthening the social economy (the third sector), in particular the services of interest to the community, with a focus on improving the quality of jobs;
- (c) Supporting the adaptability of firms and employees to structural economic change and the use of information technology and other new technologies;
- (d) Reconciling family and professional life, as well as reintegration of men and women who have left the labour market, by developing more flexible and effective forms of work organization and support services;
- (e) Supporting the social and vocational integration of asylum-seekers.

149. The implemented projects are based on the criteria ensuring equal opportunities to women and men on the labour market, understood as:

- (a) Participation of women and men in the target groups for a given action: indices monitoring all areas of support classified by gender;
- (b) Implementation methods taking into consideration such factors as: working time, information, financial resources, access to education and training, career opportunities, supporting projects in which innovative institutional attitude is applied and programmes aimed at supporting women on the labour market and their vocational integration;

(c) Standards and values influencing the equal opportunities policy, such as behaviours of men and women, stereotype-based perception of men's and women's roles in the family and professional life, supporting the new social model with regard to equal opportunities of men and women in the professional and social context;

(d) Legislation directly or indirectly preventing gender discrimination on the labour market: activities raising the social awareness regarding the legal aspects of equal opportunities of women and men on the labour market.

150. As a result:

(a) Social acceptance for women reconciling their professional and social roles will increase;

(b) A new institutional approach will be implemented, according to which flexible employment principles will be applied and access to childcare services will be available;

(c) Women's awareness regarding the necessity of continuous education and using the available training and vocational counselling for this purpose will increase;

(d) The rate of women among self-employed persons will increase;

(e) A strong lobby of organizations and institutions supporting activities for the benefit of women will be established.

151. From the beginning of Community Initiative Programme EQUAL implementation until December 2006, in the framework of testing of innovative support models, 7,743 women received support in the form of training, workshops, vocational, psychological and legal consultancy, and in other forms such as crisis intervention.

152. Projects that promote the equality of women and men in the labour market are also targeted at institutional beneficiaries, employers, labour market institutions, social services, and NGOs.

153. At the end of 2005, the Ministry of Regional Development drew up "Praktyczny poradnik w zakresie równego traktowania kobiet i mężczyzn w funduszach strukturalnych" [The Practical Guide to Equal Treatment of Women and Men in Structural Funds], providing practical knowledge on implementing the equality principle on all stages of projects (from the preparation of the application to the evaluation).

154. In 1999, the Council for Women was established in the Ministry of National Defence to monitor the situation of women in the army. Special attention is paid to ensure equal opportunities of professional development and equal access to promotion. The tasks of the Council include:

(a) Preparation of proposals of legislative, organizational, HR and training solutions regarding women's military service;

(b) Maintaining contacts with women in professional military service;

(c) Representing the armed forces in international contacts, particularly within NATO;

(d) Cooperation with national and international organizations acting for the benefit of equal rights of women and men.

155. The main effects of the Council's activity:

(a) Amendment of the Act on Military Service of Professional Soldiers, making all positions in military forces open to women soldiers, introducing equal retirement age for women and men, providing for the possibility of women's serving in professional privates corps;

(b) Introducing regulations on the maternity issues regarding candidates for professional soldiers;

(c) Appointing a Commissioner in charge of women's military service, whose tasks include: creating the conditions making it possible for women to pursue their constitutional right to serve in the army, equal rights in the military service;

(d) Adopting proposals regarding women's uniform elements, equipping women and providing them with equipment;

(e) Establishing the position of the secretary of the Council for Women in the Military Forces of the Republic of Poland in the Convent of Polish Military Officers' Corp's Deans on 1 July 2006.

156. The Ministry of National Education is reviewing the contents of school and academic textbooks in order to eliminate elements of discriminatory character. The subject "Education for family life" includes the elements of equal status of women and men. Moreover, the issue of equal treatment and prevention and therapy of violence within the family is included in the curriculum of the qualification course for teachers of the subject.

157. Gender equality in employment is of primary importance for the Commissioner for Citizens' Rights (RPO). Following RPO motions, the Constitutional Tribunal adjudicated on the non-constitutionality in the following cases:

(a) In the verdict of 28 March 2000 regarding article 23, paragraph 1, point 4 of the Act of 26 January 1982 - Teachers' Charter, constituting the legal basis for the termination of the employment relationship - without the consent of the interested person - with an appointed teacher upon the teacher's reaching the retirement age provided for in the regulations on retirement provision of employees and their families. As a consequence of the provision of the Teachers' Charter, an employment relationship could be terminated earlier with regard to a female teacher than in the case of a male teacher;

(b) In the verdict of 5 December 2000 regarding article 13, paragraph 1, point 5 of the Act of 16 September 1982 on Employees of State Offices, article 10, paragraph 1, point 6 of the Act of 22 March 1990 on Self-Government Employees, to the extent in which pursuant to those regulations, employment relationships can be dissolved upon their termination with an appointed female State official earlier than with a male State official.



158. Activities promoting equal rights are also undertaken by NGOs. Their members participate in the implementation of anti-violence programmes, health education programmes, preparation of the young generation to responsible parenthood and family life; they also organize training courses for women. Entities particularly active in this area include: Amnesty International, Women's Rights Centre, the Helsinki Foundation for Human Rights, Information Centre for Women's Groups - OŚKa, Polish Federation for Women and Family Planning, Polish Women League, Democratic Women's Union and Centre for the Advancement of Women Foundation. NGOs may apply for funds from the State budget to implement the following tasks: research on the situation of women, developing programmes, expert opinions and analyses, establishing associations, foundations and other legal entities whose tasks include supporting development of entrepreneurship, ensuring favourable conditions at the initial period of running enterprises by persons so far out of work.

159. The activities consisting of informing the society on the legal solutions regarding the equal treatment of women and men are also pursued by the media. Three stations of the Polish Radio broadcast programmes on women's topics, including those devoted to gender equality, for approximately 40 minutes every day. The Polish TV.- in permanent and cyclical programmes on human rights protection standards, broadcast programmes on women's rights and the manner of exercising such rights.

**(c) Cases in which distinction is not regarded as discrimination but an inherent requirement connected of a particular job**

160. The Labour Code specifies activities of employers which differentiate the legal situation of employees and do not constitute a violation of the principle of equal treatment in employment. In compliance with article 18<sup>3b</sup>, paragraph 2 equal treatment in employment is not violated by activities consisting of:

(a) Failing to employ an employee for one or several reasons specified in Article 18<sup>3a</sup> §1 if such failure is justified due to the nature of the work, the conditions of its performance of vocational requirements which employees must satisfy;

(b) Termination of the employment conditions regarding the working time if it is justified with reasons not attributable to employees;

(c) Using measures which differentiate the legal situation of employees due to protection of parenthood, age or disability of the employee;

(d) Specifying employment and dismissal conditions, principles or remuneration and promotion and access to training improving professional qualifications with the use of the work experience criterion.

161. According to article 18<sup>3b</sup>, paragraph 3, the principle of equal treatment in employment is not violated by actions undertaken for a specific period, aimed to equalize the opportunities of all or a considerable group of employees distinguished due to one or more reasons specified in article 18<sup>3a</sup>, paragraph 1 consisting of decreasing the actual inequalities with regard to such employees, in the scope specified in the article.

162. Differentiation of employees due to their religion or faith does not violate the principle of equal treatment in employment if due to the type and character of the activities pursued in churches or other religious organizations, as well as in organization whose purpose is in close connection with a religion or faith or religion or faith of an employee is a significant, justified and well-grounded vocational requirement (art. 18<sup>3b</sup>, para. 4 of the Labour Code).

#### **Question 4**

##### **Percentage of professionally active population performing more than one full-time work**

163. In the fourth quarter of 2005 the percentage of persons working in more than one workplace, who were employed on the full-time basis in their primary workplace in the total number of working persons was 6 per cent, and in the total number of professionally active persons - 2.8 per cent. The available data concern the number of persons working in more than one workplace and who work full-time in their primary workplace; there are no data available regarding the working time in the additional workplace.

#### **Article 7**

##### **Right to just and favourable conditions of work**

#### **Question 1**

164. Poland submitted reports on the implementation of the following ILO Conventions:

- (a) No 14 (1921) concerning the Application of the Weekly Rest in Industrial Undertakings, in 2003;
- (b) No 81 (1947) on Labour Inspection, in 2003 and in 2005;
- (c) No 129 (1969) concerning Labour Inspection in Agriculture, in 2003 and in 2005;
- (d) No 100 (1951) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, in 2004 and in 2006.

165. Poland did not ratify the following ILO Conventions:

- (a) No 131 (1970) concerning Minimum Wage Fixing, with Special Reference to Developing Countries;
- (b) No 106 (1957) concerning Weekly Rest in Commerce and Offices;
- (c) No 132 (1970) concerning Annual Holidays with Pay (revised);
- (d) No 155 (1981) on Occupational Health and Safety.

## Question 2

### (a) Methods used to fix wages

166. According to article 78 of the Labour Code, remuneration for work should be determined in such a manner that it corresponds to the type of the work performed and qualifications required at performing such work, also taking into consideration the amount and the quality of the work provided. Any discrimination with regard to remuneration is inadmissible.

167. Basic instruments of shaping remuneration policy include:

- (a) Defining minimum wage/remuneration for work;
- (b) Shaping the growth in the average remuneration in the enterprise sector;
- (c) Shaping remunerations in the budget sector;
- (d) Maximum remuneration of persons in charge of certain legal entities.

168. The amount of the minimum remuneration, growth in average remunerations in the enterprise sector and the growth in remunerations in the State budget sphere are defined in negotiations within the Tripartite Commission for Social and Economic Affairs. By 15 June of each year the Council of Ministers presents the proposals to the Commission. The Commission receives information on the following:

- (a) Consumer price index in the previous year;
- (b) Prognosed indexes for the next year regarding: consumer prices, average remuneration, real GDP (brutto) growth forecast;
- (c) Expenditures of households in the previous year;
- (d) Index of income from employment and the average number of dependants for each person in employment in the previous year;
- (e) Amounts of average monthly remuneration by type of economic activity in the previous year;
- (f) Standard of living for various social groups;
- (g) Economic situation of the state, budgetary situation, the requirements for continuous economic growth, work efficiency level and the necessity to maintain high level of employment.

169. If the Tripartite Commission fails to reach an agreement, the decision is taken by the Council of Ministers.

**(b) Minimum wage system**

170. Since 1 January 2003 the minimum wage is regulated by statutory provisions (Act of 10 October 2002 on minimum wage for work). The amount of the minimum wage should grow by the rate not lower than the consumer price index prognosed for the given year, and since 2006 the rate is increased by two thirds of the prognosed GDP real growth rate, where the target is the 50 per cent relation between the minimum wage and the average wage in the national economy.

171. The Act provides for the following dates when minimum wage is increased:

(a) 1 January if the consumer price index prognosed for the given year is lower than 5 per cent;

(b) 1 January and 1 July if the consumer price index prognosed for the given year is 5 per cent and higher.

172. A correction mechanism is applied if the real consumer price index growth differs considerably from the prognosed values in order to maintain the real volume of the minimum wage.

173. The Tripartite Commission may decide upon the amount of the minimum wage until 15 July of each year. Should the Commission fail to reach an agreement, the decision is taken by the Council of Ministers by means of a regulation until 15 September. The amount of the minimum wage defined by the Council of Ministers may not be lower than the amount which the Council proposed the Tripartite Commission for negotiation.

174. Regulations regarding the minimum wage apply to all employees working on the basis of employment relationships.

175. Until the end of 2005 employers could define the wages of the persons who had not worked for two years in the amount lower than the minimum wage. However, the amount could not be lower than:

(a) 80 per cent of the minimum wage in the first year of work;

(b) 90 per cent of the minimum wage in the second year of work.

176. The solution was introduced in order to improve the situation of young people in the labour market, due to a baby boom generation entering the market. Lowering the wage was to be an incentive for employers to employ young people with no work experience. Since 1 January 2006 employers may define wage at level lower than the minimum values (not lower, however, than 80 per cent) only in the first year of employment.

177. According to the data of the Central Statistical Office (GUS), in December 2003 3.2 per cent persons received wages equal to or lower than the minimum (PLN 800). Wage ranging from PLN 799 to PLN 720 (90 per cent of the minimum value) was paid to 10.7 per cent of persons with the minimum or lower wage, whereas wages ranging from PLN 719 to PLN 640 (80 per cent of the minimum value) were paid to 5.1 per cent of workers.

178. In December 2005 wages at the minimum level (PLN 849 and less) were paid to 3.0 per cent of persons employed in entities employing ten persons or more. As compared with 2003, the share decreased by 0.2 percentage point. Among those persons who in 2005 received the wage at the minimum level, 15.7 per cent received their pay at the level of the admissible sub-minimum, among whom 11.3 per cent received not less than 90 per cent and not less than 100 per cent of the minimum wage and 4.4 per cent received a wage of not less than 80 per cent and less than 90 per cent of the minimum wage.

179. In 2006, the minimum wage for work amounted to PLN 899.10.

180. For statistical data on the results of the PIP inspections regarding the payment of minimum wage, see annex I, item 18.

181. For additional information, -see the response to comment No. 10 of the Committee on Economic, Social and Cultural Rights.

**(c) Remuneration for work of equal value**

182. Issues regarding equal remuneration are regulated by the Labour Code. Its provisions concern all employees.

183. On 1 January 2004 the provisions of Chapter II (a) "Equal Treatment in Employment" were amended in the process of adaptation to the Community law (Directives 2000/78/EC, 2000/43/EC and 2002/73/EC). The regulations concerning discrimination with regard to gender previously in force were extended to include cases of discrimination in employment with regard to age, disability, racial or ethnic origin, sexual orientation, religion or faith. The concept of direct discrimination was introduced, whereas the concept of indirect discrimination was made more precise. The concept of discrimination with regard to gender was also extended to include sexual harassment.

184. New wording was introduced for article 18<sup>3c</sup> of the Labour Code:

"Article 18<sup>3c</sup>, paragraph 1. Employees are entitled to equal remuneration for equal work or for work of equal value.

Paragraph 2. "The remuneration referred to in paragraph 1 includes all components of remuneration, regardless of their name or nature, as well as other work-related benefits granted to employees in cash or in other forms."

Paragraph 3. "Works of equal value are works for the performance of which employees are required to have comparable professional qualifications, confirmed by documents provided for under separate regulations, or practice and professional experience, as well as similar responsibility and effort."

185. Another change involved eliminating the upper limit of the compensation which may be adjudicated from the employer who violated the principle of equal treatment in employment (until 31 December 2003 the compensation might not exceed the amount equal to six times the minimal remuneration).

186. Inspections regarding the ban on sex discrimination with regard to remuneration being observed by employers have been conducted by PIP since 1999. In this year, 37 enterprises employing 15 336 persons were inspected. The basic selection criterion with regard to the inspection was the enterprises' employing more than 50 employees. Industries where employees of one sex outnumber those of the other (metallurgy, mining, trade, education) were also eliminated. Inspection results showed that women earned less than men:

- (a) On managerial positions - by 13 per cent;
- (b) On administrative positions - by 6 per cent;
- (c) On manual labour positions - by 19 per cent;
- (d) On service-related positions - by 21 per cent.

187. Subsequent inspections were conducted in 2002 and 2003.

188. For statistical data on the differences between the average monthly remuneration of women and men, see annex I, item 19.

189. In 2004 a considerable improvement in the relation between the remuneration of women and men was observed. While in 1999 the average remuneration of women constituted no more than 80 per cent of the average remuneration of men, in 2004 the proportion increased to 83.6 per cent. In addition, the share of women in the lowest-earnings group decreased by 5.8 percentage points, whereas in the highest-earnings group it rose by 5.1 percentage points.

190. The situation of women with regard to remuneration improved also in the following groups:

- (a) In the mobile group aged 18-44, where the relation between the average remuneration of women and men in 1999 was 79.6 per cent, whereas in 2004 the figure was 84.6 per cent;
- (b) In the group of persons with higher education, where the relation regarding the remuneration of women and men improved by approximately 3.1 percentage points;
- (c) In the group of persons employed in the huge professional group labelled "office workers";
- (d) The relation improved by 4.1 percentage points.

191. SPO RZL will contribute to ensuring that working conditions for women will not be worse than those enjoyed by men, and equal pay for equal work. This will take place thanks to the implementation of the 1.6. Activity "Professional inclusion and re-inclusion of women" (trainings for entrepreneurs regarding the rights and obligations concerning equal chances of women and men as Labour Code provide, as well as advisory and consulting services for employees of the labour market institutions and NGOs acting for the benefit of women).

192. Activities promoting equal remuneration for working men and women for work of equal value have also been planned within the PIW EQUAL.

193. For additional information, see the response to comment No. 7 of the Committee on Economic, Social and Cultural Rights.

**(d) Remunerations of employees working in the public and private sectors - comparison**

194. For statistical data, see annex I, item 20.

**Question 3**

**Occupational health and safety**

**Legal regulations**

195. The basic legal regulation providing for health and safety is the Act of 26 June 1974 - Labour Code, including its Chapter X "Health and safety" and the executory acts.

196. Since 1 January 2004 health and safety obligations of employers following from the Labour Code have included, inter alia:

(a) Assessment and documentation of the professional risk connected with the work performed and using the necessary preventive measures decreasing the occupational risk, and informing employees on the risk connected with the work performed and principles of protection against the threats;

(b) In the case of employing over 100 persons - establishing a health and safety service with advisory and control functions regarding health and safety, and in the case of employing up to 100 employees - entrusting an employee performing other work with the task of performing the health and safety service. Should competent employees be not available, the employer may entrust the task of the health and safety service to specialists not belonging to the enterprise. An employer who has taken the training necessary to perform the tasks of the health and safety service may perform the tasks of the service himself if he employs up to ten employees or employs up to 20 employees and is classified in the group of activity for which the risk category has been established as not higher than three for the purposes of social insurance regulations concerning accidents at work and occupational diseases;

(c) Consulting with employees or their representatives all actions connected with occupational health and safety, in particular those concerning:

- (i) Changes in work organization and equipment of workplaces, introduction of new technological processes and chemical substances and preparations if they may pose a threat to the health or lives of the employees;
- (ii) Assessment of occupational risk occurring at the performance of certain works and informing employees of such risks;

- (iii) Establishing the health and safety service, entrusting third parties with the task of the service or appointing employees responsible for giving first aid;
- (iv) Providing individual protection to employees as well as working clothes and footwear;
- (v) Training employees in occupational health and safety issues;
- (vi) In the case of employing over 250 employees - establishing an occupational health and safety commission as an advisory and opinion-forming body of the employer, health and safety consultations may be held within the commission.

197. For the list of executive acts adopted in the years 1999-2006, see annex II.

198. Health and safety regulations apply to all employees.

199. According to the Labour Code, the employer is obliged to ensure safe and hygienic conditions of work also with regard to individuals performing work in the workplace or another place indicated by the employer pursuant to legal basis other than an employment relationship. Moreover, the employer is obliged to ensure safe and hygienic conditions of traineeship held in the workplace to students who are not employees of the enterprise. The obligations specified in the Labour Code apply respectively to organizational units where work is performed by individuals on other legal basis than employment relationships, as socially useful work.

200. If work is conducted at sites accessible to persons who do not participate in the work process, the employer is obliged to apply the measures necessary to protect the life and health of such persons.

201. Health and safety obligations concern also individuals performing work on other legal bases than an employment relationship in the workplace or a place indicated by the employer.

202. With regard to members of agricultural production cooperatives and members of their families cooperating with them and members of farming cooperatives (agricultural services cooperatives), regulations concerning occupational health and safety apply to the extent corresponding with the character of the work performed by them.

203. If in one place work is performed by employees employed by different employers (including self-employed persons), the employers are obliged to:

- (a) Cooperate with one another;
- (b) Appoint a coordinator supervising health and safety of all the employees employed in one place;
- (c) Define principles of cooperation including how to act if threats to health or lives of the employees occur.



204. Safe and hygienic conditions of work in the place of temporary work must be ensured to temporary employees by the user employer in compliance with the Act of 9 July 2003 on employing temporary workers.

205. For additional information, see the response to comment No. 11 of the Committee on Economic, Social and Cultural Rights.

#### **Accidents at work and occupational diseases**

206. For statistical data, see annex I, items 21-26.

207. The PIP focuses on the employers performing their duties regarding:

- (a) Compliance with the principles of recognizing occupational threats;
- (b) Tests and measurements of agents harmful to health in the work environment;
- (c) Assessment of occupational risk connected with the work performed and employing the necessary protective measures;
- (d) Preventive medical examinations;
- (e) Providing and applying individual protection measures.

208. In 2003 the three-year period of intense supervision of 137 enterprises of various industries ended. In those enterprises, employing over 126 thousand employees, particularly high level of accident and disease threats had been found. At the beginning of the programme, 29 per cent of employees worked in the conditions of threats posed by working environment agents. After three years the percentage dropped to 23 per cent, and the number of occupational diseases diagnosed annually decreased from 323 to 195. In the years 2001-2003 71 enterprises were removed from the list of the 137 [supervised] enterprises due to the significant improvement in the working conditions, 14 were liquidated and 7 announced bankruptcy. In 45 cases the supervision is continued.

209. For statistical data on PIP inspections, see annex I, items 27-30.

#### **Question 4**

##### **Equal access to promotion**

210. In compliance with article 18<sup>3a</sup>, paragraph 1 of the Labour Code, employees should be treated equally with regard to entering into and terminating employment relationships, employment conditions, promotion and access to training to improve their professional qualifications, in particular with regard to sex, age, disability, race, religion, nationality, political views, trade union membership, ethnic origin, faith, sexual orientation and also with regard to being employed for definite or indefinite period or full or part-time. Differentiating the employee's situation for one or several reasons specified in article 18<sup>3a</sup>, paragraph 1, resulting in particular in unfavourable definition of remuneration for work or other employment conditions,

or the employee's being omitted with regard to promotion or other benefits granted with connection to work, are regarded as violations of the equal treatment principle in employment unless the employer is capable of proving that he was guided by objective reasons (art. 18<sup>3b</sup>, para. 1, point 2 of the Labour Code). The principle of equal treatment in employment is not violated by defining the employment and dismissal conditions, principles of remuneration and promotion and access to training improving professional qualifications with regard to the professional experience criterion (art. 18<sup>3b</sup>, para. 2, point 4 of the Labour Code).

211. For additional information, see the response to comment No. 7 of the Committee on Economic, Social and Cultural Rights.

212. Detailed information is also contained in the sixth report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women in Poland.

213. Monitoring the status quo and progress regarding women's participation in public life and equal access to managerial positions is one of the tasks of the Government Plenipotentiary for Equal Status of Women and Men. In 2004 12 out of 16 voivodship offices (government administration on the regional level) appointed voivod's plenipotentiaries for equal status of women and men. In central offices, 11 persons were appointed to monitor the implementation of gender equality in access to managerial positions in public administration.

214. PHARE 2002 Programme:

(a) "Enhancement of Policies of Equal Treatment for Women and Men" (2003-2005) includes, inter alia, analysing the information, statistics and research needs with regard to equal treatment of women and men issues. Specialists working in local administration, labour inspectors as well police and judicial system experts are also trained in equal treatment and equal opportunities. This process is to result in establishing a system monitoring the implementation of the policy of equal treatment of women and men;

(b) "Overcoming Barriers on the Road to Equality of Sexes": actions undertaken within the programme are aimed at developing a strategy regarding the equality of sexes and identification of the most urgent tasks concerning counteracting sex discrimination.

215. PIW EQUAL: an index used to evaluate the implementation of the equal status of women and men principle in enterprises and institutions will be developed within the Gender Index Project. The related supranational partnership includes representatives of Austria, Germany, Portugal and Slovakia. The Project partners include: the United Nations Development programme (UNDP), the Ministry of Labour and Social Policy, Szkoła Główna Handlowa (Warsaw School of Economics), Polska Konfederacja Pracodawców Prywatnych Lewiatan (the Polish Confederation of Private Employers Lewiatan, Nordea Polska Towarzystwo Ubezpieczeń na Życie S.A., Derm-Service Polotne, Fundacja Feminoteka, the International Forum for Women.

216. The Partnership intends to construct and test a new innovative model of “women-friendly” company management. The model will be a response to the two main problems related to discrimination of women in the workplace, i.e.: low extent to which labour law concerning equal treatment of women and men is observed and limited activity aimed at supporting women in the workplace. Consequently, the programme is to result in the improved knowledge of labour law connected with equal rights of women, the increased interest of employers in activities supporting women in the workplace and improving the knowledge of employers regarding benefits which result from equal rights of women in the workplace. The main activities will focus on defining the synthetic Gender Index as an assessment and monitoring instrument regarding women’s situation in the workplace and will help in objective analysis of the policy of the given employer with regard to the equal rights of women and men.

217. A training model regarding equal rights of women and men in the workplace has been developed for employers, based on the good practice guide, prepared on the basis of experiences in Poland and other countries.

218. A contest on the national level was organized to select a company with the best policy for women (its results were announced on 9 October 2006). The contest was the first opportunity to test the Gender Index and made it possible to learn about the good practices already functioning on the Polish market and connected with supporting women in the workplace.

219. The activities within the Partnership are supported with a promotional and advertising campaign and standard PR actions. Moreover, efforts are made to initiate a public debate on discrimination against women in the workplace (thematic press publications, comprehensive information on the website of the project [www.genderindex.pl](http://www.genderindex.pl), radio and TV programmes, public debates, billboard campaign etc.). The media activities are also aimed at the index becoming “independent” and becoming a part of the existing ranking lists published by the “Rzeczpospolita” daily and the “Polityka” weekly.

220. For other information, see the answer to Question 3 on article 6.

## **Question 5**

### **Periods of rest, time off, limitation of working hours, paid holidays, remuneration for public holidays**

221. Following the amendment of the Labour Code of 14 November 2003:

(a) The principle of the five-day working week has been specified, and the Act indicates that the provisions apply to the average five-day working week, which means that granting non-working days to employees may occur in irregular intervals over the whole calculation period;

(b) An aggregate working time standard has been introduced (including the normal work resulting from working time standards and overtime work), totalling to the average of 48 hours per week in a set calculation period;

- (c) Employees have been granted the right to regular rest periods:
- (i) Daily rest, lasting uninterruptedly for the minimum of 11 hours (or appropriate compensatory periods of rest in those working time systems in which - due to the prolonged daily working time - it is impossible to ensure regular rest within these limits on each day; the work in question involves supervision of machinery or works involving being ready for work on a partial basis and works involving guarding of property or protection of persons);
  - (ii) Weekly rest, lasting uninterruptedly for the minimum of 35 hours and including Sundays in principle;
  - (iii) A four-week minimum of vacation leave;

(d) A definition of workers working at night has been introduced as well as the 8-hour daily working limit for workers working at night or performing particularly hazardous tasks or tasks involving considerable physical or mental effort;

(e) Employers have been obliged to organize work in such a manner so as to mitigate the onerousness of monotonous work and work performed at the same pace, in particular by introducing the necessary breaks included in the working time.

222. For statistical data on the percentage of the inspected enterprises in which irregularities were found in the implementation of the regulations concerning working time and leaves, see annex I, items 31-32.

## **Article 8**

### **Right to form and join trade unions**

#### **Question 1**

223. The report on the implementation of the International Covenant on Civil and Political Rights for the period from January 1995 to October 2003 was considered by the Human Rights Committee in October 2004.

224. In 2004 and 2006 a report on implementation of the following International Labour Organization conventions was submitted:

- (a) No 87 (1948) concerning Freedom of Association and Protection of the Right to Organize;
- (b) No 98 (1949) concerning the Application of the Principles of the Right to Organize and to Bargain Collectively.

225. The report on the implementation of ILO Convention No 151 (1978) concerning the Protection of the Right to Organize and Procedures for Determining Conditions of Employment in the Public Service was submitted in 2004.

## Question 2

### **(a), (b) and (d) Joining a freely chosen trade union, trade unions forming. Conditions of trade unions' operation**

226. During the reporting period no significant changes occurred as compared to what was presented in the previous report.

#### **Additional information**

227. On 1 January 2003 an amendment to the Act on Trade Unions came into force. According to article 25<sup>1</sup>, the competences of the company trade union are vested in organizations with the minimum of ten members who are employees of the company or persons performing work pursuant to outwork contracts with an employer covered by the activities of the organization, or functionaries in service within the unit covered by the activities of the organization. The competences of trade union organizations include also the right to conclude collective labour agreements, providing, however, that such collective agreements may not be concluded for members of the civil service corps, employees of State offices employed pursuant to nominations and appointments, self-government employees employed pursuant to elections, nominations and appointments, as well as judges and prosecutors.

228. The principles of concluding collective labour agreements are set forth in the Labour Code (Section XI). Pursuant to these regulations, a collective labour agreement may be concluded as a result of negotiations, which may be initiated by:

(a) A company trade union organization or the employer - in the case of company collective agreements; and

(b) A supra-company trade union organization or an organization of employers - in the case of supra-company agreements (until 31 December 2008 such agreements may be initiated by the minister or a territorial self-government body with regard to the employees of organizational units of the State budget, not associated within employers organization).

229. The party entitled to conclude a collective agreement may not refuse the demand of the other party regarding opening of the negotiations if such negotiations are aimed at concluding an agreement for employees who have not yet been covered by such an agreement or if amending the existing agreement is justified with a considerable change in the economic or financial situation of the employer or deterioration in the financial situation of employees. Such party may not refuse to participate in negotiations if the demand was made not earlier than 60 days before the expiry of the period for which such an agreement was concluded or after the date of its termination.

230. Parties entitled to conclude a collective labour agreement may conclude an understanding to implement - in part or in whole - a collective agreement to which they are not a party. Provisions regarding collective agreements apply respectively to such understandings.

231. Collective labour agreements are concluded in writing for definite or indefinite periods. Before the expiry of the term of an agreement concluded for a definite period, parties to such an agreement may extend the period of the agreement or regard it to be concluded for an indefinite period.

232. Amendments to agreements are made by means of additional protocols.

233. Collective labour agreements are terminated pursuant to unanimous declarations of the parties or upon the expiry of the terms for which they have been concluded, or upon the notice period regarding the termination by one of the parties (the Constitutional Tribunal in its verdict of 18 November 2002 declared article 241<sup>7</sup>, paragraph 4 of the Labour Code, obliging parties of collective agreements to apply the provisions of the agreements in spite of their being terminated, to be unconstitutional). Notice period for collective labour agreements is three months unless otherwise provided for in the agreements.

234. Collective labour agreements must be registered upon their legality being examined. Supra-company collective agreements are registered by the minister competent for labour, whereas company collective agreements are registered by the district labour inspectors.

235. As at 14 December 2006, the register of supra-company collective agreements contained:

- (a) 166 agreements, with 137 being in force;
- (b) 198 additional protocols, with 158 of them in force.

236. As at 14 December 2006 the register of agreements to apply the provisions of collective labour agreements, maintained by the minister competent for labour contained:

- (a) 46 agreements, with one being in force;
- (b) 8 additional protocols to such agreements, with two regarding the agreement in force.

237. The registered supra-company collective labour agreements covered approximately 1 million employees employed by over 4 350 employers. On the other hand, supra-company collective understandings currently in force involve 500 thousand employees, working for 3 195 employers.

238. Supporting collective negotiations and providing assistance to parties intending to conclude collective labour agreements are the responsibility of:

- (a) The Commission for Collective Labour Agreements, operating pursuant to the Act of 29 September 1994 amending the Labour Code and certain other acts and pursuant to the regulation of the Minister of Labour and Social Policy of 3 July 2001 on the Commission for Collective Labour Agreements. Since 2001 the responsibilities of the Commission have also included expressing opinions regarding extensions of supra-company collective labour agreements;

(b) The Working Group for Labour Law and Collective Agreements, operating since March 2002 within the Tripartite Commission for Social and Economic Affairs (legal basis: Resolution No 3 of the Tripartite Commission for Social and Economic Affairs of 6 March 2002 on establishing working groups of the Tripartite Commission for Social and Economic Affairs).

239. The following legal regulations strengthened the rights of trade unions with regard to information and consultation:

- (a) Act of 5 April 2002 on European Company Boards;
- (b) Act of 4 March 2005 on European Economic Interest Grouping and European Company;
- (c) Act of 7 April 2006 on informing and consulting employees;
- (d) Act of 22 July 2006 on the European Cooperative Company.

240. For data on the number of persons convicted for violation of the Act on Trade Unions, see annex I, item 33.

(c) **Trade unions' right to form federations and join international federations of trade union organizations**

241. During the reporting period, no changes occurred as compared to what was presented in the previous report.

(e) **Number and structure of trade unions, number of their members**

242. For data on the registration and changes in the register of trade unions and employers' associations, see annex I, item 34.

243. Statistical research conducted in trade unions and employers' associations in 1999 resulted in a very low number of reports. According to estimations, approximately 17 per cent of employees belonged to trade unions in 2004.

### **Question 3**

#### **The right to strike**

244. During the reporting period, no changes occurred as compared to what was presented in the previous report.

245. For data on the number of strikes, see annex I, item 35.

#### Question 4

##### **Limitation in the rights of members of military forces, police and state administration**

246. In compliance with article 81 of the Act of 24 May 2002 on the Internal Security Agency and article 81 of the Act of 24 May 2002 on the Foreign Intelligence Agency, the functionaries of the Agencies may not associate within trade unions.

247. The Internal Security Agency is a body competent for the protection of the internal security of the State and the constitutional order. Its tasks include:

- (a) Identification, prevention and combating threats to internal security of the State and the constitutional order, particularly to the sovereignty, international position, independence and inviolability of its territory as well as the defence system of the State;
- (b) Identification, prevention and investigation of the following crimes:
  - (i) Espionage, terrorism, violation of state secrets and other crimes against the security of the State or its economic bases;
  - (ii) Corruption of persons holding public positions referred to in Articles 1 and 2 of the Act of 21 August 1997 on restrictions regarding the economic activity of persons holding public positions, should such economic activity pose a threat to the security of the State;
  - (iii) Regarding production and trade of goods, technologies and services of strategic importance for the security of the State;
  - (iv) Illegal production, possession and trade in weapons, ammunition and explosives, weapons of mass destruction and intoxicants and psychotropic substance in international trade and prosecuting perpetrators of the said crimes;
- (c) Performing, within its competence, tasks of State protection service and the function of the national security authority with regard to protection of classified information in international relations;
- (d) Obtaining, processing and transferring to competent State bodies information which may be of significant importance for the protection of internal security of the State and the constitutional order;
- (e) Undertaking other actions defined in separate acts and international agreements.

248. Tasks of the Internal Security Agency are performed by its functionaries serving their duties in the Agency in armed and uniformed units.



249. The Foreign Intelligence Agency is competent for issues regarding external security of the State. Its tasks include:

(a) Obtaining, processing and transferring to competent State bodies information which may be of significant importance for the security and international position of the Republic of Poland and its economic and defence potential;

(b) Identifying and combating external threats to the security, defences, sovereignty and inviolability of the territories of the Republic of Poland;

(c) Protection of the foreign representative offices of the Republic of Poland and their staff against the activities of foreign intelligence services and other activities which may be detrimental to the interests of the Republic of Poland;

(d) Providing cryptographic protection of the communication with the Polish diplomatic and consular posts and the courier service;

(e) Identifying international terrorism, extremism and international organized crime groups;

(f) Identifying international trade in weapon, ammunition and explosives, intoxicants and psychotropic substances and goods, technologies and services of strategic importance for the state security and identifying international trade in weapons of mass destruction and threats involving its proliferation and their means of delivery;

(g) Identifying and analysing threats occurring in areas of international tensions, conflicts and crises affecting the security of the State and undertaking actions aimed at eliminating such threats;

(h) Electronic intelligence;

(i) Undertaking other actions defined in separate acts and international agreements.

250. The functionaries of the Foreign Intelligence Agency serve in armed and uniformed units.

251. The issue of the membership of conscripts in trade unions to which they belonged before being drafted for the service is presently regulated by the Act of 28 November 2003 on substitute military service in an identical manner as the provisions previously in force (the Act of 21 November 1967 on the public duty to defend the Republic of Poland).

252. According to the Act of 11 September 2003 on the military service of professional soldiers (art. 108):

(a) Professional soldiers may not form trade unions or associate in such unions;

(b) As of the date of a professional soldier commencing his/her professional military service, his membership in a trade union ceases;

(c) In military units professional soldiers may form representative bodies of individual corps of professional staff of the Military Force;

(d) The Minister of National Defence defines in a regulation the conditions of organization, functioning, procedure of election, terms in office, tasks and rights of representative bodies of professional soldiers, as well as the forms of their cooperation with commanders of military units, having regard for the advisory nature of these bodies.

253. On 28 June 2004 the Minister of National Defence issued a regulation on representative bodies of professional soldiers, defining the conditions of organization and functioning, procedure of election, terms in office and tasks and rights of representative bodies of professional soldiers, as well as the forms of their cooperation with commanders of military units.

254. Such bodies include:

- (a) Meetings of professional officers;
- (b) Meetings of professional non-commissioned officers;
- (c) Meetings of professional privates;
- (d) Representations of professional soldiers in a military unit;
- (e) Assemblies of intermediaries of professional officers' corps;
- (f) Convent of Polish Military Officers' Corp's Deans.

255. Tasks of the meetings involve defence of professional soldiers' rights and the rights of the members of the military, including:

- (a) Expressing opinion on issues directly pertaining to professional soldiers, particularly to service conditions and social security;
- (b) Presenting to superiors issues which adversely influence attitudes of professional soldiers, and should such issues prove impossible to solve at the level of the given military unit - presenting them to the representative body of a higher level;
- (c) Submitting comments and proposals regarding the legal solutions regulating the service of professional soldiers and the operation of the military unit;
- (d) Initiating and organizing assistance for professional staff and their families in difficult situations.

256. Tasks of the assembly include representing the interests of professional soldiers before commanders, and in the case of the assembly at the level of the Ministry of National Defence before the Minister of National Defence. Such tasks include:

- (a) Informing the commander competent for the assembly or the Minister of National Defence about problems of professional soldiers and presenting conclusions, proposals and opinions of professional soldiers and the military environment in this respect;
- (b) Cooperation with the commander competent for the assembly and the Minister of National Defence on solving problems of professional soldiers and the members of the military;
- (c) Submitting comments and proposals regarding the purposefulness and effectiveness of the legal solutions regulating the service of professional soldiers and the operation of the military units.

257. Tasks of the Convent involve representing the interests of professional soldiers by serving the opinion-forming and advisory function for the Minister of National Defence, including:

- (a) Representing professional soldiers before the Minister of National Defence, other public bodies, NGOs and the mass media;
- (b) Issuing opinions on drafts of legal acts concerning the service of professional soldiers and operation of military units;
- (c) Delegating representatives to teams working on drafts of legal acts concerning the service of professional soldiers and operation of military units;
- (d) Presenting information on the situation of professional soldiers, their attitudes and current problems to the Minister of National Defence;
- (e) Assessing the effectiveness of operation of professional soldiers' representative bodies and performance of their tasks and initiating actions aimed at increasing their efficiency;
- (f) Representing professional soldiers in international contacts with representative organizations of professional soldiers of other armies and taking decisions regarding participation of representative bodies in the European Organization of Military Associations (Euromil) and other international representative bodies of professional soldiers.

258. In the light of the Act on Civil Service of 18 December 1998, members of the civil service corps (civil servants employed on the basis of employment contracts and nominated civil servants) are entitled to form trade unions and associate in trade unions on the basis of general provisions. Civil servants may not hold functions in trade unions. There are several trade union central units, to which civil servants and civil service employees belong.

259. The Act was replaced by the Act of 24 August 2006 on civil service. The provisions of the Act set forth restrictions regarding civil servants' holding trade union functions analogous to those set forth in the replaced Act.

260. For additional information, see the response to comment No. 12 of the Committee on Economic, Social and Cultural Rights.

## Article 9

### Right to social security

#### Question 1

261. The report on the implementation of the ILO Convention No 102 (1952) concerning Minimum Standards of Social Security was submitted in 2005.

262. Following the amendments to the Act of 25 June 1999 regarding benefits in the case of sickness and maternity, Polish legislation complies with the ILO Convention No. 102 with respect to sickness benefits (Part III of the Convention). Polish legislation does not comply with the provisions of the Convention in the following (legal status quo and calculations - fourth quarter of 2003):

263. Unemployment benefits (Part IV of the Convention)

264. For the purpose of the comparisons regarding the amount of the benefits, article 65 of the Convention was used (a typical beneficiary earning 125 per cent of the average earnings) - a man with a wife and two children.

- At the time of employment the previous earning:  $1.25 * \text{PLN } 1\,909.34 = \text{PLN } 2\,386.67$

265. Establishing the right to family benefit:

- Number of persons in the family - four
- Income per person:  $Uzno_{2001}/4 = (1.25 * Pwno_{2001})/4 = 1.25 * \text{PLN } 1\,380.56 /4 = \text{PLN } 431.43$
- The requirement for collecting the benefit is satisfied
- The amount of the family benefit for the spouse and the first and second child: PLN 42.5
- Monthly income of a typical employee including the benefit for two children:  $\text{PLN } 2\,386.67 + 2 * \text{PLN } 42.5 = \text{PLN } 2\,471.67$

266. During the period of collecting unemployment benefit:

- Basic unemployment benefit: PLN 504.20
- Family benefit for two children:  $2 * \text{PLN } 42.5 = \text{PLN } 85$

- Income: PLN 504.20 + PLN 85 = PLN 589.20
- According to the Convention:  $A: B \geq 45$  per cent  
A: B = PLN 589.2: PLN 2 471.67 = 0.238 (23.8 per cent)

267. According to article 66 of the Convention: an unskilled worker (a man with a wife and two children):

- At the time of employment the previous earnings: PLN 1 619.74
- Number of persons in the family - four
- Income per person:  $\text{PLN } 1\,028.22 \div 4 = \text{PLN } 257.06$  satisfies the conditions for obtaining a family benefit
- The amount of the family benefit for the spouse and the first and second child: PLN 42.5
- Monthly income of a typical employee including the benefit for two children:  $\text{PLN } 1\,342.76 + 2 * \text{PLN } 42.5 = \text{PLN } 1\,427.76$

268. During the period of collecting unemployment benefit:

- Basic unemployment benefit: PLN 504.20
- Family benefit for two children:  $2 * \text{PLN } 42.5 = \text{PLN } 85$
- Income: PLN 504.20 + PLN 85 = PLN 589.20
- According to the Convention:  $A: B \geq 45$  per cent  
A: B = PLN 589.2: PLN 1 427.76 = 0.412 (41 per cent)

269. Work injury and occupational diseases benefits (Part VI of the Convention). Payment of the disability benefits for accidents at work (or on the way to or from work) or an occupational disease is suspended or the amount of the benefit is decreased when an income is perceived, including income from work. The Convention does not allow for such a possibility.

270. Benefits following incapacity to work (Part VII of the Convention). Disability pensions are suspended if income is perceived, including income from work. The Convention does not allow for such a possibility.

## **Question 2**

### **Branches of social security**

271. During the reporting period no changes occurred as compared to what was presented in the previous report.

### Question 3

#### Main characteristics of the existing system

##### *Retirement and disability pension system*

272. The reform of the social insurance system came into force on 1 January 1999. The general framework of the new social insurance system is provided for by the Act of 13 October 1998 on Social Insurance System. Detailed Acts:

(a) Act of 17 December 1998 on Retirement and Disability Pensions from the Social Insurance Fund;

(b) Act of 28 August 1997 on the Organization and Functioning of Retirement Pension Funds;

(c) Act of 22 August 1997 on Employees' Retirement Schemes;

(d) Act of 25 June 1999 on Benefits in case of Sickness or Maternity.

273. The reform was implemented following the crisis which had occurred in the early 1990s, caused, inter alia, by:

(a) Sudden increase in the number of pensioners, particularly in 1991;

(b) Decrease in the number of persons paying contributions, also due to the drop in employment;

(c) Growth in the value of retirement benefits as compared with the real remunerations;

(d) Introduction of ineffective special regulations (low retirement age and broad industry rights, disability pension benefits granted on a massive scale) with no regard for their financial consequences.

274. Demographic prognoses indicated also the threat connected with the deteriorating ratio of professionally active population to pensioners after 2006.

275. Retirement pensions consist of two or three components from different sources - from two common and obligatory pillars and the third pillar, which is voluntary. The first pillar is repartition-based, whereas the second and the third are capital pillars. The stability of the system is ensured thanks to the diversity of the benefit financing sources. The first and the second pillar are connected with the labour market and the capital market, respectively. Since the fluctuations observed in the labour market and the capital markets are not correlated, a system based on two markets is more stable than a system based on a single one.

276. In the first pillar amounts corresponding to 15 percentage points of a contribution are registered on an individual retirement pension account. Twenty-one percentage points are used to finance the non-pension benefits received from the Social Insurance Fund (FUS). Nine percentage points of contributions are allocated in general pension funds. The amount of the contribution did not change as compared with the previous system, but it consists of payments of employers and employees (in equal halves) to retirement and disability pension insurance. Payments of contributions to accident insurance are the obligation of the employer, whereas the sickness insurance contributions payments are made by the employee.

277. The contribution is transferred to the funds all composing the FUS (the retirement pension fund, the disability pension fund, the sickness fund, the accident fund, reserve fund for the disability pension and sickness fund and the reserve fund for the accident fund).

278. Participation in the new system is obligatory for persons of up to 30 years of age (in 1999), persons between 30 and 50 years of age could join the new system or decide to remain in the old one.

279. Operation of the first pillar:

(a) Contributions paid by the employer and the employee are registered on an individual account of the insured in the Social Insurance Institution (ZUS). Their sum is indexed annually;

(b) Upon the insured's decision to retire, the capital collected on an individual account and expressed in PLN is transformed into a lifelong retirement pension (by dividing it by the average expected life duration at the time of retirement expressed in months);

(c) Everyone who began work before 1999 receive the so-called initial capital, reflecting his retirement pension rights acquired in the old system;

(d) Persons who paid contributions for at least 20 to 25 years are entitled to the minimum retirement pension at the age of 60/65, respectively for women/men. If the sum of the benefits from the first and the second pillar is lower than the minimum amount, the account of the insured in the first pillar will be supplemented to the amount which will result in the minimum amount of the benefit after the re-calculation. It will be financed from the general taxation.

280. The second pillar:

(a) The decision on the choice of the fund belongs to the insured;

(b) In the accumulation period the assets of the funds are protected thanks to:

(i) Separation of the assets of the retirement pension fund from the assets of the retirement pension society;

- (ii) Diversification of the investment fund portfolio and respecting the restrictions regarding depositing of the funds, particularly with regard to assets considered risky;
- (iii) Establishing the minimum return ratio for retirement pension funds with regard to the average return rate of all funds;
- (iv) The right to change funds without additional fees or penalties after the minimum contribution-paying period of 24 months;
- (v) Monitoring the system by the Financial Supervision Authority (since 2006, before that date - by the Insurance and Pension Funds Supervision Commission);
- (vi) The requirement regarding informing the participants about the fund operation;

(c) The only form of using the funds collected within the second pillar is purchasing a lifelong pension. The moment of retirement must be the same with regard to both pillars of the base retirement pension system.

281. The third pillar:

(a) The voluntary third pillar supplements the obligatory part of the retirement pension system. Its participants may choose the period and the amount of contributions, they may also decide to bequeath their capital to their heirs;

(b) The pillar consists of a certain number of long-term savings programmes and employees' pension programmes.

### **Sickness benefit**

282. Pursuant to the Act of 17 December 2001 on the Amendment of the Act on the Alimony Fund, the Act on Family, Nursing and Childcare Allowances and the Act on Benefits in case of Sickness or Maternity and the Act of 21 December 2001 on the Amendment of the Labour Code, the following regulations were introduced:

(a) Right to remuneration financed by the employer for the time of an employee's incapacity for work due to a sickness lasting in total for up to 33 days in a calendar year;

(b) No entitlement to a remuneration for the time of a sickness for the first day of each period of incapacity for work due to a sickness lasting in total not longer than six days;

(c) Payment of remuneration for all days of a sickness in the case of a sick leave lasting for more than six days;



(d) Payment of a sickness benefit for the period of hospitalization amounting to 70 per cent of the base, unless the hospitalization takes place during pregnancy, incapacity for work caused by an accident at work, on the way to or from work or an occupational disease, for the period of incapacity for work lasting continuously for over 90 days, starting from the ninety-first day of the incapacity - in these cases the insured is entitled to the benefit amounting to 100 per cent of the base.

283. Changes were introduced in order to lower labour costs and make employment relations more flexible, as provided in the programme "Entrepreneurship Above All", which is a part of the economic strategy "Entrepreneurship - Development - Work".

284. On 1 January 2004, the provision according to which sickness benefits were not due for the first day of a sick leave was repealed. At present employees are entitled to the benefit for each day of their sickness leave regardless of the duration of the leave.

285. The Act of 17 December 2004 on the Amendment of the Act on Benefits in case of Sickness or Maternity introduced the following provisions:

(a) Sickness benefits are due for up to 182 days, and in the case of tuberculosis - for up to 270 days;

(b) The right to the 182-day sickness benefit (270-day in the case of tuberculosis) is granted to nominated government officials, staff member of the Supreme Chamber of Control, teachers, self-government employees, civil servants and officials of courts and prosecutors' offices;

(c) In case of a sickness lasting continuously for over 90 days, the sickness benefit is equal to 80 per cent of the base;

(d) In case of an incapacity to work resulting from medical examinations for candidates for organ or tissue donors, the benefit amounts to 100 per cent of the base;

(e) The base for calculation of the benefit is the average remuneration from the period of 12 months of employment;

(f) Rehabilitation benefits for the first three months of incapacity for work immediately after the expiry of the sickness benefit amounts to 90 per cent of the base, starting from the fourth month the rehabilitation benefit is equal to 75 per cent of the sickness benefit base, and if the incapacity for work results from an accident at work, an occupational disease or if it occurs during pregnancy, the benefit is equal to 100 per cent of the base.

### **Maternity benefits**

286. Pursuant to the Act on the Amendment of the Act on the Alimony Fund, the Act on Family, Nursing and Childcare Allowances and the Act on Benefits in case of Sickness or Maternity and the Act on the Amendment of the Labour Code, the following maternity leave periods were introduced starting from 13 January 2002:

- (a) Sixteen weeks for the first child;
- (b) Eighteen weeks for the second and subsequent children;
- (c) Twenty-six weeks in case of giving birth to more than one child during a single childbirth.

287. Pursuant to the Act of 16 November 2006 on the Amendment of the Labour Code and the Act on Social Insurance Benefits in case of Sickness or Maternity, new periods of maternity leave were introduced:

- (a) Eighteen weeks for the first child;
- (b) Twenty weeks for the second and subsequent children;
- (c) Twenty-eight weeks in case of giving birth to more than one child during a single childbirth.

288. Maternity benefits are due during those periods.

289. The length of leaves on the same conditions as maternity leaves were increased to 18 weeks and the group of persons entitled to such leaves was changed.

290. Pursuant to the change regarding the length of leave on the same conditions as maternity leave, amendments to the Act of 25 June 1999 on Social Insurance Benefits in case of Sickness or Maternity were necessary. According to the amended article 29, item 1 of the Act, maternity leave is due to the insured who during the sickness insurance period or during a childcare leave:

- (a) Has given birth to a child;
- (b) Has taken a child of up to seven years of age to bring the child up, and in the case of a child with respect to whom a decision to postpone the education obligation has been taken - of up to ten years of age, and has approached a guardianship court with regard to its adoption;
- (c) Has taken a child as a foster family, with the exception of a professional foster family not related to the child, and the child is of up to seven years of age, and in the case of a child with respect to whom a decision to postpone the education obligation has been taken - of up to ten years of age.

### **Childbirth allowance**

291. Pursuant to the Act on the Amendment of the Act on the Alimony Fund, the Act on Family, Nursing and Childcare Allowances and the Act on Benefits in case of Sickness or Maternity and the Act on the Amendment of the Labour Code, the childbirth benefit has been eliminated from the list of benefits.

292. After that date persons in difficult financial situation who give birth to or take a child to bring it up receive a one-time maternity benefit according to the principles set forth in the Act on Social Assistance.

### **Family allowance**

293. The changes regarding family allowances were introduced pursuant to the Act on the Amendment of the Act on the Alimony Fund, the Act on Family, Nursing and Childcare Allowances and the Act on Benefits in case of Sickness or Maternity. The limits of income under which the insured is entitled to the allowance were defined in terms of amounts between 1 June 2002 and 31 December 2003. The temporary solution was an element of the package of changes facilitating savings in the spending on social security.

294. The Act of 28 November 2003 on Family Allowances made considerable longer the list of the family benefits offered and the amounts transferred to families with dependent children were increased.

295. The access threshold for family benefits was defined with the assumption that the level of income should:

- (a) Ensure food consumption at the level which guarantees that the development needs of children are satisfied;
- (b) Make it possible to maintain sufficient housing conditions;
- (c) Ensure the participation of children in education;
- (d) Foster the integration of children and parents with the society.

296. The Act provides for a number of benefits:

- (a) Family allowance;
- (b) Supplements to family allowances due in such circumstances as: childbirth, childcare during the childcare leave, beginning of the school year, a child's starting or continuing education in a school away from the child's place of residence, education and rehabilitation of a disabled child;
- (c) A nursing allowance, intended to partly cover the expenses for the care and assistance of a third party with regard to a disabled person incapable of independent existence;
- (d) A nursing benefit pursuant to the resignation from employment or other paid work in connection with care of a disabled child.

297. Family allowance is due to parents, one parent or legal guardians of a child, an in-fact guardian of a child or “a studying person” (an adult studying person who is not a dependant of his parents’ due to the death of the parents or due to alimonies having been adjudicated from the parents to that person, if the court verdict adjudicating the alimony was passed before the person’s coming of age).

298. Family allowance is due until a child turns 18 or 21 (if the child studies at a school) or until a child turns 24 (if the child studies at school and is disabled to a significant or moderate degree). Family allowance is also due to a person studying at a school or a university until that person turns 24.

299. Family allowance is not due if a child stays at an institution providing 24-hour maintenance or with a foster family, if a child or “a studying person” are married or if “a studying person” has been placed in an institution providing 24-hour maintenance and also if a child or “a studying person” is entitled to a family allowance for their own child or if a single parent has not been granted alimony benefit for the child from the other parent, unless the other parent is dead, the father of the child is unknown, the suit for the establishment of the alimony benefit has been dismissed or if the court has obliged one of the parents to incur all the costs of the child’s maintenance and has not obliged the other parent to provide alimony benefit for the child.

300. Family allowance is due if the net average monthly income (less the social insurance contribution, income tax and contribution to the general health insurance) does not exceed PLN 504 or PLN 583 - if the family contains a disabled child (with a certificate of disability, and for children aged over 16 - certificate of significant or moderate degree of disability).

301. Between 1 May 2004 and 31 August 2006 the monthly family allowance amounted to:

- PLN 43.00 for the first and the second child
- PLN 53.00 for the third child
- PLN 66.00 for the fourth and subsequent children

302. Since 1 September 2006 the family allowance has amounted to:

- PLN 48.00 for a child of up to five years of age
- PLN 64.00 for a child of over five years of age until the child turns 18
- PLN 68.00 for a child of over 18 years of age until the child turns 24

303. Family allowance may be combined with supplements:

(a) One-time supplement to the family benefit due to childbirth, amounting to PLN 1 000;

(b) Since February 2006 the one-time allowance due to childbirth (an obligatory and universal benefit) of PLN 1 000 is granted regardless of the income criterion. The allowance is financed from the State budget. An allowance paid by municipalities is granted in parallel. The allowance is facultative and the relevant principles are defined by the municipalities;

(c) A supplement due to exercising childcare while being on the childcare leave for periods not longer than: 24 months, 36 months if the person entitled to the benefit exercises care over more than one child born during a single childbirth, 72 months if the entitled person exercises care over a disabled child (with a disability certificate, and if the child is over 16 years of age - a certificate of significant degree of disability). The supplement is due to persons who remained in employment for a period not shorter than six months immediately before acquiring the right to the childcare leave. The supplement amounts to PLN 400 a month;

(d) Supplements to family allowances due to single parenthood are paid to mothers, fathers or in-fact guardians of a child or legal guardians of a child if no alimony benefit has been adjudicated for the child from the other parent, because the other parent is dead or the father is unknown. The supplement amounts to PLN 170 a month, not more than PLN 340 for all the children;

(e) Supplements to family allowance due to raising a child in a large family are paid to families raising three or more children. Between 1 May 2004 and 31 August 2005 the supplement amounted to PLN 50 a month for the third and each subsequent child entitled to a family allowance, since 1 September 2006, the supplement has amounted to PLN 80;

(f) A supplement to the family allowance due to education and rehabilitation of a disabled child is paid to persons raising children of up to 16 years of age with disability certificates, and children of up to 24 years of age with certificates of significant or moderate degree of disability. Between 1 May 2004 and 31 August 2006 the supplement amounted to PLN 50 for a child of up to 5 years of age, PLN 70 for a child between 5 and 24 years of age. Since 1 September 2006 the supplement has amounted to PLN 60/80;

(g) A one-time supplement to the family allowance due to the beginning of a school year is also paid. Between 1 May 2004 and 31 August 2006 the supplement amounted to PLN 90, since 1 September 2006 it has amounted to PLN 100;

(h) The supplement due to a child starting or continuing education away from its place of residence in a post-junior secondary school or an art school, as well as in a primary school or a junior secondary school in the case of a child or a studying person holding a certificate of disability or degree of disability. Between 1 May 2004 and 31 August 2006 the supplement amounted to PLN 80 a month, since 1 September 2006 it has amounted to PLN 90;

(i) In the event of the necessity to commute from the place of residence to the place where the school is situated a supplement is due. Between 1 May 2004 and 31 August 2006 it amounted to PLN 40, since 1 September 2006 it has amounted to PLN 50. The supplement is due for 10 calendar months of education, from September to June of the subsequent calendar year.

### **Nursing allowance and nursing benefit**

304. Nursing allowance is due to persons raising a disabled child, to persons over 16 years of age, disabled to a moderate or significant degree - if the disability arose before their turning 21, to persons who have turned 75. The supplement is granted for an indefinite period unless the certificate of disability or the degree of disability was issued for a definite period. Between 1 May 2004 and 31 August 2006 the supplement amounted to PLN 144, since 1 September 2006 it has amounted to PLN 153.

305. The nursing benefit is due to parents or in-fact guardians who give up employment due to the necessity to exercise personal care over a child holding a certificate of disability or a certificate of significant degree of disability. The benefit is due if the net average monthly income (less the social insurance contribution, income tax and contribution to the general health insurance) per person in the family does not exceed PLN 538. The entitlement is established for the allowance period and the benefit amounts to PLN 420 a month.

### **Alimony advance**

306. The benefit is regulated by the Act of 22 April 2005 on Proceedings against Alimony Debtors and Alimony Advance. The advance is paid if the enforcement of the adjudicated alimony payables is ineffective.

307. The advance is due to a child before 18 years of age, entitled to an alimony benefit, raised by a single parent and to a studying person until 24 years of age (who is not a dependant of his/her parents' due to the death of the parents or due to alimonies having been adjudicated from the parents to that person, if the court verdict adjudicating the alimony was passed before the person's coming of age).

308. For detailed information, see answer 4 (b) on article 10.

### **Benefits due to accidents at work and occupational diseases**

309. The Act of 30 October 2002 on Social Insurance due to Accidents at Work and Occupational Diseases regulates the principles of determining the contribution to accident insurance and the principles of determining and payment of accident insurance benefits.

310. The amount of the contribution to accident insurance varies depending on the volume of the contribution payer and occupational hazards and their effects occurring in his enterprise. On 1 January 2003 a solution related to individual industries was introduced, whereas a solution on the level of payers came into force on 1 April 2006. Payers of contributions reporting no more than 9 persons for accident insurance, the percentage rate of the accident insurance contribution is 50 per cent of the highest percentage rate determined for the given contribution year, regardless of the type of business activity.

311. The level of the related charges depends on the risk category to which contribution payers were classified. A payer's belonging to a given group is determined on the basis of the prevailing activity, encoded in the REGON register according to the Polish Classification of Activity. Risk categories are determined for each activity group depending on the risk determined by the rate calculated on the basis of number of:

- (a) Persons injured as a result of accidents at work in total;
- (b) Severe or fatal accidents at work;
- (c) Diagnosed occupational diseases;
- (d) Persons employed in hazardous conditions.

312. The individual risk category is of correcting character. If the level of occupational hazards in the enterprise of the given payer differs from that occurring in his industry, the amount of the contribution to the accident insurance is lower or higher than that determined for the given activity group.

313. Benefits due to accident insurance include:

- (a) Sickness benefit;
- (b) Rehabilitation benefit for the insured who after the expiry of the sickness benefit is unable to work, but further rehabilitation or treatment may result in his regaining the ability to work;
- (c) Equalizing allowance for the insured employee whose remuneration decreased as a result of a permanent or long-term health impairment;
- (d) A one-time compensation for the insured who has suffered a permanent or long-term health impairment;
- (e) A one-time compensation for the surviving members of the family of the deceased insured or pensioner;
- (f) A disability pension for the insured who has become unable to work as a result of an accident at work or an occupational disease;
- (g) A training benefit for the insured with regard to whom professional retraining has been deemed advisable due to his/her incapacity for work in the existing profession, caused by an accident at work or an occupational disease;
- (h) A family pension for the surviving members of the family of the deceased insured or pensioner entitled to a pension due to an accident at work or an occupational disease;

(i) A supplement to the family pension for a full orphan;

(j) A nursing supplement;

(k) Coverage of treatment costs with regard to dental care, vaccination and provision of orthopaedic equipment to the statutory extent.

314. The amount of the pension due to incapacity for work caused by an accident at work or an occupational disease is determined in accordance with the principles provided for in the Act on Retirement and Disability Pensions from the Social Insurance Fund. In the process of determining the pension base the limit of the base ratio amounting to 250 per cent of the average remuneration does not apply. Disability pension from the accident insurance may not be lower than 80 per cent of its base for a person completely unable to work and 60 per cent of the base for the person partly unable to work. The pension may not be lower than 120 per cent of the amount of the relevant lowest disability pension due to the general health condition. The above ratios do not apply in case of determining the pension base without limiting the ratio to 250 per cent of the average remuneration.

315. The premises of the reform of the accident at work and occupational diseases insurance system:

(a) Adapting the legislation regarding social insurance due to accidents at work and occupational diseases to the assumptions of the social insurance reform implemented on 1 January 1999;

(b) Eliminating the division of employees employed in nationalized and non-nationalized enterprises;

(c) Achieving a situation in which the accident funds are self-sufficient and financed from a separate contribution, which varies depending on the hazards and their results;

(d) Excluding non-injury accidents from accident insurance thanks to a new definition of an accident at work;

(e) Payment of all the benefits due to accidents at work and occupational diseases from the accident fund;

(f) Excluding accidents on the way to and from work from the accident insurance system (these accidents are covered now by the sickness and disability insurance);

(g) Stimulating employers to improve safety and health conditions and prevent accidents at work and occupational diseases;

(h) Introducing accident prevention and the relevant financing principles.



## Unemployment benefits

316. The difficult economic situation and the growing unemployment rate resulted in the necessity to modify the social insurance system by decreasing the burden on the social insurance fund and decreasing the labour costs in order to motivate employers to increase employment. The changes were introduced to make the social policy regarding employment more rational and fair and have it correspond with the current situation in public finances. The changes focused primarily on enhancing the control of the granting of social insurance benefits, shortening the periods of collecting certain short-term benefits and limiting the possibilities of combining retirement and disability pensions with incomes from employment.

317. On 1 January 2002 the possibility to acquire the right to pre-retirement allowance was eliminated. The conditions upon which pre-retirement benefit could be acquired changed: benefits are due to persons satisfying the conditions necessary to obtain the status of an unemployed and the right to an unemployment benefit, if:

(a) The employee being a woman has turned 58 years of age and the employee being a man has turned 63 and has worked for a period entitling her/him to the retirement pension, i.e. the minimum of 20 years for women and 25 for men; or

(b) Until the date when the employment relationship was terminated for reasons attributable to the employer, with whom the employee has worked for the minimum of 6 months, the employee being a woman has turned 50 or the employee being a man has turned 55 and has the employment period entitling him/her to the retirement pension, i.e. the minimum of 30 years for women and 35 for men; or

(c) Until the date when the employment relationship was terminated for reasons attributable to the employer with whom the employee worked for the minimum of 6 months, the employee has the period entitling to a retirement pension of the minimum of 35 years for women and 40 for men; or

(d) Until 31 December of the year preceding the termination of the employment relationship for reasons attributable to the employer, the person (regardless of the age) has a period entitling them to a retirement pension, i.e. 34 years for women and 39 years for men, and the employment relationship was terminated due to the employer's insolvency within the meaning of the Act on the Protection of Employees' Claims in case of the Employer's Insolvency.

318. The principles of acquiring the right to pre-retirement benefit were regulated in the Act of 30 April 2004 on Pre-retirement Benefits. Such benefits are due upon the following conditions:

(a) Having the status of an "unemployed" person;

(b) Complying with the conditions required to acquire the right to an unemployment benefit;

- (c) and:
- (i) The employee being a woman having reached the minimum age of 58 years and the employee being a man having reached the minimum age of 63, and having worked for a period entitling her/him to the retirement pension, i.e. the minimum of 20 years for women and 25 for men; or
  - (ii) Until the date of termination of the employment relationship or an employment relation for reasons attributable to the employer in which this person has been employed for a period not shorter than 6 months, and if this person, being a woman, has reached the minimum age of 50 or 55, being a man, and has been employed for a period entitling him/her to retirement pension of the minimum of 30 years for women and 35 years for men; or
  - (iii) Until the date when the employment relationship was terminated for reasons attributable to the employer with whom the employee has worked for the minimum of 6 months, the employee has had the period entitling to a retirement pension of the minimum of 35 years for women and 40 for men, regardless of their age; or
  - (iv) Until 31 December of the year preceding the termination of the employment relationship the person (regardless of the age) has had a period entitling them to a retirement pension, i.e. 34 years for women and 39 years for men, and the employment relationship was terminated due to the employer's insolvency within the meaning of the Act on the Protection of Employees' Claims in case of the Employer's Insolvency.

319. Persons who lost their jobs due to liquidation, bankruptcy or insolvency of the employer within the meaning of the Act on the Protection of Employees' Claims in case of the Employer's Insolvency are offered a group of activization activities specified in the Act on the Promotion of Employment and Institutions of the Labour Market. These activities consist of organizational and financial arrangements addressed to employers and persons directly interested, aimed at their finding employment within six months of their registration with the labour office (including employment subsidized from the funds of the Labour Fund for up to 4 years, combined with subsidies for creating the job).

320. Persons acquiring the right to a pre-retirement benefit have for the first 6 months the status of an unemployed person and the right to an unemployment benefit. After the six-month period of collecting the benefit, such persons may obtain pre-retirement benefit if they fail to find employment. Persons collecting pre-retirement benefits may obtain income without losing the right to the benefit, if the income does not exceed 75 per cent of the lowest retirement pension. The pre-retirement benefit is indexed in compliance with the principles set forth in the Act on Retirement and Disability Pensions from the FUS.

321. The amount of the pre-retirement benefit has been lowered. It presently amounts to 80 per cent of the retirement pension defined in the decision of the pension institution establishing the amount of the pension for the purposes of the pre-retirement benefit, not less than 120 per cent and 200 per cent of the unemployment benefit.

322. The right to pre-retirement is suspended in the event of:

(a) Undertaking a non-agricultural activity by the insured;

(b) Undertaking employment or other paid work if the amount of the income within the meaning of the income tax regulations obtained within the given month from the employment, other paid work and the pre-retirement allowance or pre-retirement benefit would be higher than 200 per cent of the unemployment benefit;

(c) Obtaining income from other titles taxable with the income tax and obtaining per diems or other cash receivables by persons undertaking activities connected with their performing social and civil duties (receivables not taxable by income tax), if the total amount of the income obtained in the given month from those titles and under the pre-retirement benefit would be higher than 200 per cent of the unemployment benefit.

323. From 1 January 2002 employees of the former state agricultural enterprises are entitled to pre-retirement benefits on special principles if on 7 November 2001 such persons had the status of the unemployed and jointly satisfied the following conditions:

(a) The employee being a woman had reached the minimum age of 50 and the employee being a man had reached the minimum age of 55;

(b) He/she had worked for a period entitling him/her to retirement pension, i.e. the minimum of 20 years for women and 25 years for men;

(c) He/she had been employed on a full-time basis in a state agricultural enterprise for the minimum of ten years;

(d) Had resided in the district (municipality) regarded as threatened with particularly high structural unemployment.

### **Health care**

324. On 1 January 1999 the health-care reform was introduced pursuant to the Act of 6 February 1997 on General Health Insurance. The system is based on the principles of: social solidarity, self-government, self-financing, the right to choose the physician and the sickness fund, economy and purposefulness of actions. Sickness funds (17) were introduced, responsible for ensuring health care. Their budget comes from the contribution, defined at the level of 7.5 per cent, deducted from the personal income tax. The law provided for increase of

the contribution amount to the level of 7.75 per cent and further to the eight per cent. Health benefits were granted to the insured within the financial funds in the possession of the sickness funds, only highly specialized procedures, requiring high financial outlays, were financed from the State budget. Medical establishments could obtain budget subsidies to perform the disease and injury prevention tasks, realization of other health programmes, health promotion, covering the costs of education and qualification improvement of persons performing medical professions, investments and other purposes. The establishment could also raise funds from other sources: donations, paid medical services rendered as commissioned by other medical establishments, insurance institutions, employers or persons not covered by insurance, as well as for benefits not due under the general health insurance.

325. On 23 January 2003 the Act on the General Insurance in the National Health Fund (NFZ) was passed. The Act was to unify the conditions and insurance principles as well as the principles of using health benefits by replacing the 17 autonomous sickness funds with the NFZ. Due to the irregularities in the functioning of the non-uniform system of sickness funds inequalities occurred in the insured persons' access to health care. Transferring sickness funds to the NFZ (operating through 16 voivodship branches with a uniform structure) made it possible to apply uniform principles of conducting health benefit agreements, to apply an identical scope of benefits for all the persons insured within the Fund, to define procedures and introduce the standards on the basis of which agreements are concluded and to eliminate the mechanisms impeding the insured persons' access to health benefits, such as the necessity to obtain the consent of the local sickness fund to cover the costs of treatment beyond its area of operation.

326. The Act provided for the scope of the health benefits available within the health insurance and defined the rights of the insured to health benefits aimed at preserving health, preventing diseases and injuries, early detection of diseases, treatment and prevention of disability and its limiting. As concerns care and prophylactics, children, young persons and pregnant women enjoyed special protection.

327. The Constitutional Tribunal in its verdict of 7 January 2004 regarding the compliance of the Act on General Health Insurance in the National Health Fund with the Constitution of the Republic of Poland decided that certain provisions of the Act did not guarantee the proper implementation of the principles set forth in the Constitution, including article 68, item 2, sentence 2, due to the imprecise definition of the scope of the benefits financed from the public funds to which every citizen was entitled (violation of the obligation of the public authorities concerning ensuring equal access to health-care benefits financed from public funds).

328. The Act of 27 August 2004 on Health-Care Benefits Financed from Public Funds replaced the Act on the General Insurance in the National Health Fund. It specifies higher standards regarding the accessibility of the care and ensures the proper implementation of the provisions of the Constitution. It defines the scope of the benefits to which every citizen was entitled, financed from public funds. Health-care benefits are divided into: health benefits, health benefits in kind

and accompanying benefits. The Act also introduces the concept of a guaranteed benefit, i.e. a benefit financed fully from public funds, in compliance with the principles and in the manner provided for in the Act. It also indicates the health benefits to which beneficiaries are not entitled. In the Annex to the Act the “negative basket of benefits” was defined with regard to the benefits which are not financed from public funds, thanks to which the requirements of the Constitutional Tribunal regarding the precise definition of the benefit scope are satisfied.

329. According to the Act, “in compliance with the principles set forth in the Act, beneficiaries are entitled to health-care benefits whose purpose is the preservation of health, prevention of diseases and injuries, early detection of diseases, treatment, nursing and prevention of disability and its limitation”, which is a subject-related scope, including not only treatment, but also prophylaxis and prevention.

330. Beneficiaries are entitled to the following benefits financed from public funds, in compliance with the principles and scope set forth in the Act:

- (a) Diagnostic examinations, including medical laboratory diagnostics;
- (b) Benefits fostering the preservation of health, prevention of diseases and early detection of diseases, including obligatory vaccinations;
- (c) Primary health care;
- (d) Benefits in the education and upbringing environment;
- (e) Outpatient specialist services;
- (f) Therapeutic rehabilitation;
- (g) Dental services;
- (h) Hospital treatment;
- (i) Highly specialised services;
- (j) Treatment in the home of the patient;
- (k) Psychological examination and therapy;
- (l) Speech examination and therapy;
- (m) Nursing and care services, including palliative and hospice care;
- (n) Nursing and care of the disabled;

- (o) Care over women during pregnancy, childbirth and puerperium;
- (p) Care over women during breastfeeding;
- (q) Prenatal care over the foetus and infant care as well as the preliminary evaluation of the health condition and development of infants;
- (r) Care over a healthy child, including the evaluation of the health condition and development of a child of up to 18 years of age;
- (s) Health resort treatment;
- (t) Provision of therapeutic products, medicinal products and auxiliary products;
- (u) Ambulance service;
- (v) Medical emergency service.

331. The Act on the Health-Care Benefits Financed from Public Funds introduced changes as to the amount of the health insurance contribution. All the insured on obligatory and voluntary basis pay the same contribution related to its calculation base. The Act provides for the growth of the contribution by 0.25 per cent a year so that it reaches the level of 9 per cent in 2007.

332. Persons who were not subject to health insurance so far have gained the right to health-care benefits financed from public funds if they satisfy the low income criteria according to the Act on Social Assistance. The new Act has included the principles of the social policy, attempting to cover all groups with health care, regardless of the funds in their possession, thanks to which everyone may enter the system or have a guaranteed right to health-care benefits.

### **Social insurance of farmers**

333. Apart from the general social insurance system, Poland has a separate system of social insurance for farmers. This insurance system is regulated by the Act of 20 December 1990 on Social Insurance of Farmers. The insurance covers individual farmers carrying out farming activities in farms, their spouses and persons close to the farmer working on the farms (household members) not remaining in an employment relationship with the farmer. The insurance is obligatory for farmers, their spouses and household members who are not entitled to general insurance (pursuant to an employment agreement, carrying out non-farming business activity), and the farm has the arable land exceeding one standard hectare. The insurance is implemented by the Farmer Social Security Fund (KRUS).

334. The insured's being covered by retirement and disability pension insurance within the general system cannot adhere to the farmers' social insurance system.

335. Farmers' social insurance system consists of accident insurance, sickness insurance, maternity insurance and retirement and disability pension insurance.

336. The accident, sickness and maternity branches are wholly financed from farmer's contribution paid to the Contribution Fund. The retirement and pension insurance is to a large extent covered by the State budget (the contributions cover approximately 6 per cent of the expenses of the Retirement and Disability Pension Fund, the quarterly contribution amounts to 30 per cent of the lowest retirement pension) provided for the pension regulations.

337. The following benefits are due from the accident, sickness and maternity insurance:

(a) A one-time compensation due to an accident at farming work or farming occupational disease (for health impairment for the insured or to the eligible surviving family members in case of death of the insured, a retirement or disability pensioner);

(b) A sickness allowance (basic due to temporary incapacity for work resulting from a disease lasting continuously for the minimum of 30 days, but not longer than 180 days on the basis of the certificate issued by the treating physician, and prolonged for another 360 days on the basis of the expert physician of the KRUS or a medical committee of the Fund, if in this period the insured may be expected to regain his/her ability to work);

(c) A maternity allowance due to childbirth or taking a child of up to one year of age to bring up the child, if an adoption application was filed during the period.

338. The following are due under retirement and disability pension insurance:

(a) Agricultural retirement pension upon reaching the retirement age (60 years for women and 65 years for men) and having the minimum of 25 years of liability to retirement and disability pension insurance;

(b) Agricultural disability pension, temporary or permanent due to total incapacity for work on a farm and having the required period of liability to retirement and disability pension insurance (from 4 to 20 quarters depending on the age of the insured at which the incapacity of work on a farm arose), if the total incapacity for work on a farm arose During the period of liability to retirement and disability pension insurance or not later than within 18 months of after the expiry of the liability;

(c) Agricultural retraining pension for any insured person permanently unable to work on a farm, who may acquire an ability to work in a non-agricultural profession after retraining;

(d) Family pension for the eligible family members;

(e) A nursing supplement to the retirement or disability pension due to the incapacity for independent existence or reaching the age of 75;

(f) Supplement to the family pension for a full orphan;

(g) Funeral allowance.

339. Agricultural retirement and disability pensions consist of two components: the contribution-related part and the supplementary part. The contribution-related part of the retirement and disability benefit is the insurance part, as its amount is a derivative of the contributions to retirement and disability pension insurance paid for the insured, whereas the supplementary part is de facto a State-funded retirement and disability pension. Upon the satisfaction of the conditions specified in the Act the person eligible for the agricultural retirement or disability pension is paid the contribution-related part, whereas the payment of the supplementary is conditional upon the person's ceasing the farming activity. Cease of farming activity, according to the Act, is connected with transferring the farm if a retiree or a pensioner or his/her spouse is an owner (co-owner) of a farm whose area exceeds one physical hectare or one conversion hectare.

340. Since the contributions to the farmers' retirement and disability pension insurance are low and identical for all the insured (30 per cent of the lowest retirement pension per quarter), the contribution-related part, which corresponds to the amounts of the contributions and their payment periods, is a low benefit. It amounts to approximately 1/3 of the agricultural retirement and disability pension that is paid to a farmer who transfers the rights to his/her farm.

341. The KRUS has its own medical certification system. Expert physicians of the KRUS (first instance) and medical commissions of the Fund (second instance) decide upon, inter alia, health impairment due to an accident at farming work or farming occupational disease, total (periodic or permanent) incapacity for work on a farm.

342. The Act of 2 April 2004 on the Amendment of the Act on Social Insurance for Farmers and Amendments of Certain Other Acts introduced changes, including the following:

(a) The period of collecting a sickness allowance was prolonged for the time necessary to restore the insured's capacity for work (not longer than 360 days), if after the expiry of the allowance period (180 days) the insured continues to be unable to work, and if further treatment and rehabilitation may restore the capacity;

(b) The possibility of including the periods of collecting sickness benefits from other social insurance to the benefit period was introduced for persons liable to the obligatory accident, sickness and maternity insurance;

(c) A single maternity allowance amounting to three and a half basic retirement pensions was introduced instead of the two benefits due to childbirth (a one-time benefit and a maternity benefit);

(d) The possibility of voluntary insurance (contribution payment) was introduced for the period of collecting periodic farmer's disability pension. The period is included for the purposes of determining the right and the amount of the future retirement or disability pension benefit in case of the insured satisfying the remaining conditions;



(e) A new criterion of the health condition assessment - “total incapacity to work on a farm” instead of the “long-term incapacity to work on a farm” was introduced, and it is a condition for obtaining the right to farmers’ disability pension;

(f) A retraining allowance was introduced for farmers who have permanently lost capacity for work on a farm, but may undertake work in a non-agricultural profession after retraining. The retraining allowance is granted for 6 months, and may be prolonged for another 30 months at the request of the district governor (starosta). The payment of the supplementary part of the agricultural retraining allowance is conditional upon the insured’s ceasing agricultural activity if such retraining is possible and the eligible person agrees to undergo such retraining;

(g) Identical criteria for gaining agricultural disability pension as a permanent or period pension were introduced with regard to all the insured persons, also those who are to reach the retirement age within no more than five years;

(h) The possibility to include the periods of veteran service and army service in the amounts equal to agricultural insurance was introduced for the purposes of determining the agricultural disability and retirement pension;

(i) The criteria of the payment of the supplementary components of the agricultural disability and retirement pension financed from the State budget were made more restrictive;

(j) Medical examination performed ex officio was resigned from. The right to the agricultural disability pension due to temporary incapability for work is determined for the subsequent periods at the request of the interested person;

(k) The possibility of determining ex officio the right to retirement pensions to persons collecting agricultural disability pensions due to incapability for work, upon their reaching the age of 60 (women) and 65 (men) was introduced;

(l) The possibility of collecting the agricultural disability pension which overlaps with benefits from other insurance was limited.

#### **Question 4**

##### **Percentage of the Gross Domestic Product, State budget allocated to social security**

343. For statistical data, see annex I, item 36.

#### **Question 5**

##### **Private systems supplementing the general system**

344. Pursuant to the reform of the social security system implemented on 1 January 1999, a complementary system of private, capital-based retirement insurance (second pillar of retirement pension) was established, parallel to the general, obligatory, repartition-based

retirement pension system. Contributions to private insurance are transferred to one of the 16 OFE. All persons born after 31 December 1968 undertaking the employment are obliged to join an open retirement pension fund (OFE) of their choice, whereas persons born in the years 1949-1968 could join OFE on a voluntary basis, at their request. The second pillar is not designed for persons born before 1 January 1949. Retirement pension rights in the second pillar are conditional upon the insured's reaching the retirement age of 60 for women and 65 for men.

345. For additional information, see the answer to Question 3.

### **Question 6**

#### **Groups of population who do not enjoy the right to social security**

346. The social security system is of general character and covers all groups of professionally active persons. During the reporting period no changes occurred as compared to what was presented in the previous report.

### **Article 10**

#### **Right to protection and assistance to the family**

### **Question 1**

347. The report on the implementation of the International Covenant on Civil and Political Rights for the period from January 1995 to October 2003 was considered by the Committee in October 2004. The report on the implementation of the Convention on the Elimination of all Forms of Discrimination against Women was submitted in 2004. The report on the implementation of the Convention on the Rights of a Child was considered in 2002.

348. Poland submitted the report on the implementation of the ILO Convention No 103 (1952) concerning maternity protection in 2002, whereas the reports on Conventions No 138 (1973) concerning Minimum Age for Admission to Employment and No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, were submitted in 2004 and 2005.

### **Question 2**

#### **Meaning of the term "family"**

349. During the reporting period no changes occurred as compared to what was presented in the previous report.

### **Question 3**

#### **The age the reaching of which means attaining one's majority**

350. During the reporting period no changes occurred as compared to what was presented in the previous report.

#### **Question 4**

##### **(a) Entering into a marriage and starting a family on the basis of the free consent**

351. Pursuant to the amendment of 24 July 1998 of the Act the Code of Family and Guardianship Law, equal age for men and women (18 years) was provided for with regard to their ability to enter into a marriage. A court may allow woman who has reached the age of 16 to enter into marriage for important reasons, if the circumstances indicate that entering into the marriage will serve the welfare of the family.

352. Entering into a concordat marriage is possible if a ratified international agreement or an act regulating relations between the state and a church/religious association provides that entering into a marriage in accordance with the internal law of the church/religious association will result in the same legal effects as entering into a marriage before a registrar. A marriage is entered into if a man and a woman entering into a marriage according to the internal law of a church or another religious association declare simultaneously the will of entering into the marriage before a cleric and then a registrar draws up a marriage certificate on the basis of a certificate prepared by the cleric stating that the conjugal declarations have been made in his presence upon entering into a marital union, which is subject to the internal law of the church or another religious association.

##### **(b) Measures to assist in establishing a family, maintaining it and protect**

#### **Health care for mother and child**

353. The Constitution (art. 68) obliges public authorities to ensure equal access to health-care services financed from public funds, irrespective of the material situation of citizens. Public authorities are obliged to ensure special health care to children and pregnant women. The conditions and scope of health-care services are regulated by the Act of 27 August 2004 on Health Care Benefits Financed from Public Funds. The Act specifies the tasks of public authorities regarding ensuring equal access to health-care benefits: creating the conditions for the functioning of health-care system, analysis of health needs and factors altering the needs, health promotion and prophylactics. Benefits, on the principles and in scope applicable to the insured persons, are due to persons under 18 years of age, pregnant women and women during childbirth and puerperium.

354. The Act indicates benefits fostering the preservation of health, prevention of diseases and early detection of diseases. They include:

(a) Propagating pro-health behaviours, particularly by encouraging patients to take individual responsibility for their health;

(b) Early and comprehensive care involving numerous specializations, over a child at risk of disability of disabled;

- (c) Prophylactic medical examinations aimed at early detection of diseases, with particular attention paid to cardiovascular diseases and cancers;
- (d) Promotion of health and prophylaxis, including dental prophylaxis, also in respect to children and young persons below 19 years of age;
- (e) Preventive medical examinations concerning pregnant women, including pre-natal tests recommended in risk groups and among women over 40 years of age, as well as dental prophylaxis;
- (f) Preventive health care for children and young persons in their education and upbringing environment;
- (g) Prophylactic vaccination;
- (h) Examinations in the area of sports medicine, including children and young people below the age of 21, pursuing amateur sports.

355. The Regulation of the Minister of Health of 21 December 2004 on the Scope of Health-care Benefits, including Screening Tests and Periods in which the Tests are Carried on, specifies the scope and terms of preventive health-care services offered to pregnant women and children below six years of age. The Regulation of the Minister of Health of 22 December 2004 on the Scope and Organization of Preventive Health Care for Children and Young People specifies the principles of health care for children and young people under education or tuition obligation. Health promotion and education is an important element of health care for pupils and students. The health care is provided by: primary care physicians and school nurses or hygienists. Health care for pupils/students at school is provided by school nurses/hygienists, who also participate in the planning, implementation and evaluation of the school health education programme and in undertaking other actions regarding health promotion.

356. Children and young people below 18 and women during pregnancy and puerperium are entitled to additional health services of dental physicians and dental materials used to provide the services.

357. An important element in the health care for children and young people is the prevention of communicable diseases. This issue is regulated by the Regulation of the Minister of Health of 19 December 2002 on the List of Compulsory Vaccinations and Principles of Maintaining Vaccination Records.

### **Social assistance allowances**

358. The Act on Social Assistance of 12 March 2004 provides for the following cash benefits:

- (a) A permanent benefit for persons completely unable to work due to age or disability, which is an income supplement to the amount of the statutory criterion. In the case of single persons, the benefit is paid up to the amount of the difference between the income and the amount of PLN 461 and may not be lower than PLN 50. In the case of persons living in families, the benefit is paid up to the amount of the difference between the income and the amount of PLN 316 and may not be lower than PLN 50;

(b) A temporary allowance for persons and families with no income or with an income lower than the statutory criterion or with resources insufficient to satisfy the basic needs, in the event of long-term illness, disability, no possibilities of employment, maintaining or acquiring the rights to benefits under other social security systems. The benefit is the difference between the income and the criterion entitling a person to social assistance benefits, and the minimum guaranteed amount of the benefit:

- (i) For single persons must not be lower than 30 per cent of the difference between the social intervention level and the income;
- (ii) For families must not be lower than 20 per cent of the difference between the social intervention level and the income per person.

The period for which the benefit is granted and the possible increase of its amount are decided upon by the municipality. The municipality may also raise the income criterion entitling the beneficiaries to assistance in cash.

In the case of persons who are capable of working, providing the assistance is connected with the conclusion of a social contract, defining the rights and obligations of the parties, leading the person/family in question to move out of the group of social assistance beneficiaries. Contracts are also concluded with persons who should undertake other actions necessary to improve their situation.

(c) Earmarked allowance and special earmarked allowance: a one-time benefit for individuals and families is granted to satisfy a specific living need. The criterion entitling the beneficiaries to the earmarked allowance is the same as in the case of permanent and temporary allowances.

### **Assistance at the place of living**

359. The social assistance provided at the place of living includes:

- (a) Legal assistance in pursuing alimony and property rights in a court;
- (b) Financial assistance for mothers raising children and pregnant women;
- (c) Assistance in the organization of self-help groups of persons raising disabled children;
- (d) Assistance to unemployed women by employing them to provide care services;
- (e) Organization of child-raising courses, combating drug addiction and alcoholism;
- (f) Work for the benefit of inept and pathological families;
- (g) Support for families in their care and education functions by organization of therapeutic clubs, where children are offered care, educational assistance, a hot meal or a glass of milk;

- (h) Organization of summer and winter camps;
- (i) Collection of clothes, furniture and other objects;
- (j) Organization of all-day adaptation centres for disabled children and young people.

360. Other forms of social assistance provided at the place of living:

- (a) Organization of groups alternative to youth counter-cultural groups;
- (b) Street work with children and young people (street assistance workers);
- (c) Organization of therapeutic youth clubs and environment clubs, offering various forms of spending time after school, offering advice to parents on how to manage their children and satisfy their needs;
- (d) Organization of child centres, offering comprehensive assistance to children, cooperating with the parents;
- (e) Organization of crisis intervention centres offering such facilities as helplines, crisis intervention teams, hostels;
- (f) Running support centres for children and young people suffering from addictions;
- (g) Professional activation of young people.

361. Establishing prevention systems for families which have difficulties in fulfilling their care and education roles is a task of the municipality and district self-government. Such actions are to prevent children being placed outside the families. Ensuring education and upbringing to children partly or completely deprived of parental care and socially maladjusted children belongs to the social assistance at the district level.

362. The Regulation of the Minister of Labour and Social Policy on Institutions of Care and Education of 14 February 2005 defines the standards which those institutions must satisfy. The education and care standards specified in the regulation have been developed in compliance with the Convention on the Rights of a Child.

363. Such institutions are obliged to:

- (a) Create opportunities for physical, psychical, and cognitive development;
- (b) Respect the subjectivity of a child, listen to his opinions and, wherever possible, have regard for his requests in all matters concerning the child and inform the child on actions being taken towards him;
- (c) Ensure the child's security;
- (d) Care for respecting and sustaining the child's emotional relation with the parents, siblings and other persons;

- (e) Teach how to establish emotional relation and interpersonal relations;
- (f) Teach respect for tradition and cultural continuity;
- (g) Teach how to plan and organize daily work;
- (h) Foster pro-health behaviours in children;
- (i) Prepare children for taking responsibility for their conduct and teach self-dependence;
- (j) Compensate developmental deficits in children;
- (k) Agree upon the important decisions concerning children with their parents or guardians.

364. The Regulation divides the institutions of care and education into daytime support institutions, intervention institutions, family institutions and socialization institutions. All institutions may organize their work on a daytime activity, 24-hour care or temporary stay basis. Institutions may combine various forms and scopes of the care. The Regulation provides for the establishment and development of other forms of care, particularly environmental social assistance. The task of developing the organization and internal structure of the institutions is entrusted to the managing bodies, which should establish them in compliance with local needs.

365. Placing a child in an institution is an instrument to influence the family, aiming at restoring its proper functioning. A child placed outside the family is to be returned to the family as soon as possible. This is achieved thanks to detailed provisions, including the obligation to maintain contact with the family of the child, developing individual programmes of work with the child and maintaining a record of the child's stay in the institution.

366. For statistical data on institutions of care and education, - see annex I, items 37-38.

### **Foster families**

367. The functioning of foster families is regulated by the Act on Social Assistance and the Regulation of the Minister of Social Policy of 18 October 2004 on Foster Families.

368. Foster families are divided into:

- (a) Families related to the child;
- (b) Families unrelated to the child;
- (c) Professional families unrelated to the child:
  - (i) Large;
  - (ii) Specialized;
  - (iii) Emergency type-families.

369. Foster families receive assistance to cover part of the costs of children's maintenance. Moreover, all foster families are entitled to a one-time benefit for foster families to cover the needs of the child newly accepted in the family or a temporary benefit due to a chance occurrence. In addition, professional foster families receive remuneration for the care and upbringing provided to the children. Foster families may also obtain support in the form of specialist counselling, including family counselling, and family therapy.

370. For data on foster families, see annex I, item 39.

### **Psychological and pedagogical advice centres**

371. Work with families and pedagogical and psychological support most often consists of supporting the parents in solving problems of the children and young people, most often related to school education.

372. The centres cooperate with social assistance centres, mental health centres, centres for prevention of alcohol-related problems, police and courts, social assistance and therapeutic clubs, institutions of care and education, counselling centres for children from families with alcohol problems, and therapy centres for children and young people. Consulting points and helplines are available in the centres.

373. For data on psychological and pedagogical advice centres, see annex I, item 40.

### **Family benefits**

374. For information on cash benefits, see the answer to Question 3 on article 9.

375. The period of collecting childcare supplements during the childcare leave is prolonged from 24 to 36 months to 72 calendar months if the mother or father takes care of a child with a disability certificate.

376. The family benefits system in force since 1 May 2004 contains a number of solutions aimed at protecting disabled children and young people.

377. A less restrictive income criterion regarding family benefits is applied in the case of families with disabled children. Family benefits are due if the per person income of the family does not exceed PLN 538 (in the case of other families, the amount is PLN 504). Children continuing education at school or a school of higher education receives a benefit until the age of 24.

378. The supplement to the family allowance is aimed at supporting the education and rehabilitation of disabled children and young people:

(a) Until the age of 16, if the child is a holder of a disability certificate;

(b) Until the age of 24, if the child is a holder of a certificate of moderate or significant degree of disability.



379. The allowance is paid on a monthly basis, and amounts to PLN 50 for a child below the age of 5 and PLN 70 for a child over the age of 5 and below the age of 24.

380. A nursing benefit pursuant to leaving the employment or other paid work in order to take care of a disabled child is due to the mother or father, a de facto guardian or a legal guardian of the child if the person does not undertake or leaves the employment or other paid work in order to take care of a child holding a disability certificate or a certificate of moderate or significant degree of disability. The nursing benefit amounts to PLN 420 per month.

381. For statistical data on family benefits and beneficiaries, see annex I, items 41-45.

### **Alimony**

382. The most important change regarding alimony benefits was the liquidation of the Alimony Fund on 1 May 2004.

383. The Alimony Fund was established 30 years ago under the assumption that the budget spending for alimonies will be reimbursed. Meanwhile since the early 1990s alimony benefits grew dynamically, and even the income criterion, introduced in 1999, did not stop the process: in 1990 the number of beneficiaries was 115 700 and over the next ten years it grew four times. At the same time, the rate of debt collection from persons obliged to pay the alimonies decreased, which was accompanied by the growing costs of servicing the fund, resulting, inter alia, from the ZUS obligation to conduct activities connected with debt collection.

384. Benefits from the Fund were granted for one year to persons to whom alimonies had been awarded, and their collecting proved partly or wholly ineffective. The benefits were due to children below 18 years of age, adult persons with significant or moderate disabilities if such persons studied at school (with the exception of higher education establishment), and to persons over 50 years of age. Entitlements to the benefits from the Alimony Fund were conditional upon the beneficiary satisfying the income criterion. The criterion was established at the level of 60 per cent of the average monthly remuneration of the previous calendar year, promulgated for the retirement pension purposes. Between 1 June 2002 and 30 April 2004 the amount of the criterion was frozen at the level in 2001 and amounted to PLN 612.

385. Benefits from the Alimony Fund were paid in the amounts of the awarded alimonies, though the upper limit was established at the level of 30 per cent of the average remuneration promulgated by the President of the GUS for retirement pension purposes for the calendar year preceding the period for which the benefit was granted. In the last period of the operation of the Fund, the amount was PLN 618.60. In 2001 the average monthly number of persons entitled to alimony benefits was 468 200. In 2001 the spending of the Alimony Fund was PLN 1 221 million.

386. The greatest problem was the volume of the funds allocated to the Alimony Fund, accompanied by the serious shortage of funds for allowances benefits and benefits connected with care, upbringing and education of children, including children with disabilities. At the same time it was difficult to accept the obvious paradox: non-payment of alimonies gave the family a privileged position as compared with a family, also single-parent one, which received the awarded alimonies even if its income was nevertheless lower. This situation was undoubtedly an

opportunity for fraud, as it encouraged the alimony payers to evade the payment obligation, though the potential of the person under the alimony obligation was often regarded as high by the court.

387. The Alimony Fund failed to perform the tasks for which it was established. It was assumed as an institution extending credits the persons under the alimony obligation who were temporarily unable to satisfy the liabilities. With time, the Fund lost the character of a credit institution, and its benefits became de facto social assistance benefits. The debt of the persons under alimony obligation towards the Fund amounted to PLN 7.7 billion as at the date of its liquidation.

388. On 1 May 2004 the Act of 28 November 2003 on Family Benefits came into force. The catalogue of family benefits included a supplement to the family benefit due to raising a child as a single parent, which replaced the alimony fund benefit paid until 30 April 2004. The supplement was due to all children in single-parent families that complied with the income criterion in connection with the adjudication and non-collectibility of alimonies.

389. The Act of 22 April 2005 on the Proceedings against Alimony Debtors and Alimony Advance:

- (a) Improved the system of collecting the alimonies from persons under the alimony obligations also if the enforcement conducted by bailiffs is ineffective;
- (b) Improved the system of collecting the receivables of the liquidated Alimony Fund;
- (c) Reformed the family benefit system in order to eliminate the privileged situation of single-parent families as compared with large families.

390. The Act introduced a new benefit, i.e. an alimony advance. The benefit is paid to children raised in single-parent families if the enforcement of the awarded alimonies is ineffective, as well as to children raised by persons in marital unions, if divorce or separation proceedings are underway. The advance is due to children under 18 or 24 if the child studies at a school or a higher education institution. The net income in the family may not exceed PLN 538 per person. Enforcement is deemed to be ineffective if the full amount of the alimony was not collected over the last 3 months.

391. The alimony advance is paid up to the amount of the alimony benefits, and must not exceed:

- (a) PLN 170 per one entitled person if the family includes one or two persons entitled to the advance or PLN 250 if the person has a disability certificate or a certificate of significant degree of disability;

(b) PLN 120 per one entitled person if the family includes three persons entitled to the advance or PLN 170 if the person has a disability certificate or a certificate of significant degree of disability.

392. If the income of the family does not exceed 50 per cent of the criterion amount (PLN 291.50), the alimony advance amount is increased to:

(a) PLN 300.00 per one entitled person if the family includes one or two persons entitled to the advance or PLN 380.00 if the person has a disability certificate or a certificate of significant degree of disability;

(b) PLN 250.00 per one entitled person if the family includes three persons entitled to the advance or PLN 300.00 if the person has a disability certificate or a certificate of significant degree of disability.

393. For statistical data on alimony benefits, - see annex I, items 46-47.

### **Reduced fare transport**

394. The Act of 20 June 1992 on the Entitlements to Reduced Fares on Public Transport grants various entitlements to reduced fares on public rail transport of II class. The provisions of the Act do not apply to municipal transport.

395. Pro-family fare reductions:

(a) Reduction of 100 per cent for a child of up to 4 years of age in rail rides upon single tickets and rides on regular and fast communication if the child does not use a separate seat;

(b) A reduction of 95 per cent for:

(i) An adult guardian accompanying a person incapable of independent existence (i.e. a person fully unable to work and incapable of independent existence within the meaning of the regulations concerning retirement and disability pensions from the FUS or with a significant degree of disability within the meaning of the regulations concerning vocational and social rehabilitation and employment of disabled persons of 1<sup>st</sup> group invalids if the certificate of the 1<sup>st</sup> group remains in force) in rail and bus rides travelling under single tickets;

(ii) Guardians (persons over 13 years of age or guide dogs) accompanying blind persons on rail or bus rides travelling under single tickets;

(c) A reduction of 78 per cent for:

(i) A child of up to four years of age in bus of regular and fast communication if the child uses a separate seat and travels under a single ticket;

- (ii) Children and young people suffering from disablement or disability up to the age of 24, including disabled students up to the age of 26 in rail and bus rides from the place of residence or stay to a kindergarten, school, school of higher education, an institution of care and education, an institution of education and tuition, a special educational centre, a special education centre, an institution helping children and young people satisfy the education and tuition obligation, a rehabilitation and education centre, a social assistance home, a support centre, a health-care establishment, a psychological and pedagogical advice centre, including a specialist centre, also with regard to the beneficiaries' return travel to a rehabilitation stay under single and monthly travel cards bearing holders' names;
  - (iii) One parent or a guardian of a child or young person suffering from disablement or disability in rail and bus rides under single tickets, only with regard to the travels listed above.
- (d) A reduction of 49 per cent for:
- (i) Persons incapable of independent existence, including blind persons, on stopping trains and regular communication busses, travelling under single tickets;
  - (ii) Children and young people in the period from starting the compulsory yearly kindergarten school preparation to the end of the junior high school, post-primary schools or post-junior secondary schools - public or non-public with the rights of public schools, not longer than until the age of 24 travelling under monthly travel cards bearing holders' names on rides on stopping and fast trains and on busses of standard and fast communication, under school monthly travel cards bearing holders' names;
  - (iii) Students of schools of higher education until the age of 26 - in the scope being the same as for students of lower-level schools;
- (e) A reduction of 37 per cent for:
- (i) Children over four years of age until the period of the compulsory yearly kindergarten school preparation travelling on stopping, fast and express trains (with the exception of IC and EC trains) and busses of standard and fast communication, under single tickets;
  - (ii) Persons incapable of independent existence, including blind persons, on trains other than stopping trains and fast communication busses, travelling under single tickets;
  - (iii) Blind persons capable of independent existence travelling on trains or busses under single tickets or monthly travel cards bearing holders' names;

- (iv) Children and young people in the period from starting the compulsory yearly kindergarten preparation to the end of the junior high school, post-primary schools or post-junior secondary schools - public or non-public with the rights of public schools, not longer than until the age of 24 travelling under monthly travel cards bearing holders' names on rides on stopping, fast trains and express trains (with the exception of IC and EC trains) under single tickets;
- (v) Students of higher education institutions until the age of 26 - in the scope being the same as for students of lower-level schools;

(f) Pensioners are collected are entitled to two rides a year on stopping, fast trains and express trains (with the exception of IC and EC trains) under single tickets with a 37 per cent fare reduction.

### **Tax relief for the disabled**

396. Benefits for the vocational, social and medical rehabilitation of the disabled from the PFRON funds and company funds for the rehabilitation of the disabled, received pursuant to separate provisions, are exempt from income tax pursuant to article 21, item 1 point 27 of the Act of 26 July 1991 on Personal Income Tax.

397. Tax payers who are disabled or support disabled persons may deduct expenses on rehabilitation and expenses on objects facilitating the performance of basic activities of daily life from the income. According to the Act on Personal Income Tax, the catalogue of the expenses includes the expenses for:

- (a) Adaptation and equipment of flats and houses according to needs following from disability;
- (b) Adaptation of mechanical vehicles to the needs following from disability;
- (c) Purchase and repair of individual equipment, devices and tools necessary for rehabilitation and facilitating the performance of basic activities of daily life in accordance with the needs following from disability, with the exception of household equipment;
- (d) Purchase of training publications and materials according to needs following from disability;
- (e) Payment for rehabilitation stays;
- (f) Payment for the stay in a health-resort establishment, for a stay in an establishment of medical rehabilitation, establishments of care and treatment and nursing and care, payment for rehabilitation treatments;
- (g) Payment for guides for blind persons of first and second invalidity groups in the amount not exceeding PLN 2 280 in the given fiscal year;
- (h) Blind persons' referred to in (g) maintaining a guide dogs - up to the amount not exceeding the amount referred to in (g) in the given fiscal year;

(i) Nursing home care over a disabled person in the period of a chronic disease making it impossible for that person to move and care services rendered to disabled persons belonging to the first invalidity group;

(j) Payment for a sign language translator;

(k) Summer camps for disabled young people and children under 25 years of age of disabled persons;

(l) Medication - in the amount of the difference between the expenses actually incurred in the given month and the amount of PLN 100 if a specialist physician decides that the disabled persons should use specific medication (permanently or temporarily);

(m) Paid necessary transport to the indispensable medical and rehabilitation treatment:

(i) Of a disabled person - with a sanitary transportation ambulance;

(ii) Of a disabled person belonging to the first or second invalidity group and children under 16 of disabled persons - also with other means of transport than those listed in (i);

(n) Use of a car owned (or co-owned) by a disabled person belonging to the first or second invalidity group or a taxpayer supporting a disabled dependant belonging to the first or second invalidity group or disabled children under 16 years of age for purposes connected with transportation to the necessary medical and rehabilitation treatment - in the amount not exceeding PLN 2 280 in the given fiscal year;

(o) Paid rides on public transport connected with stay in:

(i) Rehabilitation institutions;

(ii) Institutions referred to in (f);

(iii) Camps for children and young people referred to in (k).

398. The expenses can be deducted from the income if they have not been financed (co-financed) from the funds of the company fund for rehabilitation of disabled persons, PFRON or NFZ, the company fund of social benefits, or if they have not been reimbursed to the taxpayer in any form. If the expenses were financed (co-financed) from those funds, the difference between the incurred expenses and the amount financed (co-financed) from those funds or reimbursed in any form may be deducted from the income.

399. Expenses on rehabilitation may also be deducted from the income under the Act on the Lump Sum Income Tax providing that they have not been deducted from the income or included as tax-deductible costs under the provisions of the Act on Personal Income Tax.

### **Counteracting family violence**

400. Physical and psychical violence in the family is forbidden under the Polish law. The Penal Code contains a separate provision concerning the cruelty towards the family (Chapter “Criminal offences against the family and care”):

“Article 207, paragraph 1. Whoever physically or mentally mistreats a person close to him or another person remaining in a permanent or temporary states of dependence to the perpetrator, a minor or a person who is vulnerable because of his mental or physical condition, shall be subject to the penalty of imprisonment the term of which shall not be less than three months and more than five years.

Paragraph 2. If the act referred to in paragraph 1 is compounded with particular cruelty, the perpetrator shall be subject to the penalty of imprisonment the term of which shall not be less than one year and more than ten years.

Paragraph 3. If the consequences of the act referred to in paragraphs 1 or 2 is a suicide attempt by the injured person on his or her life, the perpetrator shall be subject to the penalty of imprisonment the term of which shall not be less than one year and more than 12 years.”

401. Every action intended to harm physically or psychically the person dependent to the perpetrator is regarded as mistreatment. The mistreatment may be active (whipping, beating) and passive (neglecting, refusing the food). The fact that criminal offences involving mistreatment of family are subject to prosecution *ex officio* makes it possible to instigate without the motion of the victim: if information about even of a suspicion of the crime reaches the police, the police may conduct investigation proceedings.

402. For data on proceedings initiated, ended and offences found to have been committed, see annex I, items 48-49.

403. The growing number of domestic interventions conducted by the police in cases of family violence is primarily an effect of national campaigns for victims of violence, not a rise in the number of the cases of violence itself. Social awareness in this area is growing as well as the number of the reported cases. Thanks to media campaigns, educational activities, actions of institutions and organizations providing assistance to the victims of the violence, the society, neighbours, families and even the victims themselves realised that physical or mental mistreatment of a close person is not a standard behaviour or their personal problem, but a crime which should be reported to law enforcement bodies. Due to the specific character of the criminal offence of mistreatment of a close person, the “dark number” of such cases remains very high and consequently the growth in the number of the reported crimes should actually be treated as a positive phenomenon, indicating not so much a growth in the phenomenon itself, but greater awareness of the victims and witnesses of violence.

404. For statistical data on domestic violence, see annex I, items 50-52.

405. Since 1998 the police have implemented the “Blue Cards” procedure. It defines the policemen’s conduct from the obtaining information on an act of family violence through undertaking remedial measures (in cooperation with the local non-police bodies) to sending the relevant documentation to the prosecutor’s office. In those actions partners of the police include:

- (a) The State Agency for Prevention of Alcohol-Related Problems (PARPA), municipal and city commissions for prevention of alcohol-related problems);
- (b) Polish Nationwide Emergency Service for Victims of Family Violence “Blue Line”;
- (c) District family support centres;
- (d) Juvenile and family courts;
- (e) Social assistance homes;
- (f) Information and consulting centres for victims of family violence;
- (g) The “Nobody’s Children” (Dzieci Niczyje) foundation.

406. Every domestic intervention undertaken by the police in the case of family violence is recorded in the statistical software “Blue Cards”, operating on the basis of the National Police Information System. This helps analyse and diagnose the phenomenon and plan preventive actions.

407. In December 2002 the “Blue Cards” procedure was modified: the bureaucracy involved in the preparation of the police internal documentation was limited. Works are underway on the procedure of the Blue Cards for detox treatment centres and municipal commissions for prevention of alcohol-related problems. In each voivodship police headquarters a coordinator of the “Blue Cards” procedure has been appointed.

408. The police is also the main entity implementing a number of undertakings:

(a) Policemen are involved in the activities of the interdisciplinary teams appointed to solve concrete problems. During meetings members of the teams discuss cases of family violence, childcare negligence and other problems occurring in families and seek effective solutions for those problems. The teams consist of social workers, psychologists, probation officers, judges, prosecutors, lawyers and policemen;

(b) The police are also involved in developing local support centres for victims of family violence. In districts consultation points for victims of violence are established, in which policemen are on duty along with therapy, law and social assistance specialists;

(c) The police undertake prevention and assistance activities increasing the effectiveness of interventions, involving the participation of psychologists during the domestic interventions of the police;



(d) The police also work in the teams for family violence and abused children. The teams offer free assistance provided by specialists in psychology, psychotherapy, pedagogy, therapy of addictions, mediation, law and criminal prevention;

(e) Policemen visit families suffering from violence together with social assistance staff and the municipal commission for prevention of alcohol-related problems;

(f) Policemen cooperate with court probation officers, specialists in pedagogy, self-government authorities, social assistance and other entities in order to develop local strategies of counteracting family violence, organize conferences and trainings on violence prevention and undertakes informational activities during fêtes and similar events;

(g) They also cooperate with other entities in order to organize media campaigns and other information and education actions;

(h) They distribute leaflets and guides containing addresses and telephone numbers of the local assistance institutions in reception points. Information for victims of family violence is also disseminated in local media;

(i) On the International Crime Victim Day, i.e. on 22 February the police organize consultation points for victims of crimes, including domestic violence;

(j) The police also organize trainings regarding family violence and implementation of the “Blue Cards” procedure for patrol services, community officers and officers on duty (the “Blue Cards” procedure being implemented by the voivodship coordinator in cooperation with specialists);

(k) Policemen also organize new “Blue Rooms” for the hearings of children and victims of various ages. Over the last several years more than 200 Blue Rooms have been organized, there also are several dozen of the so-called quiet rooms in which operational activities are conducted with regard to victims of various crime offences;

(l) The police prepare guide brochures with information on establishments, centres and institutions offering different forms of assistance to victims of crimes, on the basis of the information guide prepared by the Commissioner for Citizens’ Rights.

409. The Act of 29 July 2005 on Counteracting Family Violence provides for initiating and supporting actions raising the social awareness on the reasons and effects of family violence. Its goals include:

- (a) Systematic diagnosis of the phenomenon of family violence;
- (b) Increasing social sensitivity to the phenomenon;
- (c) Raising the qualifications of the public services dealing with the problem;
- (d) Providing professional assistance to victims of family violence;
- (e) Influencing the perpetrators.

410. According to the Act, assistance and professional support are to be offered to the victims: spouses, children, elderly persons and disabled persons.

411. The Act also amended the Penal Code. According to the new wording of article 72, a court suspending the execution of the penalty may oblige the convicted person to undergo treatment, particularly detoxification or rehabilitation treatment, or therapeutic influence or to participate in correction and education programmes. The court may also oblige the convicted person to refrain from contacting the injured party or other persons and/or leave the lodgings occupied jointly with the injured party. The court may also decide upon such measures in the event of conditional suspension of the proceedings. If circumstances for applying the temporary arrest of the perpetrator of a crime committed with the use of violence or unlawful menace towards a family member occur, the court may apply police supervision instead of temporary arrest, but only upon the condition that the suspect/the accused leaves the lodgings occupied jointly with the injured party within the set date, and specifies his place of residence. In the event of vacating the lodgings, one of the restrictions of freedom of the suspect necessary to perform the supervision may consist of the suspect refraining from contacting the injured party in a defined manner.

412. On 25 September 2006 the Council of Ministers enacted the National Programme against Family Violence. Thanks to the Programme the following are expected:

- (a) Decrease in the scope of the phenomenon of family violence;
- (b) Change in the society's attitudes towards violence;
- (c) Growth in the number of persons offering support to the victims and perpetrators of domestic violence on a professional basis;
- (d) Growth in the number of establishments offering support;
- (e) Decrease in the number of families in which numerous interventions of the police and other services dealing with domestic violence are necessary.

413. The Programme includes five action priorities:

- (a) Systematic diagnosis of the phenomenon of family violence;
- (b) Raising the level of social awareness and sensitivity;
- (c) Training the services counteracting family violence;
- (d) Protection of and support for the victims - operation of specialist support centres for victims of violence;
- (e) Influencing persons resorting to violence through correction and education programmes.

414. The National Programme against Family Violence places particular emphasis on:

- (a) Introducing contents regarding reasons and effects of family violence to vocational training curricula for persons working with this type of violence;
- (b) Development of education and support programmes regarding prevention of violence against children, partners, elderly persons and persons with disabilities;
- (c) Development of legal protection and psychological support programmes for witnesses of family violence;
- (d) Preparation of education packages regarding reasons and effects of family violence and training the staff of various institutions dealing with counteracting such violence;
- (e) Collecting information on the scope of the phenomenon;
- (f) Verifying the effectiveness of support provided to the families;
- (g) Preparation of education packages regarding reasons and effects of family violence and training the persons dealing with counteracting such violence;
- (h) Developing instruction materials, recommendations, intervention procedures in the family violence situation, with particular attention paid to the procedures included in the "Blue Card".

415. The Programme also provides for activities regarding the perpetrators, such as:

- (a) Isolating the perpetrators from the victims, including orders to vacate the lodgings even if the perpetrator is the chief tenant or the owner of the flat/house;
- (b) Development and implementation of correction and education programmes for perpetrators;
- (c) The perpetrators performing socially useful work.

416. On 7 February 2006, a national campaign entitled "Protected Childhood" began. Its main objective is increasing the effectiveness of public institutions established to protect children, directly or indirectly, against family violence. The campaign involves the participation of various environments and social groups. Thanks to the media presence, the campaign is to present various aspects of family violence against children to the public opinion. A uniform system of response regarding violence against children is also to be organized, involving the cooperation of schools, police, health-care services and NGOs dealing with domestic violence. In the first stage of the campaign the problem of violence against newborn children will be investigated and the legal and actual schemes of the activities monitoring children from birth to the age of one year will be reviewed. The findings are to include information on the activities undertaken towards children who have experienced violence and on the work with the family in which violence

occurs, thanks to which subsequent children may be protected. As the campaign is a part of a broader project aimed at developing a coherent system of care and protection of children abused in the family, its effects will be used in the works on streamlining communication channels between various institutions and social groups.

417. On 6 July 2006 a Regulation of the Minister of Labour and Social Policy on Standards of Basic Services Rendered by Specialist Support Centres for Victims of Family Violence and Detailed Directions of Correction and Education Activities was issued. The Regulation is the basis for establishment of specialist support centres for victims. The centres are to offer medical, psychological, legal and social counselling. By the end of 2006 32 specialist support centres for victims of family violence would have been established. Voivods have received funds for establishing and maintaining victims' support centres and correction and education programmes for perpetrators.

418. For statistical data regarding domestic violence, see annex I, item 53.

419. Protection of the victims of family violence is a part of a broader issue, i.e. protection of victims of crime offences. A number of initiatives have been undertaken in this regard, some of which are presented below:

(a) In 2000, the Charter of Victims' Rights was adopted, indicating all rights of victims of crimes;

(b) In 2000, the Support Forum for Victims of Criminal Offences was established to offer assistance in individual cases and lobby for the benefit of crime victims;

(c) The law of 7 July 2005 on State compensation awarded to victims of certain deliberate crimes provides for the right of victims of crimes involving violence to receive financial assistance from the state if the victim cannot receive compensation from the perpetrator. The decision to grant the assistance will be taken by courts;

(d) On 1 February 2006, the Interdepartmental Team for Developing the National Programme for Victims of Criminal Offences was appointed pursuant to the regulation of the President of the Council of Ministers.

420. The Government Programme "Counteracting Violence - Equalizing Chances" was implemented in cooperation with UNDP and addressed to NGOs cooperating with the central self-government bodies, in order to offer support to families suffering from violence. Fifteen centres implementing the Programme have been established as a part of the institutional system of therapy, support for the victims, rehabilitation of the perpetrators and prevention. The tasks of the system include also presenting the broader social context of the problem. Trainings have been conducted for specialists working with victims and perpetrators of violence. A brochure has been issued, indicating methods of conduct in a crisis situation and places where help can be obtained.

421. During the Third National Conference “Against Violence” in 1996 a national agreement of individuals, organizations and institutions was established to help family violence victims - “The Blue Line”, supporting the programme of counteracting family violence. At present over three thousand individuals, institutions and organizations belong to the agreement.

422. Polish Nationwide Emergency Service for Victims of Family Violence “Blue Line” performs the following tasks, as commissioned by the PARPA:

- (a) Organization of conferences on counteracting family violence;
- (b) Preparation of education materials and information leaflets devoted to counteracting violence;
- (c) A social campaign against abusing and neglecting children under the slogan “Childhood without Violence”, organized in 2001. The goal of the campaign was to increase the social involvement in counteracting violence against children, education regarding the phenomenon of abused children, manners of coping with the problem, promotion of positive solutions in counteracting violence against children, motivating local communities and institutions to undertake actions for the benefit of abused children and their families, improvement of the system of assistance provided to families, developing parental skills and fostering constructive parental attitudes;
- (d) Training courses for the local environments;
- (e) Participation in the programme “Restore Childhood”, implemented by the “Przyjaciółka” Foundation in cooperation with the World Childhood Foundation and The Oriflame Children’s Foundation. The task of Programme is to draw attention to physical and sexual abuse of children from children’s homes;
- (f) The national free intervention and information helpline for persons abused by persons close to them.

423. In 1992 the Plenipotentiary of the Minister of Health for Solving Alcohol-Related Problems started a programme “Safety within the family”. Programme objectives:

- (a) Increasing the efficiency and accessibility of support for victims of family violence with alcohol-related problems;
- (b) Increasing the effectiveness of preventing the perpetrators from committing acts of violence;
- (c) Decreasing the scope of the phenomenon of family violence.

424. Activities undertaken within the Programme in the years 1992-2004:

(a) The introduction into the National Programme of Prevention and Resolving Alcohol-Related Problems concrete actions connected with counteracting family violence, which are to be performed by central bodies and voivodship offices;

(b) The introduction to the amended Act on Upbringing in Sobriety and Counteracting Alcoholism regulations obliging municipalities to undertake actions protecting alcoholic families from violence;

(c) The organization of nine national conferences on counteracting family violence, with the total number of participants reaching 2 000;

(d) The preparation of the Polish Declaration on Counteracting Family Violence;

(e) Organization and support for the Polish Nationwide Emergency Service for Victims of Family Violence "Blue Line" - since 1995, 60 000 persons have used the line;

(f) Organization and financing of the Family Violence Counteraction College with over 1 400 graduates;

(g) Developing, publication and distribution of educational materials on counteracting domestic violence;

(h) Initiating and support for the voivodship programmes of counteracting domestic violence;

(i) Preparation and implementation of the national education campaigns "Stop Domestic Violence" (1997) and "Childhood without Violence" (2001);

(j) Maintaining databases with information on persons and institutions helping families suffering from violence;

(k) Supporting the Polish Nationwide Agreement of Individuals and Organizations Supporting Victims of Family Violence "Blue Line";

(l) Conducting trainings on counteracting violence in various vocational groups. The number of participants exceeds 100 000;

(m) Publication of the "Blue Line" magazine devoted to family violence problems;

(n) Organization of the Council for Counteracting Family Violence - an expert advisory team of PARPA supervising the system of certification of professional qualifications of persons working with counteracting family violence;

(o) Cooperation with NGOs, self-government bodies and departments over counteracting family violence.

425. In 1995 the Family Violence Counteraction College was established - an interdisciplinary, 120-hour training conducted as commissioned by PARPA. The college is organized for persons working with family violence - employees of social assistance, health care, education, judiciary and other social services. Over 1 400 persons have graduated from the college.

426. Since February 2004 the Major of Ursynów District in Warszawa, on the basis of an agreement with Chief of the Police has conducted a pilot programme regarding victims of crimes involving violence. The programme includes guidelines regarding behaviours in the case of finding such crimes, thanks to which they can be effectively combated. They ensure protection of victims of domestic violence and help collect credible evidence other than testimonies of the injured persons. According to the guidelines, victims should be offered psychological support, if they so wish, and at least be informed of institutions supporting victims of crimes located closest to her/his place of residence. In every case the court bodies should consider whether a preventive measure should be used, and whether a court should be requested to apply temporary arrest or use police supervision combined with a ban to approach the injured party or contact her/him in any manner.

427. On 23 November 2005 the Minister of Justice - the General Public Prosecutor issued guidelines regarding the activities of prosecutors in criminal proceedings on crimes of mistreatment of children with particular cruelty.

## **Question 5**

### **Maternity protection**

#### **(a) Length of the maternity leave and the obligatory leave period after childbirth**

428. Between 1 January 2000 and 31 December 2000 maternity leave had the following lengths:

- 20 weeks for the first and each subsequent childbirth
- 30 weeks of maternity leave in the case of a multiple birth

429. Starting from 1 January 2001 the maternity leave had the following lengths:

- 26 weeks for the first and each subsequent childbirth
- 39 weeks of maternity leave in the case of a multiple birth

430. Following the amendment of the Labour Code of 25 April 2001, employees who have taken a child to bring that child up and applied to the guardianship court for instituting the adoption proceedings, or have taken a child to bring that child up as a foster family, are entitled

to leaves at the conditions of maternity leaves of 22 weeks, not longer, however, than until the child reaches the age of 12 months. If an employee takes a larger number of children, she is entitled to a leave of 35 weeks, not longer, however, than until each child reaches the age of 12 months.

431. Starting from 13 January 2002 the maternity leave had the following lengths:

- 16 weeks of maternity leave for the first birth
- 18 weeks of maternity leave for each subsequent birth
- 26 weeks of maternity leave in the case of a multiple birth

Starting from 19 December 2006 the maternity leave had the following lengths:

- 18 weeks of maternity leave for the first birth
- 20 weeks of maternity leave for each subsequent birth
- 28 weeks of maternity leave in the case of a multiple birth

432. An employee raising an adopted child or an employee who has taken a child to raise it as a foster family, with the exception of a foster family performing the tasks of family emergency, is entitled to a maternity leave of 20 weeks also after the first birth (art. 180 of the Labour Code).

433. According to article 183 of the Labour Code, an employee who has taken a child to bring that child up and applied to the guardianship court for instituting the adoption proceedings, or an employee who has a child to bring that child up as a foster family, with the exception of a professional foster family unrelated to the child, is entitled to 18 weeks of leave equivalent to the maternity leave, no longer, however, than until the child reaches seven years of age, and in the case of a child towards which the decision to postpone the education obligation has been taken, not longer than until the child reaches ten years of age.

434. If an employee has taken a child of up to seven years of age to bring the child up, and in the case of a child with respect to whom a decision to postpone the education obligation has been taken - of up to ten years of age, he is entitled to 8 weeks of leave equivalent to the maternity leave. Provisions regarding the parents' sharing the maternity leave (art. 180, paras. 5-7) apply accordingly.

435. All professional foster families unrelated to the child (families performing the tasks of family emergency, specialist, numerous) have been excluded from the entitlements to leaves equivalent to the maternity leaves.



436. The Amendment specified the manner of calculation the maternity leave. According to article 183<sup>1</sup> of the Labour Code, for the purposes of maternity leaves and leaves equivalent to the maternity leaves, a week is equal to seven calendar days. If an employee does not use her maternity leave before the predicted childbirth date, the first day of the maternity leave is the day of the childbirth.

**(b) Cash, medical and other benefits**

437. Pregnant women and women raising a child are entitled to the following social assistance benefits:

(a) At the request of the woman, up to four monthly allowances amounting to the difference between the amount of PLN 275 of

(i) Income if the entitled person lives in a one-person household; or

(ii) The per person income in the family of the entitled person, not more than PLN 250 a month;

(b) One-time cash allowance of PLN 120 per each child born during a single childbirth;

(c) A benefit in kind (a layette), unless the woman has received a childbirth benefit under separate provisions;

(d) Reimbursement of 100 per cent expenses related to pregnancy, childbirth and puerperium for healthcare in public health-care establishments, and to medication, under regulations regarding payment for medication and sanitary articles.

438. For the number of families and number of persons in families entitled to social assistance benefits due to the need to protect motherhood, see annex I, item 54.

439. Medical assistance is due to all women, regardless of their social or health-care insurance entitlements. This is provided for by the Act of 23 January 2003 on General Health Insurance in the National Health Fund and the Regulation of the Minister of Health and Social Welfare of 18 August 1962 on the Free Character of Certain Services of Public Health-care Institutions. During pregnancy and puerperium women are additionally covered by dental prophylaxis and treatment.

440. Assistance is also provided pursuant to the Regulation of the Council of Ministers of 5 October 1993 on the Scope and Forms of Assistance Provided to Pregnant Women and Women Raising Children by Municipalities.

441. For statistical data, see annex I, item 55.

442. On 1 May 2004 the Act of 28 November 2003 on Family Benefits came into force. The family benefits system includes benefits replacing the social assistance benefits existing to date, due to protection of maternity and paid within the tasks entrusted to municipalities.

## **Question 6**

### **Protection and assistance provided to children and young people**

#### **(a), (b) and (c) Prohibition of employment of children**

443. Pursuant to Article 190, paragraph 2 of the Labour Code, employment of persons below 16 years of age is prohibited. The ban on employment of persons less than 16 years of age concerns all types of work.

444. The principles of children under 16 performing work or other gainful activity are provided for by article 304<sup>5</sup> of the Labour Code. Work or other gainful activity may be performed solely for the benefit of entities conducting cultural, artistic, sports or advertising activities, and require prior consent of the statutory representative or guardian of the child, as well as a permit of the competent labour inspector. If performing the work or other gainful activity in the scope referred to above result in a threat to the life, health or physical and mental development of the child or may interfere with the child's satisfying its school obligation, the competent inspector refuses to issue such a permit.

445. PIP systematically controls the employment of juvenile persons. Results of the control indicate sporadic cases of employing juveniles who have not graduated from junior secondary schools and have reached the age of 16, and employing juveniles who have not reached the age of 16 and have graduated from junior secondary schools. In 2002 irregularities in this respect were found in 1.5 per cent of the inspected enterprises.

446. Legal measures used pursuant to the inspections of the juvenile work conditions are orders, subject to immediate enforceability, to send to other works the juveniles performing work prohibited to them, orders to remedy the infringements of the occupational health and safety regulations by the set date and motions regarding the remedies.

#### **(d) Other activities**

447. After school activities are organized by schools (financed and co-financed by bodies managing the schools) and institutions of care and education. Training courses for teachers, school pedagogy specialists and psychologists and staff of psychological and pedagogical advice centres are organized at the central and local level.

448. Didactic and compensatory classes are organized for pupils and students with considerable educational retardation. Correcting and compensatory classes are organized for pupils and students who have been diagnosed as persons with developmental dyslexia. Specialist speech-therapy classes are organized for students with speech disorders. In primary and junior secondary schools therapeutic and compensatory classes are organized for pupils/students who require long-term specialist assistance of intense educational and pedagogical help.

449. The following legal acts have been issued:

(a) Regulation of the Minister of National Education and Sport of 26 February 2002 on Curriculum Basis for Nursery Education and General Education in Various Types of Schools;

(b) Regulation of the Minister of National Education and Sport of 31 January 2002 Amending the Regulation on the Framework Statutes of Public Kindergartens and Public Schools.

450. They provide for the education contents in order to prevent risk-involving behaviours of students, the tasks of class teachers and cooperation with the school pedagogy specialists with regard to: creating conditions fostering the development of students, maintaining contacts with parents, recognizing individual needs of students and analyzing reasons for school failures, defining the forms and manners of providing psychological and pedagogical assistance, undertaking preventive and care actions following from the education programme of the school and prevention programme.

451. Activities of compensatory character regarding education, after class and after school activities are undertaken:

(a) Revalidation classes (didactic and compensatory, speech therapy, space orientation and mobility, alternative communication methods, physiotherapy, re-education classes);

(b) Music, sports, recreation, tourism and arts classes.

452. The activity of the non-school education centres (arts classes, science classes, IT, technology and sport) helps limit social marginalization of children and young people and protect them against physical and moral threats. Since 2000 all school and non-school activities run (subsidized) by territorial self-government (apart from the generally accessible kindergartens, reception classes and transportation of students to schools are subsidized from the State budget by the uniform system of the education part of the general subvention.

453. The major educational programmes implemented by the Methodological Centre of Psychological and Pedagogical Assistance:

(a) "Hold out your Hand";

(b) "Programme of Professional Activation of Class Teachers";

(c) "Modern Addiction Prevention";

(d) "Preparation for Prevention at Home" - universal prevention programme for parents;

(e) "School for parents and teachers".

454. The Strategy for Young People (its strategic goal “Counteracting Marginalization of the Young Generation”) provides for:

(a) Preparation of an offer regarding free time in the context of population decline and the consequent human resources and school resources;

(b) Amending and implementing the new principles of the Inter-departmental Programme of Cultural Education (implemented in 2005);

(c) Starting the programme “Artistic patronage”, supporting cultural education of young people in schools, educational establishments and culture institutions.

455. The process of removing architectural barriers in objects of culture such as concert halls, museums, libraries, and adapting art schools to the needs of disabled children and young people is currently underway. The Warsaw Philharmonic and other philharmonics in Poland have undertaken actions consisting of inviting disabled young people to concerts. The Warsaw Philharmonic offers a system of reduced price books of tickets for Thursday and Sunday concerts for children and young persons. Museums implement special education programmes adapted to the needs of persons with disabilities.

456. The Ministry of Health subsidizes the actions of NGOs addressed to disabled children and young persons. One example is the instruction programme for parents of children with psychomotor developmental disorders, with mental disabilities and combined disabilities aged from 0 to seven years of age, consisting of training courses, workshops and model situations, implemented by the Polish Association for Persons with Mental Handicap. Actions within health policy programmes are also financed, particularly those aimed at preventing disabilities or reducing their degree and the consequent support for social inclusion. An example of such an action is the screening tests programme for newborns aimed at detection of phenylketonuria or the national programme of treatment of children with growth hormone deficiency. The treatment programme for children with growth hormone deficiency has been completed, whereas the newborn screening for hypothyreosis and phenylketonuria continues.

457. In the process of upbringing children at risk of social exclusion due to lack of parental care, special attention is paid to preparing them for independent life. According to Article 88 of the Act on Social Assistance, a person who has come of age in a foster family and a person of full age leaving an institution of care and education of a family and socialising type, a social assistance house for mentally disabled children and the young, a house for mothers with children under age and pregnant women, a shelter for minors, a house of correction, a special school and educational centre or an educational centre for the young, is be covered with assistance aimed at the self-dependence in life of that person and integration with the environment by way of social work, and also with the following types of assistance:

(a) In cash to reach self-dependence;

(b) In cash to continue education;

- (c) In obtaining proper housing conditions, including in a sheltered apartment;
- (d) In gaining employment;
- (e) To start up one's own household - in kind.

458. A child's reaching independence is a process based on an individual plan developed not less than one month before the child's coming of age. The preparation of the plan involves the participation of the child, staff of the district centre of family support, pedagogy specialists or the foster family and other persons interested in the further fate of the child (parents, grandparents, legal guardians). The plan should indicate forms of assistance and an action plan. The scale of the assistance depends on the situation of the child and consists of ensuring appropriate lodgings, helping him/her continue education and find employment and assistance in solving living problems.

459. Cash assistance for continuing education is due to persons raised by foster families and institutions of care and education if they continue education in junior secondary schools, post-primary schools, post-junior secondary schools or schools of higher education and their income does not exceed 200 per cent of the income criterion specified in the Act on Social Assistance. If a person raised in a foster family or institutions of care and education lives with a family, the family's income per person may not exceed 200 per cent of the amount of the criterion of income per person in the family.

460. The cash assistance for reaching self-dependence may be granted to satisfy a vital need, including in particular:

- (a) Improving the housing conditions;
- (b) Creating conditions for gainful activity, including improvement of professional qualifications;
- (c) Covering the expenses connected with the education of the person reaching self-dependence.

461. For persons of age raised in foster families, persons leaving an educational centre for the young, a house of correction, a shelter for minors, a special institution of care and education, the assistance for reaching self-dependence amounts to:

- 300 per cent of the base (children staying in those institutions for three years or more)
- 200 per cent of the base (children staying in those institutions for the period of two to three years)
- 100 per cent of the base (children staying in those institutions for the period of one to two years)

462. For persons of age leaving institutions of care and education of a family and socializing type, social assistance houses for intellectually disabled children and the young, houses for mothers with children under age and pregnant women, the assistance for reaching self-dependence amounts to:

- 400 per cent of the base set out in article 18, paragraph 2 of the Act on Social Assistance (children staying in those institutions for three years or more)
- 200 per cent of the base (children staying in those institutions for the period of two to three years)
- 100 per cent of the base (children staying in those institutions for the period of one to two years)

463. Assistance in kind for reaching self-dependence is granted to finance the purchase of:

- Materials necessary to renovate and equip a flat
- The necessary household equipment
- Educational aids
- Rehabilitation equipment
- Equipment that may be used to undertake employment

464. Other forms of assistance granted to persons of age leaving foster families and institutions of care and education include:

- (a) Assistance in obtaining the education compliant with the capabilities and aspirations of the person reaching self-dependence;
- (b) Assistance in obtaining the appropriate professional qualifications;
- (c) Covering expenses connected with renting a room, in whole or in part;
- (d) Help in obtaining a social flat from the municipality resources;
- (e) Providing accommodation in a boarding house or a dormitory and covering the related costs;
- (f) Assistance in undertaking employment.

465. For assistance aimed at helping achieve self-dependence and integration with the environment- (volume of spending), see annex I, item 56.

466. According to article 72, item 1 of the Constitution, protection of children against violence, cruelty, and moral corruption is a constitutional value and everyone may demand that bodies of public authority provide such protection. Article 95 of the Code of Family Law provides that parental authority should be used according to the welfare of a child and social interest. What constitutes an abuse of parental authority is decided upon by a court on an individual basis, and should the court decide that the welfare of a child is violated, it acts *ex officio*.

467. In particular, a guardianship court may:

(a) Oblige the parents and the minor to undertake specific conduct and indicate the manners of control regarding the performance of the orders issued;

(b) Specify the actions which the parents may not undertake without the consent of the court or impose other limitations on the parents, applying to guardians;

(c) Impose a permanent supervision of a court probation officer on the parents' performance of the parental authority;

(d) Refer a minor to an organization or an institution appointed to offer vocational preparation or another institution exercising partial care for children;

(e) Adjudicate that a minor be placed in a foster family and an institution of care and education.

468. A court may instigate proceedings regarding restricting or deprivation of parental authority towards one or both parents *ex officio*, it may also notify the competent prosecutor's office.

469. Other provisions of the Penal Code are also aimed at protecting children against mistreatment: Article 200 - with regard to sexual abuse of a minor, article 201 with regard to incest.

470. On 19 July 2001, the provisions of the Code of Civil Proceedings applying in family issues were amended:

(a) The procedure of enforcing the court orders regarding taking away a child, and the relevant competences were vested in court probation officers (until that date the orders were enforced by bailiffs under enforcement proceedings);

(b) Solutions were introduced aimed at accelerating the proceedings under the Convention on the Civil Aspects of International Child Abduction and ensuring full compliance of the Polish law with the provisions of the Convention.

471. A child may, on his own, if he/she has reached the age of 13, or through a prosecutor, an organization for children's rights or a family member - request that the court restrict the parental authority of the parents if they believe that a child is harmed by his/her parents' methods of upbringing. This almost never happens in practice. Courts consider cases of drastic abuse of parental authority: beating, starving or sexual abuse.

472. On 13 January 2004, the Council of Ministers adopted the National Programme for Prevention of Social Maladjustment and Juvenile Crime. This is a document with a ten-year time-span. Its implementation is coordinated by the Ministry of Interior and Administration. The most important goal of the programme is reducing the dynamics of the growth in social maladjustment and crime among children and young people, as well as eliminating and moderating the drastic symptoms of social maladjustment, particularly those threatening the life and health of the young generation and having permanent effects, unfavourable for their future.

473. The Programme places special emphasis on undertaking actions aimed at:

(a) Creating the possibilities of proper use of free time by children and young people and including children from risk groups in social activities;

(b) Offering assistance in the development of important psychological and social skills, including in particular: the skill of initiating contacts with people, stress management, conflict-solving, resisting the pressure of the environment;

(c) Mitigating the effects of incidental behaviours not compliant with the standard and behaviour disorders, providing support for persons having difficulty maintaining satisfactory interpersonal contacts;

(d) Creating organizational and personnel-related conditions of rehabilitation of socially maladjusted children and young people in open environment conditions and limiting and stopping the effects of the maladjustment of the individual and its environment.

474. Moreover, the Programme encourages the implementation of tested and effective prevention programmes, such as the “Stop Violence” programme of the Karan Foundation and the “Courtyard Educator and Street Teacher” of the National Committee for Education and Resocialization.

475. Three modules are an integral part of the Programme:

(a) Procedures of teachers’ conduct and methods of cooperation between schools and police in situations of children and young people being threatened with crime and moral corruption, including in particular drug addictions, alcoholism and prostitution;

(b) Project of methodological assistance for persons working with young people at risk of social maladjustment, moral corruption and crime, including crisis intervention within families;

(c) Probation alternative to young people’s staying in rehabilitation centres and correction institutions.

476. The programme implementation is evaluated on a systematic basis. Thanks to this procedure, it can be further improved and corrections can consequently be introduced resulting from the dynamics of the changing social conditions and experiences of the entities implementing the Programme.



477. Major findings of the report on the Programme implementation in 2005 are listed below:

(a) The number of the entities involved in the implementation of the Programme increased as compared with 2004. For the first time science and research institutions participated in the implementation. The participation of church institutions (Christian parishes) was also of considerable importance, along with the involvement of business entities (including insurance companies) and certain media, particularly at the regional level;

(b) Entities implementing the Programme increasingly often diagnosed the existing situation within their competences;

(c) In most voivodships family, legal and psychiatric counselling was offered, along with psychological and pedagogical assistance, and information actions provided data on institutions and organizations helping children and families;

(d) Training, seminars and conferences on social maladjustment and crime among children and young people (addressed to the police, teachers, court probation officers and parents) were organized throughout Poland. Instruction and information materials were disseminated;

(e) Activities were undertaken aimed at increasing the availability of psychological and pedagogical counselling, information points, helplines, detoxication, psychiatric, mediation and crisis assistance counselling. Particular attention was paid to the implementation of prevention programmes;

(f) Information on preventive functions of jurisdiction and social order services was disseminated. Control of the education obligation was increased and activities aimed at streamlining information flow regarding truant students were undertaken;

(g) The police got involved in the implementation of the programme, and undertook interesting and important initiatives at various levels;

(h) The cooperation between the police and education establishments developed. Thanks to the cooperation, the police were regularly informed on events with attributes of offences posing a threat to the lives and health of students/pupils and symptoms of moral corruption among children and young people. The police provided assistance in solving difficult problems with possible criminal background occurring in schools or educational establishments. The cooperation was highly appreciated by schools, which often requested that it be intensified;

(i) The implementing entities also undertook international initiatives, i.e. - most often - joint programmes and conferences;

(j) National prevention programmes were implemented, adapted to specific needs of the given region. Lists of recommended preventive programmes were prepared;

(k) In all voivodships the guide “Procedures of teacher conduct and methods of cooperation between schools and police in situations of children and young people being threatened with crime and moral corruption, including in particular: drug addiction, alcoholism and prostitution” was distributed. A most important role was played by school superintendents’ offices and the police;

(l) The programme “Probation alternative to young people’s staying in rehabilitation centres and correction institutions” was actively implemented;

(m) The entities implementing the Programme tried to immediately respond to particularly worrying problems (including in particular aggression and violence in school). Following the initiative of the Ministry of National Education, a methodology guide entitled “Agresja i przemoc w szkolnych działaniach profilaktycznych” [Aggression and violence in school prevention programmes] was developed and distributed in schools with the help of superintendents’ offices.

478. The implementation of the National Programme for Prevention of Social Maladjustment and Juvenile Crime in 2005 indicated that immediate actions must be taken to increase the support, both in terms of substance and financial resources, to children from rural areas, as the scale of the social maladjustment of children and young people from rural areas is not decreasing, on the contrary, the phenomenon seems to intensify. Moreover, the necessity of increasing the assistance for self-government units for the creation and maintenance of the local systems of support for children and young people and their families.

479. Limiting crime and violence in schools is a priority task of the police forces dealing with juveniles. These actions primarily consist of:

(a) Initiating direct contacts with heads of schools, school pedagogy specialists and teachers;

(b) Analyzing the threat of violence in schools;

(c) Cooperating with parents of the children attending schools;

(d) Participation in meetings with school students, aimed at fostering attitudes of disapproval for unlawful behaviours and legal and victimological awareness;

(e) Responding to every signal regarding the occurrence of violence in schools;

(f) Including probation officers in the activities in schools;

(g) Using simple forms of operation work to reveal occurrences of violence in schools, helplines and anonymous surveys conducted among students.

480. The Government Programme of limiting crime and asocial behaviour “We are Safer Together” (for 2007-2015) combines the work of the police, government and self-government administration and social partners interested in increasing safety and public order. One of the assumptions of the programme is convincing citizens to establish partnership relations with the police and other institutions protecting public safety and order. At the voivodship level the tasks of the programme are coordinated by voivods, assisted by teams consisting of representatives of self-government administration, police, State Fire Brigades and Border Guard. The teams will initiate and coordinate actions of the programme in their areas, collect information on its implementation and submit reports and conclusions to the Ministry of Interior and Administration. Districts and municipalities should involve in the programme on a voluntary basis.

481. The Programme objectives include:

- (a) Growth of safety in Poland;
- (b) Growing sense of security among the residents of Poland;
- (c) Prevention of crime and asocial behaviours by activating and greater dynamic of actions of government administration and its cooperation with self-government administration, NGOs and social communities;
- (d) Improving the image of the police and growing trust on the part of the society to the police and other services acting for the improved social security and order.

482. The priority issues include family violence. In this area the following actions are planned:

- (a) Education of family violence victims with regard to the available legal procedures;
- (b) Increasing the efficiency of the “Blue Cards” procedure and closer cooperation between institutions and social organizations offering legal, psychological and social assistance to persons affected by family violence;
- (c) Organization of thematic training for persons working to limit family violence;
- (d) Establishing a coherent system of information exchange procedures among all entities dealing with family violence;
- (e) Entrusting NGOs with tasks concerning training, counselling and assistance provided to victims of family violence;
- (f) In the longer perspective - amending the Act on Counteracting Family Violence in order to increase the number of cases in which the family violence perpetrator is isolated from the victims.

483. In order to ensure more effective protection of children and young people, the programme “We are Safer Together” includes safety in school, safety on the way to and from school and safety in public places and the place of residence to the group of the most important areas regarding the security and crime among juveniles. The tasks performed in this area will include:

- (a) Analysis of threats to security and needs of local communities with regard to security, including safety at school not only on the general level, but also in individual education establishments and their vicinities;
- (b) Initiating and conducting works regarding repairs of the vandalized objects, emphasizing responsibility for maintaining order;
- (c) Education for safety;
- (d) Supporting and promoting actions strengthening social ties (in cooperation with churches and social organizations);
- (e) Preparing and promoting solutions improving the safety in public places and decreasing anonymity, such as: promotion of the so-called safe architecture, lighting, informative marking;
- (f) Undertaking systematic control of eating-out places and points where alcohol is sold with regard to their holding licences for the sales of alcohol and selling alcohols to underage persons;
- (g) Promotion and effective use of the appropriate technical equipment, including vision monitoring of public places, correlated with the appropriate organization of the police and municipality (city) services;
- (h) Limiting the occurrence of offences and misdemeanours in schools and in the direct vicinity of schools;
- (i) Developing effective and verifiable mechanisms of cooperation between heads of schools (and teachers), parents, students and police as well as municipality (city) services with regard to safety in schools;
- (j) Increasing the effectiveness of schools’ security - school patrols, police stations in the regions and areas of greatest risk;
- (k) Combining the responsibility of police and city guards for individual schools areas;
- (l) Propagating vision monitoring of entrances to public and non-public schools and educational establishments for children and young people;
- (m) Responding to pathologies in a consistent manner - raising the awareness that they would not be tolerated;

- (n) Limiting access to alcohol and drugs in the school environment;
- (o) Systematic safety controls of schools and their vicinities, particularly roads to and from school;
- (p) Education for safety, including medical education focusing on first aid;
- (q) Propagation of prevention programmes focusing on eliminating aggression among young people and their using psychoactive substances (alcohol, drugs) in schools;
- (r) Increasing the effectiveness of the legal system, creating legal guarantees for safety of children and young people;
- (s) Using mass media to promote pro-social behaviour models;
- (t) Education fostering conscious and cultural use of roads and participation in traffic, respect for the law and rights of other persons participating in traffic.

484. Ensuring the presence of the legal guardians (parents, teachers) or school psychologists, i.e. persons who may support a child (minor) go through this stage of penal proceedings is a standard police procedure. In certain cases (regarding drastic criminal offences) the presence and support of the parent may not be sufficient. If there are grounds to believe that the parent is the party guilty of abusing the child, his/her presence during the investigatory activities is inadmissible. The purpose of this procedure is ensuring mental comfort to the child (minor).

485. The police try to ensure to the victims of criminal offences, particularly with sexual background, friendly conditions in the place where the relevant on-duty acts are performed. The rooms, called the Blue Rooms, are appropriately equipped to resemble a natural child's environment. Over 200 Blue Rooms are used by the police, prosecutors and judges. Thanks to them, victims of criminal offences may be heard in a friendly atmosphere. The primary objective of establishing such rooms is limiting the number of hearings of children (use of video records by courts) so that they do not have to re-live the traumatic experience again.

486. The problem of helping crime victims occurs in training programmes at all levels and all types (basic, specialist, managerial and higher vocational) and professional development (within the courses and apart from them). These issues are included in training curricula of police schools and in training schemes of police units.

487. In order to limit the number of criminal offences against sexual freedom and morals of minors, policemen undertake preliminary investigation, criminal investigation and preventive actions and cooperate with institutions and organizations working with children and family in order to exchange information on the injured parties on a current basis and agree upon assistance strategies.

488. The police undertake activities aimed at limiting the phenomenon of paedophilia, also as preventive, educational, informative and assistance undertakings. Prevention involves the police participation in transferring information on the dangers and consequences of sexual abuse and manners of responding. Policemen are initiators or leaders of groups acting to establish consultation points, assistance establishments, therapeutic clubs or helplines.

489. In 2003, under the National Programme for Helping Rape Victims, a cycle of training courses for police officers was organized. The cycle was organized by the Family Planning Association, Women's Rights Centre, the Office of the Prevention Service of the National Police Headquarters and the Office of the Criminal Service of the National Police Headquarters. The conducted training was aimed at developing the skills of helping rape victims (also minor) by indicating what should not be said or done by the policemen on duty or where the victims should be sent to obtain further medical and psychological assistance. The police also distributed 15 thousand leaflets and 600 posters containing information of importance for rape victims, and placed them in police units to make them available to victims of sexual violence.

490. In 2004 the Concept of Police Actions Aimed at Combating Violence against Sexual Freedom and Morality of Minors was developed. The document contains a catalogue of tasks to be performed by the Chief Police Headquarters, and proposed actions for voivodship, district and regional police stations. The activities concern prevention, education, information and assistance, and are aimed at increasing the effectiveness of revealing and persecuting the crimes. The partners of the police include institutions of care and education and specialized NGOs.

491. The National Police Headquarters has prepared:

(a) A methodology guide for policemen (community policemen, specialists for minors and pathologies, criminal prevention specialists, crime department officers) which contains a compendium of information on the issue of sexual abuse of minors, preventive, operational and investigation measures;

(b) Methodology synopses for community policemen, specialists for minors and pathologies, criminal prevention specialists regarding methods of conducting - in cooperation with other entities - prevention-oriented meetings focusing on sexual violence against children;

(c) Information brochures on threats involved in sexual abuse of minors.

492. Field police units obtained the information guide containing the list of relevant institutions and organizations, prepared in cooperation with the Commissioner for Citizens' Rights.

493. Programmes and actions regarding education, prevention and prosecution of crimes against sexual freedom and morality, previously undertaken by the field police units, were reviewed. Those particularly recommendable were recorded in the Good Practice Bank, e.g. the programme "Safe Kindergarten Pupil" developed by the Voivodship Headquarters in Białystok, aimed at

limiting the occurrence of dangerous events involving children. The programme is implemented by: the School Superintendent's Office in Białystok, the University of Białystok and the Voivodship Traffic Centre in Białystok. The programme involves training classes entitled "Bad Touch", focusing on the prevention of sexual abuse of minors. The programme is addressed to children aged four to six - 6 parents and guardians, and the teaching staff of kindergartens.

494. Voivodship Police Headquarters in Radom developed a programme entitled "Save Childhood", whose aim is to protect children and young people against sexual harassment and minimize the phenomenon of pedophilia in the Mazowieckie voivodship through prevention, effective prosecution of paedophiles and smooth exchange of information between schools and the police. The aim of the programme is activating the local communities; raise their awareness on the scale of the phenomenon and the involved risks, and to develop principles of cooperation between the police, self-governments, offices, social institutions and organizations. Actions under the programme focused primarily on prevention and education. The organizers trained as many as 500 teachers and pedagogy specialists and 100 social workers in Radom alone. Policemen and prosecutors also participated in the trainings. The programme helped overcome the conspiracy of silence regarding sexual crime.

495. Similar programmes are implemented by other voivodship headquarters.

496. An important change in the proceedings regarding sexual offences involving minors was introduced by the amendment of the Code of Criminal Proceedings of 2003. The possibility of hearing a child several times was excluded in order to eliminate secondary victimization. Only on an exception basis may a child be heard more than once - if circumstances are disclosed the explanation of which requires hearing the child once again or if the accused who did not have a defence counsel during the first hearing of the injured party demands so. Children are heard in the presence of an expert psychologist.

497. Apart from the public sector, actions for the benefit of children and young people are conducted by NGOs. According to the KLON/JAWOR database on NGOs, 48 per cent of the organizations registered in the database indicate that their area of activity includes education and upbringing. The activities of the sector include:

(a) Running institutions of care and education: Society of the Friends of Children, the "Our Home" Society, Society for Social Intervention in Nysa;

(b) Counselling of children, young people and their families, running institutions of adoption and care - the organizations listed above;

(c) Protection of children's rights, representing the interest of children, the "Nobody's Children" foundation, the Committee for the Protection of Children's Rights;

(d) Propagating knowledge of problems of children and young people and training teachers and parents, the KARAN Society, National Committee for Education and Resocialization and the Powiśle Community Foundation.

498. The Foundation “Nobody’s Children” acts for the benefit of children mistreated physically and mentally, sexually abused and neglected, for the benefit of their parents and guardians, as well as persons encountering cases of children being abused at work. The Foundation implements programmes involving:

- (a) Psychological assistance, consultations, individual and group therapy for abused children;
- (b) Individual therapy for parents and guardians, support group for mothers;
- (c) Interventions at the requests of parents, guardians, specialists or children;
- (d) Medical assistance in the form of diagnosis and gynaecological and psychiatric consultations;
- (e) Information on the problem of abuse and assistance with regard to families with violence-related problems;
- (f) Education - specialist training courses for professionals, activities regarding various areas of child abuse.

499. Legal assistance is also provided, and a helpline for children and young people is offered. Initiatives undertaken by the Foundation:

- (a) Programme “Child under the Umbrella of Law” - aimed at limiting the dysfunctions of legal procedures of assistance to children - crime victims by propagating novel methods of working with abused children among jurisdiction and law enforcement staff;
- (b) “Child Advocacy Centre Mazowiecka” in Warsaw - the project of the Foundation is to help limit dysfunctions of legal procedures of assistance to child victims of crime by organizing a specialist centre using and propagating innovative (in Poland) methods of dealing with crime against children;
- (c) The social campaign “Child in the Web” is to make the society, particularly parents, more sensitive to the threats encountered by children on the Internet, shows the dangers and methods of avoiding them to children along with ways of responding when they do encounter the dangers. The purpose of the campaign is raising the awareness of specialists with regard to safety in the Web, propagation of safe behaviours on the Internet;
- (d) Training programmes - the Foundation organizes training courses on child abuse for: school and kindergarten pedagogy specialists, medical personnel, jurisdiction personnel, policemen and social workers.

500. The Kidprotect Foundation support the media development in Poland and their use in legal manners which do not harm minors, prevention of media use for purposes relating to child pornography and paedophile practices, protection of children against sexual harassment, violence



and other actions harmful to them, undertaking all actions for the benefit of children, particularly suffering from diseases and social pathologies. The Foundation organized a social campaign “STOP PAEDOPHILES”, promoting the awareness that paedophilia is a phenomenon occurring near to each of us and we must not remain indifferent to it, or other pathologies.

**(e) Information on the rights guaranteed**

501. During court proceedings, both sides are informed by the persons conducting the proceedings about their rights.

502. Human right issues are included in the curriculum base of general education in various types of schools.

503. Activities undertaken by the Ministry of Labour and Social Policy include:

(a) Publication of explanations regarding the implementation of regulations concerning employment of minors in periodicals dealing with labour law, including occupational safety and health;

(b) Providing advice and explanations, on the telephone and in writing, with regard to queries from employers.

504. PIP undertakes actions for promoting the knowledge on protection of juvenile labour. The information is disseminated during meetings organized by labour inspectors throughout Poland in schools, children’s homes and enterprises employing juveniles. Specialist publications issued by PIP are also distributed among the meeting participants. A national contest on occupational safety and health is also organized for students from craft workshops. Its objective is to propagate the knowledge in legal protection and technical safety of labour.

**Article 11**

**Right to an adequate standard of living**

**Question 1**

**(a), (b), and (c). Standard of living. The GDP per capita for the group of the 40 per cent of the poorest inhabitants of the country. “Poverty level”, methodology of determination**

505. On the basis of the criteria adopted for the calculation of the Laeken criteria, estimations indicate that in 2001, 20 per cent of persons with the highest income levels had 4.5 times higher income than the 20 per cent of persons with the lowest income. The income quintile share ratio was similar to the ratio in the 15 countries of the EU (4.4). The Gini coefficient, amounting to 0.30, was also similar to the EU average (0.29 for the 15 EU states in 2000).

506. For statistical data, see annex I, items 59-62.

507. The goals of the social inclusion policy in Poland result from the priorities defined in the National Social Inclusion Strategy (NSIS) adopted in 2004, as well as the objectives relating to combating poverty and social exclusion, adopted in 2000 by the European Council in Nice.

508. The priorities of the NSIS will be implemented until 2010. These include:

- (a) In education:
  - (i) Increasing children's participation in preschool education;
  - (ii) Improving the quality of education at junior and upper secondary level;
  - (iii) Propagation of university education and its better adaptation to the needs of the labour market;
  - (iv) Compensating intellectual and abilities-related development deficits of children;
- (b) With regard to the development of social security network:
  - (i) Radical limiting of extreme poverty;
  - (ii) Limiting the growth of income stratification;
- (c) With regard to the labour market:
  - (i) Limiting long-term unemployment;
  - (ii) Decreasing unemployment among young people;
  - (iii) Increasing the employment of the disabled;
  - (iv) Increasing the number of persons participating in the Active Labour Market Policy (ALMP);
  - (v) Propagation of continuous education;
- (d) With regard to health protection:
  - (i) Increase in the average healthy life expectancy;
  - (ii) Propagation of health insurance;
  - (iii) Increasing the scope in which women and children are included in public health programmes;

- (e) With regard to access to rights, goods and services:
  - (i) Increased access to housing (flats) for groups most threatened with homelessness;
  - (ii) Ensuring better access to social workers;
  - (iii) Developing environmental assistance and increasing the group of people receiving the services;
  - (iv) Increasing participation of citizens in social activities;
  - (v) Realization of the NSIS by territorial self-governments;
  - (vi) Increased access to civil information and counselling.

509. The National Action Plan for Social Inclusion for the years 2004-2006, adopted by the Council of Ministers on 21 September 2004, includes actions for combating poverty and social exclusion. They are taken in cooperation with social partners, particularly trade unions and employers' associations, NGOs, local self-governments and charities belonging to churches and denominational associations.

510. The policy of social inclusion is based on four types of activities (priorities).

511. Priority 1 - Educational, social and health actions preventing exclusion as well as supporting equal chances for children and the youth:

- (a) Action 1.1 Increasing the participation of children in education and equalizing educational opportunities.

512. The actions currently taken focus on increasing the access to education for the following groups, presently disfavoured for various reasons: persons with disabilities, young people from families encountering problems with fulfilling their child-raising roles, poor persons, inhabitants of rural areas and small towns as well as national and ethnic minorities:

- (i) Increasing the participation of children and young people in education;
- (ii) Improving the quality of education;
- (iii) Development of the scholarship system;
- (iv) Support for the poorest families with regard to children's access to education;
- (v) Education of children and young people with disabilities;
- (vi) Gender equality in education;

- (b) Action 1.2 Support to families with children and prevention of family pathology: assistance for parents in fulfilling their care and child-raising functions:
  - (i) Support for the child-raising functions through a system of family benefits;
  - (ii) Development of prevention in families threatened with pathology;
  - (iii) Development of new forms of foster family care;
  - (iv) Counteracting social maladaptation, crime and addictions among young people;
- (c) Action 1.3 Improving access to health-care: implementation of the National Health Programme. Self-governments have been obliged to prepare municipal, district and voivodship health programmes, which are the basis for preparing the health programmes of voivodships:
  - (i) General access to health-care services;
  - (ii) Improving the quality of health-care services;
  - (iii) Health promotion;
- (d) Action 1.4 Preparation of the youth to enter the labour market:
  - (i) Better preparation of school leavers to participate in labour market;
  - (ii) Creating equal access to information and vocational counselling for the youth.

513. Priority 2. Establishing the network of safety security and counteracting poverty and social exclusion: the most important task is to improve the citizens' social safety net and to counteract social exclusion by guaranteeing stable foundations of the system of social security, including adequate social security benefits in the future.

- (a) Action 2.1 Determining the realistic and socially accepted level of state income support;
- (b) Action 2.2 Ensuring the minimum guaranteed income;
- (c) Action 2.3 Ensuring income from work;
- (d) Action 2.4 Ensuring adequate income in the old age;
- (e) Action 2.5 Family benefits supporting incomes of families;

- (f) Action 2.6 Income support for farmers;
- (g) Action 2.7 Counteracting the feminization of poverty.

514. Priority 3. Activation and inclusion of groups threatened with social exclusion: reform of the labour market and social assistance - introducing instruments helping people from risk groups overcome their difficult situation in life and regain social and vocational activity:

- (a) Action 3.1 Supporting employment opportunities:
  - (i) Pro-employment actions;
  - (ii) Supporting the employment of the disabled;
  - (iii) Access to continuous education;
  - (iv) Women's economic activity;
- (b) Action 3.2 Social economy: activities focusing on greater social cohesion and solidarity. In the case of social economy the profit criterion plays a less important role, giving way to actions for social and occupational re-inclusion of the vulnerable groups:
  - (i) Social employment;
  - (ii) Social co-operatives;
- (c) Action 3.3 Access to social housing:
  - (i) Programme for moving out of homelessness;
  - (ii) Programme of building flats for people requiring social aid;
- (d) Action 3.4 Support for the elderly:
  - (i) Development of community support;
  - (ii) Care insurance;
- (e) Action 3.5 Legal protection of discriminated persons;
- (f) Action 3.6 Inclusion of refugees;
- (g) Action 3.7 Inclusion of national minorities;
- (h) Action 3.8 Inclusion of former prisoners.

515. Priority 4. Development of social services and institutional development of social services and their coordination:

- (a) Action 4.1 Development and reform of social services:
  - (i) Development and inclusion of social services;
  - (ii) Development of social assistance services;
  - (iii) Improvement of accessibility and quality of social work;
- (b) Action 4.2 Development of social services enabling social inclusion:
  - (i) Civil information;
  - (ii) Access to law;
  - (iii) Creating the information society;
  - (iv) Access to culture;
  - (v) Revitalisation of urban areas;
  - (vi) Access to transport;
- (c) Action 4.3 Coordination and evaluation of actions in the sphere of social inclusion:
  - (i) Creating a system of programming and evaluation of the national policy on social inclusion;
  - (ii) Programming the local social policy.

516. The National Social Security and Social Inclusion Programme for the years 2006-2008, including: The National Action Plan for Social Inclusion, the National Pension Strategy and the National Plan on Health Care and Long-term Care were adopted by the Council of Ministers in October 2006.

517. Since according to the diagnosis of the social situation, the risk of exclusion and the problem of poverty concern primarily families with many children and families with unemployed persons, supporting children with families will be one of the priorities. Actions aimed at extending support to families and children will mostly lead to equalising opportunities for children and families, eliminating education deficits as well as improving the access to services enabling parents to combine professional career and childcare. An integrated system of assisting families, including projects supporting social housing and civil and family counselling will be developed to achieve this objective. Improving the system of income support for families with children is planned, including a system of family benefits, scholarship system and system of supplementary housing benefits. The programme of food support and ensuring meals to persons in need will be continued, and special attention will be paid to persons from the regions of high unemployment and rural areas. Helping employees combine work with parental duties, which

will help them take decisions regarding having children, will be an important action. Actions are also planned aimed at improving the social security of employees after childbirth. Possibilities of flexible use of the maternity and childcare leaves are being considered, support will also be granted to legal and financial solutions for institutional and informal forms of childcare and other dependants.

518. Another priority of the Action Plan will be social inclusion through professional activation. The development of social economy will be supported, particularly the development of social employment. These actions will be supported within the public-social partnership.

519. The new policy of social inclusion will be shaped with the intention of reforming the tools and instruments of professional and social activation, thanks to which the activities of territorial self-government units will be more effective. They will also contribute to the growth of the social services sector based on social economy entities. One of the elements of the reform will be the activation-based formula of social assistance benefits, which should provide an incentive to take up employment. Access to career counselling will be extended in order to improve the vocational preparation and employability of persons with significant or moderate degree of disability. Training courses for persons cooperating with the disabled will be carried out, and advisory services for NGOs and other entities service providing services aimed at the inclusion of the disabled in the open labour market and other services increasing the professional activity of these persons will be developed. Development of public-social partnership will be supported in order to facilitate the cooperation of public entities with NGOs, and the procedure of contracting public tasks will be simplified within this framework.

520. In 2007 the regulations on social assistance will be extended to include a new definition of active inclusion: a group of comprehensive activities of employment, education, health and social character, aimed at restoring the employability of the beneficiaries or obtaining income support. The scope of active inclusion instruments will also be defined. Activisation support will be extended to all persons in difficult life situations.

521. Annex III - Priorities of the NSIS, including the ratios to be achieved by 2010.

522. Supporting the chances of persons threatened with social exclusion on the labour market is one of the main objectives of the National Strategy of Employment and Human Resources Development 2000 - 2006. The strategy is implemented within the SPO RZL.

523. The first priority of the SPO RZL - "Active labour market and vocational and social inclusion policy" includes actions aimed to support equality of chances, and most of all counteracting the phenomenon of social exclusion. Training courses improving the skills necessary to cope in difficult situations and increasing self-dependence, as well as subsidized employment of persons unemployed for over 24 months are solutions addressed to people particularly threatened with social exclusion (mainly persons using social assistance on a long-term basis). The development of Centres of Social Inclusion - meant for persons threatened with marginalisation and social exclusion (particularly in rural areas and in areas undergoing restructuring processes) is of priority importance. The Centres deal with such tasks as: improving skills necessary to perform social roles, acquiring professional skills and job-learning, retraining or improving professional qualifications. Developing solutions encouraging the local environments and employers to undertake joint actions to counteract marginalisation and its

effects are of special importance. Studies are conducted to verify the effectiveness of support extended to persons from special risk groups, including training staff of social assistance institutions working with such persons.

## **Question 2**

### **(a) and (d) Actions taken to ensure access to proper nutrition**

524. The situation concerning the occurrence of hunger has not changed as compared with the findings of the previous report.

525. In 2000, thanks to the financial assistance of FAO, the Household Food Consumption and Anthropometric Survey was conducted, and real consumption of food was studied for 4 300 persons (a representative sample of households). Anthropometric measurements were taken, including body heights and weights. The project results confirmed that the threat of malnutrition in Poland was negligible.

526. According to the FAO report entitled "Food Insecurity in the World 2003", the average daily dietary energy supply per person in Poland in 1999-2001 was 3 390 calories and considerably exceeded the average demand. The GUS studies indicate that in 2003 the average daily dietary energy supply among all households covered by the studies was slightly lower (by 4 per cent) than the figure of 1998. The number of undernourished persons in Poland in the period 1999-2001 totalled 0.3 million (0.8 per cent of the total population of Poland).

527. Providing assistance by ensuring a meal and food support for children in compliance with article 17, item 1, points 13 and 14 of the Act on Social Assistance is municipalities' own task, financed from their own funds.

528. The Government Programme for Assisting Municipalities in Providing Food Support for Students was adopted by the Council of Ministers on 28 December 2001. The amount of PLN 160 million was allocated to the programme from the State budget. Funds for food support also come from the budgets of the municipalities, the Agricultural Market Agency and other sources, e.g. NGOs and donations. The Programme also provides for the possibility of granting subsidies to municipalities for establishing new meal distribution centres in schools.

529. The funds of the State budget earmarked for provisions for the implementation of the programme in 2002-2003 amounted to PLN 160 million. In 2004 the amount was PLN 60 million. Assistance was granted to 947 821 pupils and students, including 579 387 pupils and students from rural areas (61 per cent of the beneficiaries). The amount of PLN 242 372 187 was spent, including PLN 11 814 822 in the rural areas (48 per cent of the funds spent).

530. The number of food distribution points operating under the programme is 16 403, including 10 430 canteens and 5 904 premises in which meals are prepared.



531. On 7 September 2004 the Council of Ministers established a Government programme “Meal for the Needy”, aimed at supporting the municipal self-governments in the performance of the tasks specified in the Act on Social Assistance. The addressees of the programme include:

- (a) Children and young people under school obligation;
- (b) Younger children from poor families;
- (c) Elderly, ill and disabled persons;
- (d) Adults from households with the lowest income and in a particularly difficult situation.

532. In 2005 the Programme was implemented in all voivodships and included two forms of support:

- (a) Assistance in the form of a meal, particularly a hot meal;
- (b) Earmarked benefit for the purchase of a meal or food, if granting assistance in the form of a meal would be unjustified due to the personal or family situation of the beneficiaries.

533. The cost of the Programme implementation amounted to PLN 504.3 million, including PLN 210.6 million spent in the rural areas. The municipalities’ own resources accounted for 48.9 per cent of the Programme costs, funds from the earmarked provision - for 49.6 per cent, and funds from sponsors - for 1.5 per cent. The number of the Programme beneficiaries totalled 1.9 million, including 963 thousand from rural areas. Among the beneficiaries, 56 per cent obtained assistance in the form of a meal, whereas 53 per cent were granted an earmarked benefit for the purchase of meals or food, and meals were transported to another 0.64 per cent.

534. On 29 December 2005 the Sejm adopted an Act Establishing a Perennial Programme “Assistance of the State in Food Support”. According to the report of the programme implementation for January-September 2006, the number of persons covered by the Programme was 1 972 627, including 959 269 in rural areas. Among the beneficiaries, 53 per cent were granted assistance in the form of a meal, 55 per cent obtained an earmarked benefit and 3 per cent a benefit in kind. The cost of the Programme implementation amounted to PLN 435.1 million, including 175 million spent in rural areas.

**(e) Food safety**

535. Various aspects of food safety were discussed in a comprehensive manner in the Food Safety Strategy adopted by the European Commission. In 2002 the Strategy Implementation Schedule was developed, including adaptation activities for all bodies of official food control, institutional actions and investment in the improvement of the national food safety system, as well as integration of the substance-related activities of the official food safety bodies.

536. The Polish law was harmonized with the Community law pursuant to:

- (a) The Act of 11 May 2001 on the Health Conditions of Food and Nutrition with 32 documents of subordinate legislation (on 28 October 2006 the Act ceased to be effective);
- (b) The Act of 6 September 2001 on Materials and Articles in Contact with Food (on 28 October 2006 the Act ceased to be effective);
- (c) The Act of 30 March 2001 on Cosmetics;
- (d) The Act of 25 August 2006 in Food and Nutrition Safety, aimed at legal and institutional harmonization of the tasks resulting from the application of the new Community regulations which came into force after 1 January 2006. The Act includes also issues concerning materials and articles in contact with food.

537. In July 2002, implementation of the principles of Rapid Alert System for Food and Feed (RASFF) began. The National Contact Point was established in the Chief Sanitary Inspectorate (GIS). The Point is notified on hazardous foods and feeds from the EU Member States. On 1 May 2004 the Polish RASFF network was officially included in the EU system.

538. Food testing laboratories of the State Sanitary Inspection (PIS) were restructured and equipped with additional facilities:

- (a) The process of laboratories accreditation was intensified - at present all the 66 laboratories of the PIS have been accredited;
- (b) Three laboratories of qualitative and quantitative analysis of GMO in foods were opened;
- (c) At present the PIS has the appropriate potential thanks to which food tests can be conducted in all directions and scopes.

539. An electronic database of entities operating in the food sector has been developed. The system is aimed at coordinating the electronic flow of documents and supporting the sanitary supervision management regarding the hygiene of food, nutrition and related-use articles, which is the competence of the PIS.

540. Food safety issues are coordinated by the Minister of Health. In 2002 the Food Safety Team was established. Its tasks include the development of the following:

- (a) Directions of the food safety policy;
- (b) The standpoint of the Polish Government on the drafts of the relevant EU legal acts;
- (c) Food safety documents resulting from Poland's membership in the EU; and

(d) Sets the directions of changes in the food law;

(e) Defines the directions regarding the competences and functioning of the official food control bodies.

541. From 2001 Poland's adaptation to the EU requirements was supported by the PHARE assistance projects of systemic character. Thanks to the projects the following were purchased: laboratory equipment for food testing for the GIS laboratories and reference laboratories - the National Institute of Hygiene and the Food and Nutrition Institute, computer equipment and software, and training for the PIS staff in food safety issues. Three projects were conducted:

(a) Phare 2001 "Food Safety System";

(b) Phare 2002 "Increasing the Effectiveness of the Official Food Inspection Bodies";

(c) Phare 2003 "Implementation of Food Safety Strategy".

542. Post-accession assistance includes further projects aimed at strengthening the inspection activities conducted by official food inspection bodies, including sampling procedures, strengthening the safety inspections regarding irradiated foods.

543. A pre-accession SAPARD programme has been implemented since the second half of 2002. Three groups of activities having impact on food safety have been implemented:

(a) Improvement of the processing and marketing of agricultural and fishing products (1342 agreements concluded amounting for 1663.6 mln PLN);

(b) Investments in farms (13742 agreements amounting for 636.5 mln PLN);

(c) Development and improvement of infrastructure in the rural areas (4493 agreements amounting for 2023.6 mln PLN).

544. The PIS data regarding food inspection indicate that the sanitary condition of food production plants and food trade as well as the health quality of Polish-produced foods have considerably improved. The percentage of plants in poor sanitary condition decreased from 17.7 per cent in 1999 to 10.2 per cent on 2003. In 2003 8.2 per cent of samples of domestic food products were questioned, whereas in 2002 the figure had stood at 12.4 per cent.

**(f) Dissemination of knowledge regarding nutrition principles**

545. The appropriate activities are included in the operational target No. 2 of the National Health Programme 1996-2005 - "Improvement of Dietary Behaviours of the Population and Health Quality of Food".

546. The knowledge on nutrition principles is propagated among the society in various manners and with the use of different methods. Cooperation with mass media is of great significance. In the years 1999-2005 representatives of the Food and Nutrition Institute took part in almost 1 100 TV and radio shows, and published over 700 articles of popular scientific character in numerous high circulation publications. Nutrition principles were also popularized with the use of

brochures, leaflets and posters, by the Internet portal of the Institute and the websites of other institutions. The Institute's Internet portal is served by the National Information Point "Food, Nutrition, Health". The Point provides free information on food, nutrition principles and influence of nutrition on our lives. Such information is available on the Internet portal, but also on the telephone and via mail. In 2005 the National Point received almost 600 electronic queries and over 1 000 queries on the telephone.

547. The Institute attaches great importance to food education of vocational groups, including primarily health-care staff, and organizes training courses for doctors, sanitary and epidemiological services staff, dieticians and university teachers. Over 80 such training courses were organized in the years 1999-2005. In addition, the Institute provides individual training courses. Its staff propagates nutrition principles also by participating in training courses organized by other institutions.

548. Prevention of chronic non-contagious diseases, including obesity, thanks to better nutrition and increased physical activity, is of particular importance. For this purpose, the Institute uses the WHO Global Strategy on Diet, Physical Activity and Health, adopted during the Fifty-seventh World Health Assembly (2004) and other documents of the Organization. The ten-year "National Programme of Prevention of Excessive Body Weight and Obesity as well as Chronic Non-Contagious Diseases by Improving Nutrition and Physical Activity" was developed to implement the Strategy in Poland, and it will be realized in 2007.

549. An important part of the Programme is the propagation of nutrition principles, helping people make the right choices with regard to food, and growth in physical activity.

550. Since 1999 the PIS has implemented the "Programme for Primary Prevention of Neural Tube Defects", resulting from the operational target 2 of the National Health Programme for 1996-2005 - "Improvement of Dietary Behaviours of the Population and Health Quality of Food" and task No. 8 - "Propagate the application of folic acid to women of child-bearing age in order to prevent congenital neural tube defects in newborns".

551. The main objective of the programme is decreasing the occurrence of neural tube defects in newborns, and particularly propagating the knowledge on the role of folic acid in preventing congenital neural tube defects, propagating the consumption of prophylactic doses of the acid by women in child-bearing age and raising among young women the awareness of their real influence on the health of their future children. The programme includes information strategy and education actions among young women who plan or will plan to have children. The main tasks of the PIS in this education programme include the preparation of the persons and entities implementing it and including the information on the role of folic acid in the primary prevention in the system of additional education of teachers, professional health-care staff, students and family advisers. Specialists in health education and promotion of the Inspectorate undertake actions in local environment, and transfer the publications prepared by Mother and Child Institute and its own information for school coordinators of the programme, educators and young women in health-care establishments, and Parish Premarital Counselling Centres.

552. In the school year 2002/2003, 300 000 persons participated in the implementation of the Programme. In the school year 2003/2004 the “Programme of Primary Prevention of Neural Tube Defects” was implemented in 2 585 junior secondary schools and higher-level schools in Poland and included 448 708 persons. In the 2004/2005 school year the “Programme of Primary Prevention of Neural Tube Defects” was pursued in 2 941 education and care establishments, 1 161 health-care establishments and 250 other units. Educational actions covered 694 421 persons. In the 2005/06 school year the Programme was realized in 2 083 post-junior secondary schools, 514 junior secondary schools and other education and care establishments (post-secondary schools, universities), health-care establishments and Roman Catholic parishes (870). The Programme included 1 069 672 persons.

553. In the subsequent years the awareness of prophylactic doses of folic acid among young women has increased, as well as the number of persons which the Programme reaches. Interest in the Programme and its implementation throughout Poland is considerable, and an increasing number of institutions and private entrepreneurs (e.g. greengrocers) participate in the propagation of information on folic acid and its role.

554. In February 2006 the GIS established a team which developed an improved version of the programme, including additional channels through which the target group could be reached, and prepared new and more diverse materials and tools for education and information.

### **Question 3**

#### **(a) and (d) Access to housing**

555. The right to housing is provided for in the Act of 21 June 2001 on the Protection of Tenants’ Rights, Housing Resources of Municipalities and Amendments to the Civil Code. In compliance with article 4 of the Act, local self-governments should create conditions satisfying the housing needs of the self-government community, and indirectly provide social housing and replacement accommodation in accordance with the principles provided for in the Act and in the cases provided for therein and satisfy the housing needs of households of low income.

556. Municipality councils define the principles of renting housing premises belonging to the housing resources of the community, and particularly:

(a) The amount of the income of households entitling such households to rent housing premises or social housing;

(b) Living conditions in which the tenant may demand that they be improved;

(c) Selection criteria for the people eligible for the rent of the community housing premises of social housing.

557. Having regard for the limited and diverse possibilities of obtaining housing, the government proposes to solve the problem in a comprehensive manner. The government programme provides for regulations facilitating the good functioning of the commercial market, and support instruments addressed to specific social groups, both with regard to construction of housing premises and preserving the existing housing resources.

558. The most common form of assistance, presently including the whole of the housing construction industry is the VAT rate decreased to 7 per cent (with the base rate at 22 per cent) for purchase of apartments, as well as construction and renovation services. After 2007 the rate will apply to housing construction defined as social.

559. For families at the medium level of affluence a programme has been developed under the provisions of the Act of 8 September 2006 on the financial support for families purchasing their own flats. The Act provides for solutions thanks to which it is possible to receive a preferential credit to finance a flat or a house with a surface of 75m<sup>2</sup> or 140 m<sup>2</sup>, respectively (cost restrictions), newly built or on the secondary market. The preferential character of the credit is connected with the subsidies amounting to 50 per cent of the interest accrued over the first eight years of credit repayment on the amount financing the maximum of 50 m<sup>2</sup> of the usable floor space (70 m<sup>2</sup>) for houses.

560. For those who cannot afford their own housing, the programme of social tenement housing is continued, based on the Act of 26 October 1995 on Certain Forms of Support for Housing Construction. Pursuant to the Act, the National Housing Fund was established in Bank Gospodarstwa Krajowego, and its funds will be used to extend low-interest credits to social housing construction associations and housing cooperatives building flats for renting. The annual rent paid by the tenants may not exceed 4 per cent of the full replacement value of the flat. The conditions for obtaining flats is satisfying the income criterion and not possessing a legal title to a flat in the municipality in which the application has been filed. The programme is corrected on a current basis in order to optimize its functioning. Another amendment to the Act is to be introduced in 2007.

561. The Act on Social Housing, Protected Houses, Nightshelters and Homes for the Homeless, which will come into force at the beginning of 2007, was passed for the benefit of the poorest citizens, who cannot afford even to pay rent. The Act is discussed in greater detail in the section devoted to counteracting homelessness.

562. The state spending on housing covers also the old obligations of the state towards owners of building society books and those repaying credits in the hyperinflation period. The assistance is based on the Act of 30 November 1995 on the State Aid in the Payment of Certain Housing Credits, on Providing Guarantee Bonuses and Refunds of the Paid Guarantee Bonuses.

563. Another important form of assistance for households with low income is the system of housing supplements regulated by the Act of 21 June 2001 on Housing Supplements. The supplements are granted according to the following criteria:

- (a) Income not exceeding a certain threshold;
- (b) Holding a legal title to the occupied flat (tenants, members of housing cooperatives, owners of flats and houses) or the right to occupy a replacement or social housing;
- (c) The surface of the occupied flat does not exceed the standard surface by over 30 per cent.

564. Housing supplements are the difference between housing spending on the standard usable area of the housing premise and a part of the spending incurred by the person receiving the supplement. Every person (family) trying to obtain a housing supplement and complying with the criteria, has the statutory right to obtain it.

565. Since 2004 the obligation to pay housing supplements belongs to the municipalities, which pay them from their own budgets. Municipality councils may raise or lower the percentage ratios determining the amount of the housing supplements. The maximum amount of the housing supplement may range from 50 per cent to 90 per cent of the housing expenses actually incurred.

566. For expenses on housing supplements, see annex I, item 63.

567. Apart from housing supplements, the Act on the Protection of Tenants' Rights, Housing Resources of Municipalities and Amendments to the Civil Code makes it possible to limit the amounts of rents by:

(a) Decreasing rent for flats in the public resources (municipality, State Treasury) for persons and children in need due to poverty. Rent discounts may be granted for 12 months at the request of the applicants. At the request of the tenant the owner may continue to decrease the rent for the subsequent twelve-month periods if the persistently low income of the household justifies it;

(b) Flats may also be rented by municipalities from other owners and subleased to families with low incomes for rents which such families are capable of paying (considerably lower).

568. The Act of 7 July 1994 Construction Law, which provides for design, construction, maintenance and demolition of building objects, does not provide for the possibility of building housing premises with lower standards. Substandard housing premises are not built, but they may come into being as a result of municipalities separating some premises, of lower technical standards, from their own housing resources, to be rented out as social housing premises.

569. For statistical data on substandard housing, see annex I, item 64.

## **Evictions**

570. The Act on the Protection of Tenants' Rights, Housing Resources of Municipalities and Amendments to the Civil Code regulates the situation of evicted persons and provides for control of municipalities' activities regarding their selection of candidates for housing premises rent agreements. The Act sets forth the conditions which municipalities must satisfy when defining their policies of housing resources management, defines the minimum standards for social and replacement housing premises and limits the freedom to terminate agreements with tenants.

571. Article 14 of the Act lists groups of persons entitled to social housing in the case of an eviction court verdict regarding the housing premises occupied hitherto. These include pregnant women, minors, disabled persons, bedridden persons, unemployed, persons collecting pension and disability benefits who satisfy the criteria of receiving social assistance, other persons satisfying the criteria specified by the municipality council, unless those persons may live in another housing establishment than the one used hitherto. The right to obtain a social housing

flat or the failure to obtain such right is decided upon by the court adjudicating upon the vacation of the flat occupied hitherto. Adjudicating upon the right to receive the social housing, the court orders that the eviction order be postponed until the municipality offers to conclude a lease agreement regarding a social housing flat.

572. Since 1 January 2005 persons who have exceeded 75 years of age at the time when the lease agreement was terminated by the owner have been entitled to particular protection. Should such person, after the elapse of the notice term, not have a legal title to another housing establishment or not have any persons obliged to provide alimonies to this person, the termination becomes effective only upon the death of such a tenant.

573. On 5 February 2005 article 1046, paragraph 4 of the Code of Civil Proceedings came into force, banning sidewalk eviction. An eviction may be executed only if a temporary housing establishment is indicated, into which the evicted person can move. A temporary establishment must not be identified with social housing, i.e. a technically substandard flat, even more - it must not mean a place in a night shelter.

### **Homelessness**

574. The only credible and verifiable source of information on the number of the homeless is the number of persons to whom assistance was granted by social assistance centres. On this basis the number of the homeless may be estimated at approximately 30 000. However, some homeless persons obtain assistance from several sources, and hence the number mentioned above may be excessive.

575. Since 2000 the Ministry of Social Policy has realized the “Homelessness” programme, aimed at helping homeless persons through NGOs. Funds allocated to the programme:

- 2001 - no data available
- 2002 - PLN 5 668 040
- 2003 - PLN 6 500 000
- 2004 - PLN 7 790 000
- 2005 - PLN 8 000 000

576. The funds are divided with regard to the needs of the given region and transferred to NGOs.

577. The organizations run night shelters, shelters, homes for single mothers, food banks, treatment and nursing establishments, hospitals and hospices, homes for refugees, vocational workshops, hostels for violence victims, communities, re-adaptation and protected housing establishments, Mediation Centres. Emergency assistance centres have been also organized, and they include: warming shelters, eating-houses, kitchens for the poor, points of medical and sanitary aid, points offering assistance in kind, daily shelters, clubs, legal, psychological and family assistance points.



578. According to article 49 of the Act on Social Assistance, a homeless person may be covered with an individual programme of working one's way out of homelessness, consisting of the provision of support for a homeless person in solving his/her life problems, in particular those relating to family and housing, and assistance in gaining employment. The programme should take into account the situation of the homeless person and offer special support to persons actively participating in coming out of homelessness, and remain in accordance with the needs of the homeless person. It may employ all measures at the disposal of the social assistance centre implementing the programme.

579. The "Against Homelessness" Bureau has been established. It acts as an intermediary between tenants who wish to obtain a larger flat and persons who have large flats and are in debt for non-payment of rent. As a result of an exchange, the person in debt receives a smaller flat and avoids eviction, whereas the other party obtains a larger flat burdened with the debt.

580. In 2006 the "Homelessness" programme was modified. Its present name is "Return of the Homeless to the Society". The modifications were aimed at increasing the participation of the homeless by their involvement in individual programmes of coming out of homelessness. In 2006 the amount of PLN 15 000 000 was allocated to the programme.

581. Since municipalities do not have a sufficient number of housing establishments and premises which could serve as shelters to the poor, homeless and threatened with homelessness, the Government has undertaken activities supporting the development of social housing, in which persons with low incomes could live. The introduction of systemic solutions regarding the financial support for municipalities was preceded with a pilot programme realized in the years 2004-2006. Its legal basis was the Act of 29 April 2004 on the Financial Support for Establishing Social Housing Premises, Night Shelters and Homes for the Homeless. Certain preferences for the disabled were included in the programme. These involved granting additional points to the municipalities applying for the subsidies for investment projects if the designed housing premises were adapted to the needs of persons with physical disabilities.

582. On the basis of the experiences from the implementation of the pilot programme, an Act was prepared containing comprehensive regulations for the assistance for municipalities (as well as other entities) attempting to ensure assistance in finding shelter to homeless persons and persons threatened with homelessness. The Act on the Financial Support for the Establishment of Social Housing Premises, Protected Housing Establishments, Night Shelters and Homes for the Homeless was passed by the Sejm on 8 December 2006. According to the Act, municipalities will be able to obtain financial support for establishing social housing. Such investment projects may involve building, renovation or conversion of housing buildings, change in the use of non-housing buildings (should they require renovation or conversion) and purchase of housing establishments (possibly in combination with renovation). Districts and public utility organizations will also be able to apply for support with regard to protected housing establishments, and in the case of night shelters and homes for the homeless - municipalities,

inter-municipal associations and public utility organizations. According to estimations, within eight years of the programme implementation, 100 000 social and protected housing establishments will be set up (80 per cent of the presently estimated deficit of such establishments) and 20 thousand new places in night shelters and homes for the homeless.

## **Article 12**

### **Right to health care**

#### **Question 1**

##### **Physical and mental health of the population**

583. In late November-early December 2004 the GUS conducted a representative survey "Health Condition of the Population of Poland".

584. Over the last eight years, the subjective health condition evaluation by the Polish people considerably improved. In 1996 over 45 per cent of residents of Poland regarded their health condition to be below the good level, whereas in 2004 such opinions were reported by 39 per cent of Poles. The improvement in the health condition evaluation concerned all age groups, both men and women, living in urban and rural areas.

585. Every third Pole complained of long-term health problems or chronic diseases lasting for at least six months. The occurrence of such problems grows with age. Almost 60 per cent of fifty-year-olds reported the occurrence of long-term health problems, the figure for sixty-year-olds was 73 per cent and for people aged 70 or over - 84 per cent. Long-term health problems or chronic diseases occur more frequently among women than men and at the same time among the inhabitants of urban rather than rural areas. The occurrence of chronic health problems was reported by the parents of over 16 per cent of the surveyed children.

586. Relatively fewer Poles suffer from chronic diseases. In 2004, the occurrence of chronic diseases was reported for 46 per cent of Poles, whereas in 1996 the figure stood at over 53 per cent. The positive phenomenon concerned both people living in urban and rural areas, women and men.

587. Women more often than men suffer from chronic diseases and the regularity occurs in all age groups. As many as almost 57 per cent of women aged 15 and over suffer from chronic diseases, as compared with 44 per cent of adult men. The most common chronic diseases include:

- (a) Arterial hypertension (17 per cent of the population aged 15 and over);
- (b) Back problems or slipped disk (16 per cent);
- (c) Inflammatory or degenerative arthropathies (14 per cent);

- (d) Coronary heart disease (9 per cent);
- (e) Migraine and frequent headaches (8 per cent);
- (f) Neurosis or depression (7 per cent).

588. Women more often than men suffer from hypertension and coronary heart disease, back problems, migraine and frequent headaches as well as neurosis and thyroid conditions. Men, on the other hand, more often suffer from chronic bronchitis and gastric and duodenal ulcers.

589. As many as 20.5 per cent of all the surveyed children suffer from at least one chronic disease. Children most often suffer from chronic allergic diseases - 9 per cent. The next most frequent group of diseases are respiratory diseases (including asthma and allergy-based asthma) - 3.9 per cent and eye diseases - 3.7 per cent.

590. Over the last three years 15 per cent persons aged 15 or over changed their diets, but this phenomenon was much more frequent among women (18 per cent). In 33 per cent of cases the dietary change followed a chronic disease or another health condition, in 20 per cent of cases - the intention to lead a more healthy life, and in every seventh case - weight problems, for women maintaining the achieved body weight was also an important goal. The objective measurements of body weight (BMI) indicated that the problem of the frequent occurrence of excessive body weight or obesity among adults had not been solved since 1996. Every third adult weighs too much and every eighth adult is obese (both among women and men). The increasing interest in proper body weight observed among the respondents resulted in the excessive body weight among women being less frequent than among men (27 per cent of the total number of women and almost 33 per cent of the total number of men), and at the same time women, including particularly young women (up to 30 years of age) much more often suffer from insufficient body weight.

591. Younger generations achieve increasingly growing heights. This occurs both among young men and young women. The statistical twenty-year-old woman is 166 cm tall and is taller than her mother by four centimetres and than her grandmother by 6 centimetres. A statistical twenty-year-old man, on the other hand, is 178 cm tall and is taller than his father by four centimetres and than his grandfather by seven centimetres.

592. The habit of tobacco smoking, particularly among men, is becoming less common. Over the last years the share of smoking men decreased by over nine percentage points (from 47.3 to 38.0), whereas among women by slightly more than 1 percentage point (from 24.4 to 23.1). Over a half of persons aged 15 and over declared that they had never smoked tobacco. As many as 12.1 per cent of respondents used to smoke every day, but quit (16.5 per cent of men and 8 per cent of women). As many as 26.3 per cent of adults (33.9 per cent of men and 19.3 per cent of women) smoke cigarettes, pipes or cigars on a daily basis, whereas only 4.0 per cent smoke occasionally. Smokers are most often found in the 20-60 age group, and the habit of smoking occurs most frequently among 40-year-olds. In this group, almost a half of men smoke and more than one third of women.

593. More people drink alcohol as compared with the results of the previous health condition study. Total abstinence from alcohol over the last 12 months was declared by 25 per cent of respondents (in 1996 - almost 30 per cent). The percentage of drinking women increased from approximately 60 per cent in 1996 to 67 per cent in 2004. Among men the percentage was 83 per cent and had grown slightly since 1996 (81 per cent). The most numerous group among alcohol drinkers were persons aged 30-49.

594. The frequency of drinking had also increased, both among men and women. Almost 60 per cent of drinking men and 34 per cent of drinking women consume alcohol more often than once a month (in 1996 - 58 per cent and 27 per cent, respectively). Significant changes occurred in the typical pattern of alcohol consumption (the kinds of alcohol usually consumed). Vodka and other spirits are replaced by beer, whereas the share of wine slightly exceeds 10 per cent.

595. Using psychoactive substances other than alcohol or tobacco is a very rare phenomenon. Among substance of considerable popularity are hemp products. The percentage of respondents who had used them at least once in their lives is 1.5 per cent. Hemp is followed by sedatives and sleep-inducing drugs used without medical prescription - 1.2 per cent of persons had experimented with these. Using illegal substances is more common among men than women. In the case of most of the substances included in the survey, most related experience was declared among young persons aged 34 or less. The situation with sedatives or sleep-inducing drugs is different; their use is more popular among women and in the oldest age group (55-64 years).

596. In 2004 the population of Poland included almost 6 million disabled adults (aged 15 or over) (almost 19 per cent of the population aged 15 or over, 19.7 per cent of women and 17.9 per cent of men). Almost 78 per cent of disabled persons had a legal certificate of disability, the remaining 22 per cent experienced serious difficulties in performing the basic activities of daily life. Disabled adults most often suffered from circulatory diseases (49 per cent of the group), disorders of or damages to the locomotor system (46 per cent), disorders of or damages to the sight organ (almost 30 per cent), hearing (14 per cent), neurological disorders (29 per cent) and mental disorders (10 per cent).

597. The number of disabled children totals almost 209 thousand. The significant majority of disabled children live in cities - almost 63 per cent.

598. The low percentage of women who undergo cytological examination of the uterine cervix remains a continuing trend. In 2006, less than 10 per cent of women turned up for cytological examination. This was one of the main reasons behind the implementation of active screening, in the form of sending personal invitations to women to turn up for examination. Almost 30 per cent of adult women had never undergone such a test, and very young women (up to 19 years of age) and considerably older women (60 or over) accounted for a considerable percentage of the group. While the phenomenon is understandable with regard to the former (very young girls), the low percentage of tests among older women, relatively more often threatened with cervical cancers, is worrying.

599. The popularity of mammography tests and breasts ultrasound examination is increasing. Every third adult woman has had such a test at least once in her life. Breast examinations are most common among fifty-year-olds (64 per cent) and forty-year-olds (almost 50 per cent). Almost 90 per cent of the reported cases concerned examinations performed within the last five years. Every third examination was a result of the public mammography programme, and every fifth concerned other forms of prevention - women's own care for their health and medical recommendations. Breast self-examination complements the examinations. Every second adult woman examines her breasts at least several times a year, and this form of control is most popular among women aged between 30 and 60.

600. In 2004 almost 11 per cent of the population, i.e. every ninth person, underwent hospital treatment involving at least one night stay. The frequency of hospitalization increases with age and deterioration of health condition. In younger age groups (up to 39 years) it is relatively low and amounts to approximately 10 per cent (with the exception of the 0-4 age group), for older groups it increases considerably. Almost every fourth person aged 70 and over had been treated in a hospital. The main reasons for adults included chronic diseases - for almost a half of cases of treatment for men and 40 per cent of hospital stays for women. Other diseases came second (20 per cent), followed by examinations and observations (almost 17 per cent). An important reason for women was pregnancy or childbirth (almost 18 per cent of the total number of cases), for men accidents and injuries, observed among them almost twice as often as among women (15 per cent as compared with 7 per cent, respectively).

601. Outpatient medical assistance was offered to almost 70 per cent of the population. Women went to the doctor's more often than men. Three-fourths of the total number of women had been to the doctor's at least once, as compared with only 63 per cent of men. Medical assistance is most often used by children of up to four years of age and persons older than 50. Every fourth visit in the case of adults was connected with the treatment of a chronic disease, every fifth - with other conditions or controls, whereas every sixth was made to obtain prescriptions for medication. Almost 70 per cent of the total number of children's visits resulted from an illness (other than chronic), every third involved the control of the health condition and every sixth from the necessity to undergo vaccination or medical examinations (tests) (e.g. the health periodical examinations).

602. Among adults, drugs are more often taken by women than men (almost 66 per cent of women and only 48 per cent of all men), and the elderly and sick. Among teenagers drugs are taken by every third person, whereas among forty-year-olds more than a half, and among sixty-year-olds - over 80 per cent of the group. The most popular drugs are vitamins and minerals - taken by every fifth person aged 15 or over. Antihypertensive drugs are almost as often taken by adults, mostly the elderly. The third group includes headache and migraine medication, taken most often by women and to a large extent without medical recommendation, followed by cardiac drugs, most often taken by elderly persons. The percentage of respondents taking drugs to treat cold, flu and sore throat was also considerable.

## Question 2

### National health-care policy

603. Information on the National Health Programme 1996-2005 was presented in the previous report.

604. From 1 January 1999 to 1 April 2003 the health services were regulated by the Act of 6 February 1997 on General Health Insurance. In compliance with the Act, the insurance was general and obligatory. The system was based on the following principles:

- (a) As concerns insured persons:
  - (i) General and obligatory health insurance;
  - (ii) Social solidarity;
  - (iii) Free choice of the services provider;
- (b) As concerns sickness funds:
  - (i) Purposefulness of actions;
  - (ii) Self-government and self-financing;
  - (iii) The non-profit nature of activities undertaken;
  - (iv) Economy;
- (c) As concerns services providers:
  - (i) Equal access of public and private service providers to the contracts for services provision financed by the sickness funds;
  - (ii) Concluding contracts for services provision financed on the basis of results of competition of offers.

605. The insured persons were entitled to health benefits (services) aimed at preserving, saving, restoring and improving the health, provided in the event of sickness, injury, pregnancy, childbirth, puerperium and in order to prevent diseases and promote health. Health benefits were financed from the funds gathered by sickness funds, coming from contributions to health insurance and the State budget. The Minister competent for health-related issues financed highly specialized medical procedures specified in the regulation of the Minister of Health and Social Welfare of 2 November 1998 on the List of Highly Specialized Medical Procedures Financed from the State Budget and the Manner and Principles of Granting these Benefits. Sickness funds (16 regional funds and the Sickness Fund for Uniformed Services) concluded agreements with service providers described in the Act on General Health Insurance (art. 7, point 21) and

authorized to provide medical services pursuant to separate regulations and which operated in the area of operation of the given sickness fund, and possibly with service providers operating beyond the area.

606. The principles of organization and functioning of the health-care system had negative effects. The excessive independence of the sickness funds resulted in 17 independent health “policies”. This interfered with the equal access of citizens to medical services in various regions of the country.

607. The Act on General Insurance in the National Health Fund, passed on 23 January 2003, aimed to eliminate the faults of the system in order to:

(a) Restore the constitutional responsibility of the Government (Minister of Health) for the State health policy;

(b) Increase and effect the role of local self-governments in the process of ensuring the proper volume and quality of medical service;

(c) Create the conditions for “justice in health” and the possibilities of real choices of service providers made by patients.

608. The NFZ, which replaced the sickness funds, was an institution supervised by the Minister of Health, implementing the programme of unifying the manners of contracting the services, including glossaries of health services and conditions of their provision.

609. The new Act retained basic principles of the health-care system as established by the Act on General Health Insurance.

610. In its verdict of 7 January 2004 the Constitutional Tribunal decided that certain provisions of the Act did not guarantee the proper realization of the principles defined in the Constitution. The Tribunal decided, inter alia, that the Act did not implement article 68, item 2, sentence 2 of the Constitution due to the imprecise definition of the scope of the benefits financed from the public funds to which every citizen was entitled. The Tribunal regarded it as the violation of the obligation of the public authorities concerning ensuring equal access to health-care benefits financed from public funds.

611. The Act of 27 August 2004 on Health-care Benefits Financed from Public Funds, which replaced the Act on the General Insurance in the NFZ, ensures the proper implementation of the provisions of the Constitution. The Act meets the requirements of the greater legislative precision and defines the scope of benefits financed from public funds to which every citizen is entitled.

612. The Act retained basic principles of the health-care system as explained above.

613. The Act specifies the tasks of public authorities regarding ensuring equal access to health-care benefits. They include:

- (a) Creating the conditions of health-care system functioning, including health infrastructure;
- (b) Analysis and evaluation of health needs and factors altering the needs;
- (c) Promotion and prevention aimed at creating health-fostering conditions;
- (d) Financing health-care benefits.

614. The tasks are realized by:

- (a) Self-government authorities of the municipality, district and voivodship;
- (b) The minister competent for health issues;
- (c) The minister competent for public finances.

615. Minister competent for public finances supervises in particular, financial operations of the NFZ and approves financial report of the NFZ.

616. Pursuant to the Act, health-care benefits are divided into: health benefits, health benefits in kind and accompanying benefits. The Act also introduces the concept of a guaranteed benefit, i.e. a benefit financed wholly from public funds, in compliance with the principles and in the manner provided for in the Act. In the Annex to the Act the “negative basket of benefits” was defined with regard to the benefits which are not financed from public funds, thanks to which the requirements of the Constitutional Tribunal regarding the precise definition of the benefit scope are satisfied.

617. The Act defines the catalogue of titles regarding liability to insurance obligation and voluntary insurance. The subject scope of rights to benefits was extended to include persons other than the insured, and the concept of “beneficiary” was introduced.

618. The scope of health-care benefits granted to beneficiaries by health-care establishments free of charge, regardless of the beneficiaries’ rights due to health insurance, has been defined.

619. Health programmes, including actions thanks to which health needs are satisfied, are developed to implement the provisions of the Act. The programmes are developed on the basis of analyses of health needs and condition of inhabitants. The Minister of Health controls the implementation of the programmes, including access to health care.



### Question 3

#### Health-care spending

620. Public spending on health care, in PLN '000 000

	1999	2000	2001	2002	2003	2004	2005	2006
Spending of the State budget - total of the expenses on health care (excluding health insurance contributions financed by the State budget)	5 716.7	3 622.3	3 266.1	3 078.8	3 146.1	3 191.5	3 213.7	3 151.1
Spending from the budgets of the territorial self-government units (excluding subsidies from the State budget)	824.9	955.3	924.0	1 021.0	953.9	1 258.8	1 795.6	2 209.7
NFZ (sickness funds) - total of the expenses on health care	21 504.3	23 009.3	26 415.4	28 675.9	29 213.6	30 487.4	33 003.9	35 965.8

### Question 4

#### Data

##### (a) Infant mortality

621. Infant mortality ratio per 1 000 of live births, in December of the given year

1999	8.9
2000	8.1
2001	7.7
2002	7.5
2003	7.0
2004	6.8
2005	6.4

##### (b) and (c) Access to safe water and sewage systems

622. In 2003 water delivered by water supply systems complying with sanitary requirements was used by 91.6 per cent of persons who had access to such water (94.3 per cent in cities, 85.1 per cent in rural areas), in 2001 the figures stood at 89.1 per cent, 91.8 per cent, 83 per cent respectively.

**(d) Children immunized against diphtheria, pertussis, tetanus, measles, polio and tuberculosis**

623. Data from the annual vaccination reports indicate that in the years 1999-2005 the following numbers were vaccinated:

- Infants against tuberculosis - between 93.5 per cent and 95.8 per cent
- Children in the second year of life against type B hepatitis - between 98.9 per cent and 99.8 per cent
- Children in the second year of life against diphtheria/tetanus - between 97.7 per cent and 98.8 per cent
- Children in the second year of life against pertussis - between 97.6 per cent and 98.8 per cent
- Children in the second year of life against polio - between 97.6 per cent and 98.8 per cent
- Children in the third year of life against measles - between 97.0 per cent and 98.2 per cent
- Children in the third year of life against measles/mumps/ rubella - between 16.7 per cent and 90.5 per cent
- Girls in the fourteenth year of life against rubella - between 97.4 per cent and 98.5 per cent

624. The vaccination level against the individual diseases was uniform throughout the country.

**(e) Life expectancy**

	Men			Women		
	Total	Urban areas	Rural areas	Total	Urban areas	Rural areas
1999	68.8	69.1	68.4	77.5	77.3	77.8
2000	69.7	70.0	69.4	78.0	77.8	78.4
2001	70.2	70.4	69.9	78.4	78.2	78.7
2002	70.4	70.7	70.0	78.8	78.6	79.1
2003	70.5	70.9	70.0	78.9	78.8	79.2
2004	70.7	70.9	70.3	79.2	79.1	79.5
2005	70.8	71.2	70.3	79.4	79.3	79.6

**(f) Proportion of the population having access to treatment of basic diseases and injuries**

625. No data available.

**(g) Proportion of pregnant women having access to trained personnel and percentage of deliveries under the care of qualified personnel, maternity mortality**

626. Percentage of births under the care of qualified personnel:

- 1999 - 99.7 per cent
- 2000 - 99.8 per cent
- 2001 - 99.8 per cent
- 2002 - 99.8 per cent
- 2003 - 99.8 per cent
- 2004 - 99.8 per cent
- 2005 - 99.9 per cent

627. Number of deaths due to pregnancy, childbirth and puerperium:

- 1999 - 21
- 2000 - 30
- 2001 - 13
- 2002 - 19
- 2003 - 14
- 2004 - 17

**(h) Percentage of newborns under the care of qualified personnel**

628. No data available.

### Question 5

#### **(a) and (d) Actions aimed at improving the physical and mental condition of the population groups and regions in the most difficult situation**

#### **Elderly persons**

629. One of the important elements of the demographic and health-related situation of the Polish society is the notable, slow but systematic growth of the population of elderly persons and the changing health-related needs of this group.

630. A document defining the actions aimed at ensuring the proper care and extension of the physical and mental fitness and the possibility of fulfilling social roles to persons of advanced age is the National Health Protection Development Strategy 2007-2013, adopted by the Council of Ministers on 21 June 2005, and the National Health Programme 2007-2015.

631. The strategy includes:

(a) Preparation and implementation of therapeutic and care procedures of rational health care for elderly persons;

(b) Organization of home care over elderly persons in various forms;

(c) Restructuring of the hospital network and separation of establishments adopted to the needs of long-term, nursing, palliative and hospice care;

(d) Functional integration of health care with social welfare and adapting the relevant financing principles in order to satisfy the needs of the elderly in a comprehensive manner;

(e) Development of the education and practical preparation of medical staff qualified to offer preventive, therapeutic and fitness-related care of the elderly;

(f) Supporting the activities of NGOs dealing with health care for the elderly;

(g) Development of social infrastructure in the rural areas, thanks to which the quality of health services offered to the elderly, may be improved.

632. Expected effects:

(a) Drop in the number of disabled persons in the 60 and above group;

(b) Drop in the number of deaths in the 60 and above population;

(c) Drop in the number of persons suffering from non-contagious diseases in the 60 and above population,

- (d) Longer healthy life expectancy (HALE ratio);
- (e) Longer average further duration of life.

633. Demographic data indicate that the percentage of persons at risk of disability, i.e. requiring rehabilitation, is increasing. Consequently, the Strategy contains the following tasks:

- (a) For central administration:
  - (i) Improving the education of persons with disabilities at all levels;
  - (ii) Improving the rehabilitation system for persons with disabilities;
  - (iii) Modernization of education offered to persons employed in rehabilitation establishments towards the integrated model;
  - (iv) Offering preferences for the production of orthopaedic equipment and other technical aids thanks to which persons with disabilities can function in a normal way;
- (b) For self-government administration:
  - (i) Intensifying the activities for the benefit of environments friendly to persons with disabilities;
  - (ii) Decreasing the distance between patients' places of residence and places where rehabilitation services are offered;
  - (iii) Combining the activities of rehabilitation staff and social workers in order to continue the social rehabilitation in the elderly persons' places of residence after the end of the early medical rehabilitation;
- (c) For NGOs:
  - (i) Using international human rights instruments containing solutions emphasising full citizenship and inclusion instead of segregation and marginalization of disabled persons;
  - (ii) Creating a positive image of disabled persons in the society;
  - (iii) Recognition and support for active participation of disabled persons in the society;
  - (iv) Stimulating the social movement and support for local self-governments and NGOs in their activities improving the quality of life for persons with disabilities.

634. The Minister of Health has initiated the following scientific studies regarding the process of aging:

- (a) Molecular background and risk factors regarding civilization diseases leading to epidemiological threats and affecting the aging process;
- (b) Study of risk factors regarding civilization diseases and factors influencing the aging of the population;
- (c) Molecular background of cardiovascular diseases influencing human aging (atherosclerosis, metabolic and endocrine diseases);
- (d) Molecular and environmental factors influencing the occurrence and progression of cancers;
- (e) Molecular and environmental factors influencing the incidence of chronic respiratory disorders.

635. The Minister of Health has appointed a team to develop the assumptions of the nursing insurance act and draft act providing for the catalogue of benefits for persons incapable of independent existence, principles of organization and financing of nursing insurance, preventive-related actions and scientific projects undertaken to prevent incapacity for independent existence due to diseases and injuries.

636. Care over elderly patients is performed by a multidisciplinary team consisting of medical staff, non-medical staff and volunteers. Forms of geriatric care include: 24-hour geriatric care, day geriatric care centres, outpatient geriatric care, home care (including in the final stage of life), geriatric consultation team in therapeutic, nursing and nursing-therapeutic institutions, consultations for family physicians and other specialists. Geriatric care benefits are financed from public funds. Health services financed by the NFZ are provided on the basis of health services provision agreement concluded between the Fund and service provider.

637. Long-term care is provided in a stationary manner or in the home of the patient. If the patient cannot handle his/her health or social problems, they use institutional (stationary) care, which offers periodic specialist assistance. The health insurance in the NFZ entitles patients to the following long-term care services:

- (a) Long-term stationary care in:
  - (i) Treatment and care establishments;
  - (ii) Nursing and care establishments;
- (b) Nursing long-term care in the home of the patient;
- (c) Home care for mechanically ventilated patients.

638. Treatment and care establishments offer 24-hour health services including nursing, care and rehabilitation for persons not requiring hospitalization. The establishments offer also pharmaceuticals, medical materials, board and room adapted to the health condition of the patients, and care during the culture and recreation activities organized by those centres. Nursing and care establishments offer 24-hour health services including nursing, care and rehabilitation for persons not requiring hospitalization. They also ensure that the pharmacological treatment is continued, and provide board and room adapted to the health condition of the patients. Care and treatment establishments offer health education to the patients and their family members.

639. Long-term health-care services are financed in compliance with the Act on Health Care Benefits Financed from Public Funds, i.e. from the NFZ. Principles regarding payments for staying at treatment and care and nursing and care establishments (board and accommodation) are defined in the Regulation of the Minister of Health and Social Welfare of 30 December 1998 on the Manner and Principles of Patients Being Sent to Treatment and Care and Nursing and Care Establishments and Detailed Principles of Determining Payments for the Stay in Such Establishments.

640. Costs connected with board and accommodation are incurred by the person staying at the establishment.

641. The purpose of palliative care is improving the quality of life of the sick and their families. It includes counteracting uncontrollable pain and other somatic symptoms, alleviating mental, spiritual and social suffering and supports the families of the sick both during the illness and in the time of bereavement. The care is offered at the homes of patients, in specialist clinics, in outpatient palliative/hospice care wards and day care centres, and by hospital support teams. The care is exercised by a multidisciplinary team consisting of physicians, nurses, psychologists, social workers, rehabilitation specialist, occupational therapists, chaplain and voluntary workers. Palliative and hospice care is offered both by public and non-public centres. According to the Act on Health Care Benefits Financed from Public Funds, the NFZ finances health services and ensures reimbursement of medicines within the funds at its disposal. Palliative and hospice care may also be co-financed by the founding bodies, NGOs, church organizations, self-governments and from other sources (e.g. social assistance, subsidies, donations).

**(e) Actions aimed at decreasing the miscarriage ratio and infant mortality and ensuring healthy development of children**

642. Free preventive, therapeutic and rehabilitation services are guaranteed to children and young people regardless of their entitlements following from social insurance in order to ensure their access to medical services. Such benefits are due to children up to the age of seven and children between 7 and 18 years of age who are released from the education obligation due to their health condition.

643. General prophylaxis medical examinations are offered to children aged four and six and students of grade III of the primary school (at the age of 10), secondary school grade I (at the age of 13), class I of the post-secondary school (at the age of 16) and the last grade of the post-secondary school (at the age of 18-19). The purpose of the examinations is determining

the health condition and development of children. The percentage of children examined under this procedure remains high. The average percentage of six-year-olds and students of grades III and VIII and the last grades of post-primary schools who undergo the examinations is 94-99 per cent, depending on the grade and place of residence.

644. According to the principles of the health-care system regarding students, an important element of the process is increasing the parents' sense of responsibility for the health of their children. Consequently, steps have been taken to cause full participation of parents in the prophylaxis examinations of their children. Parents' participation in the examinations presently amounts to 90 per cent.

645. Free care in a public health-care establishment is offered to pregnant women, women in labour and newly delivered mothers, if the necessity to use the service is connected with the pregnancy, childbirth and puerperium. Specialist health care (diagnostics and treatment of gynaecological diseases) is offered by women's health centres operating at each local clinic. Normal pregnancies occur in 65 per cent cases of registered pregnant women, increased-risk pregnancies account for 30 per cent of cases and high-risk pregnancies for 5 per cent.

646. The following programmes are implemented in order to improve health care of women and children:

- (a) The programme for increasing the effectiveness of health care for women and children (actions increasing the level of care over pregnant women, newborns and infants, improved equipment of intensive care wards for newborns);
- (b) The programme for improving perinatal care (improved care of pregnant women and newborns, decreasing infant mortality);
- (c) The programme for counteracting cancers;
- (d) The programme for health promotion regarding mother and child, with particular attention paid to family planning;
- (e) The programme for promoting breastfeeding;
- (f) The programme for combating osteoporosis among women.

647. The Minister of Health finances the following programmes regarding family planning, conscious conception and medical care over pregnant women:

- (a) Prophylaxis regarding hereditary diseases - molecular tests and genetic counselling.  
Programme objective:
  - (i) Including all the families belonging to the group at risk of suffering from mucoviscidosis in the programme of genetic tests and genetic counselling;
  - (ii) Implementing the programme with regard to all genetically-conditioned diseases, most common and treatable;



(b) The programme for monitoring and improvement of primary prophylaxis regarding congenital developmental anomalies. Programme objective: improvement of primary prophylaxis regarding congenital developmental anomalies by: implementation of a monitoring system, identification of families with genetic risks, improvement of genetic counselling, implementing post-graduation training programmes for physicians, educating the society;

(c) The programme of primary prophylaxis regarding neural tube defects in Poland. Programme objective: decreasing the incidence of neural tube defects among children born within the next ten years;

(d) Elimination of sexually transmitted risks - improving the diagnostics and treatment. Programme objective: improving the health of mothers and children by improved care regarding infections with Group B streptococci;

(e) Optimization of perinatal care.

648. Module I - "Prevention of the incidence and effects of prematurity and low birth weight". The following tasks were implemented within this Module:

(a) Health promotion and prophylaxis in perinatal care;

(b) Prevention of chronic pulmonary diseases among premature infants - decreasing the incidence of pulmonary complications in prematurely born babies;

(c) Coordination of the cooperation of neonatal surgeons within the programme;

(d) Education regarding neonatology.

649. Module II - "Improved equipment of neonatology and obstetrics wards thanks to purchases of medical equipment". The purpose of the programme is improving the equipment of hospital wards dealing with surgery of congenital defects of newborns, neonatology and obstetrics wards.

650. Module III - "Implementing the national system of medical supervision regarding the health of mothers and children with particular attention paid to perinatal care". The programme involves the design, performance and pilot implementation of a telematics system helping control the quality of medical services, involving a pilot group of hospitals and developing the methodology of systematic gathering, processing and analysis of health condition data regarding women giving birth and newborns, as well as monitoring the quality of the services at obstetrics and neonatology wards. Programme objective:

(a) Preventing the incidence of prematurity and its effects and prevention of incidence of intrauterine growth restriction;

(b) Creating survival chances for prematurely born infants with low birth weight.

651. Implementing the tasks and principles of medical and organizational supervision of health care for mothers and children. Programme objective: implementing the system of coordination, programming, monitoring and supervision of health care regarding women, children and young people.

652. The programme of comprehensive intrauterine diagnostics and therapy in the prevention of the consequences and complications of foetal malformations and diseases has been implemented since 2006. The aim of the programme is introducing new methods of intrauterine therapy of the foetus using the latest diagnostic equipment and establishment of a model foetal surgery centre for women from the whole Poland. The main activities involve developing the model of diagnostic activities in the detection of foetal malformations, using intrauterine diagnostics and treatment in the prevention of the consequences of foetal malformations and diseases, improving the health condition of newborns by eliminating the complications of the perinatal period, decreasing the cost of intrauterine treatment performed abroad and implementing intrauterine foetal treatment standards.

653. The programme of screening tests of newborns in Poland with regard to hypothyreosis and phenylketonuria is aimed at early detection of the diseases and assessment of health condition with analytical testing. Early detection of these diseases helps effectively limit the incidence of malformations, including in particular heavy mental impairment. In 2006 screening examinations regarding mucoviscidosis began. Their implementation will help improve the diagnostics of the genetic diseases and start the appropriate treatment. According to the programme assumptions, such screening examinations will be implemented in certain regions of the country and then extended to the whole population of newborns by 2008.

654. The primary prophylaxis of congenital malformations is monitored, and the Registry of Congenital Malformations is maintained. The register contains data thanks to which the scale of incidence of these conditions in Poland will be estimated and families at risk will be identified.

655. Limiting HIV infections involves the development of standards of medical care during pregnancy and childbirth with regard to women infected with the virus. The relevant prophylaxis actions have been taken since 1994. Antiretroviral (ARV) drugs are annually administered to approximately 120 pregnant women and their babies. Thanks to that the percentage of infections decreased from 23 per cent before 1989 to 0.5 per cent in the group of newborns born by women included in the prophylaxis programme. Since 1996 children living with the HIV are entitled to free and state-of-the-art diagnostics and treatment. All children requiring antiretroviral drugs receive them. Cases of late diagnoses of HIV infections accompanied with diagnoses of AIDS occur among teenage children who were not diagnosed during pregnancy or after birth.

**(f) Measures taken to improve environmental and industrial hygiene**

656. In this area the key role has the Act of 27 April 2001 - Environment Protection Law.

657. As at the end of 2005 the records of the voivodship environment protection inspectorates contained 54 762 entities (as compared with 53 425 of 2004). Inspection for Environmental Protection (IOŚ) conducted inspections of 15 413 entities. In 10 659 cases violations of environment protection requirements were found (in 69 per cent of the inspected entities).

658. Since 2004 IOŚ has assessed the degree to which the requirements of the EU directives, recommendations of the European Parliament and of the Council of 4 April 2001 providing the minimum criteria for environmental inspections in the EU Member States were satisfied. Most inspections - 7 972 - conducted in 2005 concerned the requirements of Directive 75/442/EC on waste. In 2004 the number of such inspections was 7 539. Violations

were found in 4 551 (57 per cent) cases. As many as 4 048 inspections were conducted, aimed at controlling the compliance with the requirements specified in Directive 91/689/EEC on hazardous waste. Violations were found in 2 195 cases (54 per cent). Compliance with the requirements of Directive 91/271/EEC on urban water treatment was controlled in 1 310 cases (in 2004 - 2131). Violations were found in 725 cases (55 per cent). The largest number of inspections in which irregularities were found concerned issues discussed in Directive 2000/76/EC on incineration of waste (in 63 per cent of inspections violations were found as compared with 92 per cent in 2004) and Directive 99/31/EC on the landfill of waste (61 per cent and 64 per cent of cases, respectively).

659. Other:

(a) 653 inspections were conducted with regard to Directive 74/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment, and irregularities were found in 44 per cent of cases;

(b) 558 inspections were conducted with regard to Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances, and irregularities were found in 55 per cent of them.

660. In 2005 the Inspectorate performed the following control cycles:

(a) Inspection of entities whose activity involved management of urban waste;

(b) Inspection of entities holding decisions on the establishment of protection zones;

(c) Control of the functioning of mink farms;

(d) Control of entities using post-slaughter waste;

(e) Compliance with the principles of handling substances depleting the ozone layer;

(f) Compliance with environment protection requirements in industrial pig farms;

(g) The state of preparation of entities laying installation to obtaining the integrated permit until 30 April 2004 and 31 December 2004;

(h) The status of the tasks undertaken by the operators of installations subject to integrated permit obligation until 30 April and 31 December 2004, including operators of installation for pig farming - as at 30 June 2005;

(i) Use of halons in Poland;

(j) Use of halons in Poland;

(k) Control of newspaper distribution entities with regard to compliance with waste management regulations concerning returns.

661. In cooperation with the Supreme Chamber of Control the functioning of the packaging waste management system and selected packaging waste covered with product fees was controlled.

662. With regard to air protection the following regulations are in force:

(a) Regulation of the Minister of the Environment of 6 June 2002 on the Admissible Levels of Certain Substances in the Air, Warning Levels of Certain Substances in the Air and Tolerance Margins regarding the Admissible Levels of Certain Substances;

(b) Regulation of the Minister of the Environment of 6 June 2002 on the Assessment of Substance Levels in the Air;

(c) Regulation of the Minister of the Environment of 5 July 2002 on the Detailed Requirements to be Observed with Regard to Air Protection Programmes;

(d) Regulation of the Minister of the Environment of 26 November 2002 on the Scope and Manner of Transferring of Information on Air Pollution (lost effect), replaced with the Regulation of the Minister of the Environment of 5 April 2006 on the Scope and Manner of Transferring of Information on Air Pollution;

(e) Regulation of the Minister of the Environment of 5 December 2002 on the Reference Values of Certain Substances in the Air.

663. IOŚ is obliged to control the quality of air. Voivods, on the other hand, are obliged to develop air protection programmes in order to achieve the admissible levels of substances in the air in the areas where the level of at least one substance is exceeded.

664. IOŚ inspected 3 849 entities in 2001 and 3 635 in 2002. The number of entities in which environment protection regulations were found to have been violated dropped (in 2001 - in 64 per cent of the inspected entities, in 2002 in 54.7 per cent). In 2003 IOŚ inspected 2 661 entities and 3 271 in 2004. The number of entities in which environment protection regulations were found to have been violated dropped (in 2003 - in 47 per cent of the inspected entities, in 2004 - in 39 per cent). In 2005 2 838 entities were inspected and irregularities were found in 1 322.

665. IOŚ conducts additional inspections regarding primarily with the prevention of air pollution:

(a) Respecting environment protection requirements in installations incinerating dangerous hazardous waste - in 2001 all (43) such installations in Poland were inspected;

(b) Assessment of compliance with the regulations concerning foreign trade in substances depleting the ozone layer - in the first quarter of 2001 IOŚ inspected 22 firms with regard to their compliance with the regulations concerning foreign trade in substances depleting the ozone layer.

666. The Act of 18 July 2001 Water Law regulates water management in compliance with the sustainable development principle, in particular the shaping and protection of water resources, using water and water resources management.

667. The Act on Collective Water Supply and Collective Sewage Waste Disposal of 7 June 2001 defines the principles and conditions of collective supply of drinking water and collective waste management, including operation principles for the operation of water supply and sewage enterprises, principles of establishing conditions for ensuring the continuity of supplies and the appropriate quality of water, reliable disposal and treatment of waste, as well as the protection of the interest of the service recipients, with regard to environment protection and cost optimization principles.

668. IOŚ conducted inspections regarding the ban on the disposal of insufficiently treated waste to surface waters or to the ground in 3 241 entities in 2001 and in 3 368 in 2002. In 2002 the number of entities in which irregularities were found dropped as compared with the previous year from 73 per cent to 67 per cent. Protection of water resources serving as drinking and industrial water supply sources was controlled in 948 inspections in 2001 and 1 954 such inspections in 2002. IOŚ controlled the compliance with the ban on the disposal of insufficiently treated waste to surface waters or to the ground in 1 753 entities in 2003 and 1 285 entities in 2004. The number of entities in which environment protection irregularities were found dropped (in 2003 - in 63 per cent of the inspected entities, in 2004 - in 45 per cent). In 2005 inspections were conducted in 1 130 entities. Protection of water resources serving as drinking and industrial water supply sources was controlled in 2 181 inspections in 2003 and in 2 440 such inspections in 2004. In 2005 1 952 inspections were held.

669. Prevention of soil pollution is regulated in the following:

- (a) Act of 27 April 2001 Environment Protection Law;
- (b) Regulation of the Minister of the Environment of 1 August 2002 on Urban Sewage Sludge;
- (c) Regulation of the Minister of the Environment of 9 September 2002 in the Soil Quality Standards and Ground Quality Standards;
- (d) Regulation of the Minister of the Environment of 29 November 2002 on the Conditions to be Satisfied in Disposal of Sewage Waste to Waters and Ground and on Substances Particularly Harmful to the Water Environment (lost effect), replaced with the Regulation of the Minister of the Environment of 24 July 2006 on the Conditions to be Satisfied in Disposal of Sewage Waste to Waters and Ground and on Substances Particularly Harmful to the Water Environment;
- (e) Regulation of the Minister of the Environment of 8 July 2004 on the Conditions to be Satisfied in Disposal of Sewage Waste to Waters and Ground and on Substances Particularly Harmful to the Water Environment.

670. Quality of soil and ground is assessed under the state monitoring of the environment. Periodic tests of soil and ground quality are conducted by the starostas. The results of the monitoring process are published by the Chief Inspectorate for Environmental Protection.

671. IOŚ inspects the management of waste, including hazardous waste and counteracts trans-border transport of waste. In 2001 5 610 inspections were conducted, and in 2002 the number was 6 450. In mid-2002 IOŚ inspected the used waste stockpiles in order to obtain the information necessary to take decisions regarding the modernization of the objects. IOŚ conducted inspections of the management of waste, including hazardous waste and counteracted trans-border transport of waste. In 2003 such inspections were held for 4 526 entities and in 2004 in 5 787. In 2005 3 484 inspections were held.

672. On 1 January 2002 the Act of 29 November 2000 - Nuclear Law, adapting the system of radiological protection and nuclear safety to the EU requirements and the requirements of the International Atomic Energy Agency. The main elements of the nuclear safety and radiological protection include:

- (a) System of issuing permits for performing activities connected with exposure to ionizing radiation;
- (b) Limits of ionizing radiation doses concerning workers professionally exposed to ionizing radiation, with particular regard for women and minors;
- (c) System of assessing the doses and their central registration;
- (d) System of physical protection and registry of nuclear materials;
- (e) Radiological monitoring system, including stations of early detection of radioactive pollutions and centres measuring radioactive pollution, quarterly reports of the President of the National Atomic Energy Agency are issued on this basis on the radiation situation in Poland and maps of the daily distribution of gamma radiation in Poland (available on the website of the Agency) are prepared. The website address is [www.paa.gov.pl](http://www.paa.gov.pl).

673. In 2004:

- (a) A new chapter was added regarding the application of ionizing radiation for medical purposes based on the Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure;
- (b) New regulations regarding securing nuclear materials in compliance with Poland's binding obligations;
- (c) Regulations concerning radiation events were made more detailed.

674. In 2006 regulations concerning highly active radioactive sources with regard to their production and application and after the conclusion of the related activities.

675. The Act Environment Protection Law contains regulations concerning protection against noise, including the assessment and management of environment noise. The Act treats noise as an environmental pollution, and consequently provides for the same general principles, obligations and forms of actions towards noise as with regard to other environment protection areas. Regulations require that environment protection, including noise, be regarded in planning materials and documents. The Law provides for the obligation of preparing acoustic maps in order to assess the acoustic condition of agglomerations exceeding 100 000 inhabitants and areas defined in the district environment protection programme as areas requiring such assessments.

676. The following subordinate legislation regulates protection against noise:

(a) Regulation of the Council of Ministers of 29 September 2001 on Individual Penalties for Exceeding Noise Levels;

(b) Regulation of the Minister of the Environment of 14 October 2002 on the Detailed Requirements to be Observed with Regard to Programmes of Protection against Noise;

(c) Regulation of the Minister of the Environment of 9 January 2002 on the Threshold Values of Noise Levels;

(d) Regulation of the Minister of the Environment of 29 July 2004 on the Admissible Noise Levels in the Environment.

677. The following new regulations are planned:

(a) Regulation of the Minister of the Environment on Detailed Requirements Regarding the Register Containing Information on the Acoustic Condition of the Environment on the Basis of Measurements, Tests and Analyses Performed Within the State Monitoring of the Environment;

(b) Regulation of the Minister of the Environment on Detailed Scope of the Data Included on Acoustic Maps, their Layout and Presentation with Regard to the Purposes for which they are to Be Used;

(c) Regulation of the Minister of the Environment on the Admissible Noise Levels in the Environment (defined by the LDWN, LN, LAeq D, LAeq N ratios);

(d) Regulation of the Minister of the Environment on the Manner of Determining Noise Ratios;

(e) Regulation of the Minister of the Environment on Roads, Railways and Airports whose operation may have negative acoustic effects on large areas for which the preparation of acoustic maps is required and the manner of determining the boundaries of the areas included in the maps.

678. Inspections aimed at limiting the onerousness related to the excessive emission of noise were conducted by IOŚ in 881 entities in 2001, 906 entities in 2002, in 975 entities in 2003 and 1 007 in 2004. In 2005 738 inspections were held.

679. IOŚ also organized control cycles aimed at investigating or recognizing the problems regarding individual elements of the environment and problems encountered with satisfying the relevant environment protection requirements in individual industries. In the second half of 2002 the “Control regarding compliance with environment protection requirements in the selected supermarkets” was conducted, and it included 84 hypermarkets, 28 supermarkets and 8 discount stores. The task “Research regarding the functioning of industrial pig farms” involved inspections in 107 such farms between January and September 2003. In 2004 urban sewage waste treatment plants in cities with 15 000 or more inhabitants were assessed. The activities involved 418 such cities and 579 plants.

680. The management of substances depleting the ozone layer is regulated in the Act of 20 April 2004 on Substances Depleting the Ozone Layer, specifying the institutional and organizational framework necessary to perform the tasks set forth by the EU law. Twelve acts of subordinate legislation were issued pursuant to the Act.

681. In 2006 IOŚ prepared a report on the basis of the findings of 616 inspections conducted in 2005 in 611 entities using and trading in substances depleting the ozone layer. In the course of the inspections 373 of the 611 (60 per cent) entities were found to have failed to perform their duties regarding the management of controlled substances.

682. The State Environment Monitoring is the source of the environment-related data. The Monitoring involves the measurements and assessments of the following environment components: water, air, soil, nature, and physical agents such as noise, electromagnetic and ionizing radiation. The data are used in the state policy regarding improvement of functioning of people in the environment transformed by economic activity. The information is used by government and self-government administration bodies for the purposes of operational management of the environment and strategic planning of ecological activities.

683. The Monitoring also obtains information necessary to comply with the Community and international obligations regarding the information on the environment condition, following e.g. from the Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area and the Convention on Long-range Transboundary Air Pollution.

**(g) Measures taken to prevent, control and counteracting epidemics, endemic diseases, occupational and other diseases**

684. On 6 September 2001 the Act on Communicable Diseases and Infections was passed, in which principles of prevention and counteracting communicable diseases and infections in people were defined, in particular with regard to the recognition and monitoring of the epidemiological situation, undertaking counter-epidemic and preventive actions in order to neutralize the source of infection and cutting the paths of spreading, including immunizing



persons vulnerable to the infection. A separate chapter was devoted to activities which may be undertaken by public authorities during the state of epidemic. The Act provides for the necessity to hospitalize persons suspected of suffering from the following diseases: diphtheria, cholera, typhoid, A, B and C paratyphoid fevers, plague, poliomyelitis and other flaccid paralyses, including the Guillain-Barre syndrome, tularaemia, encephalitis, cerebrospinal meningitis, yellow fever and viral hemorrhagic fevers. Hospitalization is also obligatory for persons suffering from tuberculosis in the sputum-positivity periods and persons justifiably suspected of the positivity.

685. Healthy persons are obliged to undergo quarantine or epidemiological surveillance if they have had contact with persons suffering from cholera, pneumonic plague and viral hemorrhagic fevers. Incidences of 78 diseases and syndromes are to be reported to the district sanitary inspector as provided for in the Act, along with 42 biological pathogens.

686. In 2002 GIS began the implementation of the pilot programme of modernization and computerization of the epidemiological surveillance network and communicable diseases control. The modernization is based on the recommendations of the peer review of the EU experts (June 2002) and its goals include exchange of information with the EU Member States and increasing the surveillance and control over communicable diseases in Poland.

687. Poland was included in the Community network established pursuant to the decision of the European Parliament and the Council of 24 September 1998 No 2119/98/EC on setting up a network for the surveillance and control of communicable diseases in the Community.

688. Between 1993 (implementation of the intensive programme of prevention and counteraction of type B hepatitis) and 2003 an 85 per cent drop in the incidence was noted. The programme of obligatory vaccination against type B hepatitis according to the relevant prophylaxis programme includes all the newborns and medical personnel.

689. In the years 2001-2002 a drop in the incidence of type B hepatitis was noted (in 2002 by 15.5 per cent and in 2001 by 15.5 per cent as compared with the previous years). The incidence dropped from 7.3 cases per 100 000 inhabitants in 2000 to 5.2 cases in 2002. The incidence in 2004 dropped to 4.1 cases per 100 000 inhabitants as compared with 7.4 cases per 100 000 inhabitants in 2000.

690. The incidence of type C hepatitis also dropped from 5.12 cases per 100 000 inhabitants in 2002 to 5.5 in 2000. This results from the improved procedures of hospital equipment sterilization.

691. On 21 July 2006 an Expert Group for Type B Hepatitis was established to perform tasks regarding optimized detection, identification, diagnostics and therapy of persons infected with the type B hepatitis virus.

692. Since the beginning of the HIV/AIDS epidemics 10 492 cases of infections were diagnosed (data as of the end of November 2006), but estimations indicate that the actual number of persons infected and ill may reach 30 000. Over the last several years growth in the number of sexually transmitted infections is observed, and the growing number of women among the total number of infected persons.

693. In 2005 the Ministry of Health implemented a health policy programme “Antiretroviral therapy for persons living with the HIV virus in Poland 2005 - 2006”, thanks to which infected persons have access to the ARV therapy (aimed at stabilising the incidence of AIDS and mortality caused by AIDS). Longer survival periods are observed among patients infected with HIV and suffering from AIDS. The number of patients covered with ARV therapy totalled 2 802, including 103 children as of June 2006.

694. All persons complying with medical criteria have access to free ARV therapy and latest diagnostic techniques, including genotyping. No social group is discriminated with regard to the access to ARV treatment. Free ARV therapy and specialist diagnostics are also offered to persons staying in penal institutions, persons using drugs intravenously, persons participating in methadone programmes and persons who do not have social insurance or remain homeless. In 2006 the Minister of Health allocated the amount of PLN 109.8 million to the ARV therapy programme.

695. The recent years have seen a considerable growth in the number of persons undergoing voluntary, anonymous and free HIV tests, which is a result of the multimedia educational campaigns, contributing to the broader knowledge and social awareness regarding the HIV/AIDS epidemics. Persons undergoing the tests have access to professional counselling compliant with the relevant international standards before and after the tests. A lot of attention is devoted to the education of various professional groups and counteracting discrimination of the infected persons in the workplace.

696. In order to activate civil society organizations, the Minister of Health allocates a certain amount to earmarked subsidies for NGOs every year. In 2006 almost 40 NGOs operating in the area of counteracting the HIV/AIDS epidemics obtained financial and substance-related assistance from the State budget.

697. In June 2004 the Polish HCV Expert Group was established under the initiative of the Polish Society of Epidemiologists and Infectious Diseases Specialists and the Polish Association for the Study of the Liver. The Polish HCV Expert Group conducts various activities aimed at raising the awareness regarding HCV infections. The campaign entitled “HCV may be defeated” conducted in cooperation with the GIS includes training courses for the medical staff concerning HCV prophylaxis, diagnostics and treatment. Conferences and symposia devoted to this issue have been organized along with educational activities addressed to media representatives.

698. For additional information, see the response to comment No. 23 of the Committee on Economic, Social and Cultural Rights.

699. The following educational programmes initiated by the GIS, concerning limiting the incidence of communicable diseases among children and young people, by propagating vaccination, are implemented:

- (a) “Vaccination for the benefit of children and young people” - prevention of measles, mumps and rubella - “Hello, school”:
- (i) Deepening the knowledge on the basic vaccination according to the vaccination calendar;
  - (ii) Reinforcing the desirable attitudes and behaviours in order to present the benefits of vaccination;
  - (iii) Intensification of the educational activities motivating patients to undergo the obligatory and recommended vaccination;
  - (iv) Presenting the information regarding the diseases and the possible complications;
- (b) Prevention of type A hepatitis - educational programme “Mum, you have a choice”. The pilot programme was implemented in 11 voivodships in 2002. Since September 2003 all voivodships have been included in the programme. The project is addressed to parents and guardians of children and headmasters and teachers of nursery schools. The subsequent edition of the programme is being prepared. Its goals include:
- (i) Decreasing the incidence of type A hepatitis among children in the event of “periodic epidemics”;
  - (ii) Providing parents and guardians with information on type A hepatitis and the possible ways of prevention thanks to vaccination.

700. The following amounts were spent on purchasing the vaccines for the vaccination programme:

- PLN 39.2 million in 2003
- PLN 24.2 million in 2004
- PLN 47.6 million in 2005
- PLN 26.8 million in 2006

701. Each year the Vaccination Programme is updated. Any changes to it are dependent on the current epidemiological situation and needs, and are also subject to availability of funding.

702. In 2001, activities were taken to minimize the effects of incidents of highly contagious and dangerous diseases that may result from a bioterrorist attack or the diseases being transferred to Poland. Hospitals have been identified for hospitalization of patients both in the event of sporadic incidence and in the event of incidence on a massive scale. Training courses for primary

care physicians have been conducted to discuss the identification or suspicion of the occurrence of bioterrorist attack effects. Procedures have been developed to define the principles of operation of the state bodies and services in the event of an attack with the use of biological agents. These are used in the event of sporadic incidence of one of the six diseases regarded as particularly dangerous (plague, botulism, smallpox, tularaemia, anthrax, viral hemorrhagic fevers). These activities were also implemented in 2006.

703. In March 2005, actions were intensified to achieve preparedness for the flu pandemic. In February 2006, the National Action Plan for Poland in case of flu pandemic was updated, as recommended by WHO, the European Commission, and the European Centre for Disease Prevention and Control. Since June 2006, work has been being carried out to draft new annexes to the plan detailing strategies on how to handle patients, communication, anti-viral drugs and inter-sectoral cooperation. In addition, the GIS embarked on a series of actions in cooperation with other institutions (including the Polish Red Cross and the Civil Aviation Agency) aimed at improving preparedness at a national level. At a number of international meetings GIS representatives briefed and held consultations on the present state of preparedness with representatives of other States and international organizations. Virology laboratories of the 16 Voivodship Sanitation and Epidemiological Stations were provided with additional equipment in 2006.

704. In 2005-2006 a particular monitoring effort was expended on the monitoring of the epidemiological aspect of invasive meningococcal disease incidents in Poland. The actions taken were intended to diagnose, as early as possible, even isolated cases of the disease, in order to minimise the emergence of multiple incidents in the area. All isolated meningococcal strains were verified at the laboratory of the National Reference Centre for Infections of the Central Nervous System.

705. In 1999-2006 an infectious disease eradication programme was carried out. One the actions was poliomyelitis eradication, based on supervision of vaccinations and serology reviews in specific risk groups in order to spot those vulnerable to polio virus infection, as well as on detection, population, epidemiological and clinical data collection together with virology examination of acute cases of flaccid paralysis. In addition, the Government of Poland, similarly to the Governments of all world States, adopted at the World Health Assembly on 28 May 2003, a resolution on the participation in the programme for measles and innate rubella elimination and also committed itself to join the implementation of the programme.

## **Question 6**

### **Measures taken to ensure that the rising health-care costs will not result in violation of health-care rights of elder persons**

706. According to article 22 of the Act of 29 November 1990 on Social Assistance, persons who were not covered with the regulations on social insurance or retirement provision of employees and their families could obtain financial assistance to cover the costs of health services in public health-care establishments if they complied with the income criterion entitling them to social

assistance benefits. Such assistance could also be granted to members of the families of such persons if the family members were their sole dependants. According to article 32 an earmarked allowance could be awarded in order to satisfy any of the requisite living needs. It could be granted in particular to cover, in whole or in part, costs of treatment and medication.

707. According to article 17, item 1, point 7 of the Act of 12 March 2004 on Social Assistance, the municipalities' own tasks of obligatory character include granting and payment of earmarked allowances to cover the costs of health-care services to homeless persons and persons with no income or possibilities to obtain the relevant benefits pursuant to the regulations concerning general insurance in the National Health Fund. Pursuant to article 39, item 3 of the Act, such persons may obtain earmarked allowances to cover, in whole or in part, the expenses on health services.

708. Assistance in covering the expenses on health services (belonging to municipalities' own tasks - number of persons who were granted the benefit, number of benefits and the total amount of benefits/spending):

- 1999 - 31 492 persons, 49 784 benefits, amounting in total to PLN 5 657 128
- 2000 - 26 513 persons, 48 876 benefits, amounting in total to PLN 5 081 921
- 2001 - 26 974 persons, 42 999 benefits, amounting in total to PLN 4 883 553
- 2002 - 23 261 persons, 45 626 benefits, amounting in total to PLN 5 639 937
- 2003 - 21 948 persons, 41 348 benefits, amounting in total to PLN 3 540 112
- 2004 - 7 220 persons, 14 820 benefits, amounting in total to PLN 1 619 771
- 2005 - 3 420 persons, 9 372 benefits, amounting in total to PLN 692 454

709. In compliance with article 2, item 1 point 2 of the Act on Health Benefits Financed from Public Funds, the right to use health-care benefits financed from public funds is granted to persons other than insured persons, Polish nationals residing within the Republic of Poland who satisfy the income criterion referred to in article 8 of the Act on Social Assistance.

#### **Question 7**

#### **Measures taken to maximize the participation of the society in planning, organization, operation and control of primary health care**

710. Drafts of legal acts regulating the issues connected with common health care are the subject of broad social consultations, involving representatives of medical circles, trade unions, NGOs and other entities. Drafts are published in Biuletyn Informacji Publicznej [Public Information Bulletin], thanks to which all the interested persons may become acquainted with them, submit all possible comments and present their standpoints to all other parties. Moreover, each citizen may approach the Minister of Health and make proposals on specific health-care issues, which are then thoroughly analysed.

## Question 8

### Measures taken in order to provide education regarding prevailing health problems

711. Programmes preventing tobacco, alcohol and drug addictions are aimed at broadening the knowledge, most often among children and young people, on the destructive effects of tobacco smoking, alcohol consumption and drug abuse, as well as propagation of the knowledge on preventing addictions. The programmes conducted among young people include:

- (a) “Alcohol steals your freedom”;
- (b) “Free from drugs”;
- (c) “Free from addictions”;
- (d) “Life without addictions”;
- (e) “Let’s live healthy lives without addictions”;
- (f) “Programme of addiction prevention”;
- (g) “Don’t smoke in front of me, please”;
- (h) “Counteracting drug addiction”.

712. Alcohol-related problems may be detected at an early stage within the primary and family health care. Early diagnosis and short-term intervention programmes may be implemented within the framework of the care. They help identify persons whose drinking style results in health problems and may lead to an addiction. Such persons are informed about those issues. Properly trained physicians may conduct such actions that help minimize the number of health problems and limit new cases of addiction and refer such patients to specialists.

713. Within the framework of prophylaxis and solving alcohol-related problems territorial self-governments conduct training courses regarding early diagnosis methods and short-term intervention for primary and family care physicians. Training courses regarding alcohol addiction are also offered to students of medical academies. Such courses are organized by the PARPA and voivodship self-governments.

714. Activities connected with prevention and counteracting of tobacco smoking are conducted in a systematic manner and particularly publicised during semi-annual actions - in May (World No Tobacco day) and in November (Quit Smoking with Us). These actions are aimed at raising the social awareness concerning the benefits of non-smoking and the harmful effects of nicotine on human body, convincing smokers that quitting is possible by promoting non-smoking fashion and informing them about the health-related, economic and social effects on non-smoking. These programmes were primarily conducted in schools.

715. Young people are particularly susceptible to tobacco addiction, connected with the process of socialization in peer groups and behaviour patterns among adults (parents, teachers). The susceptibility is regrettably appreciated by tobacco producers, who at some point conducted advertising and promotional campaigns addressed to young people. The practice was effectively stopped thanks to the regulations regarding health protection against the effects of using tobacco and tobacco products. Since 2001 a ban on advertising tobacco products on TV, press, radio and billboards has been in force. The amendment (of November 2003) of the Act of 9 November 1995 on the Protection of Health against the Effects of Tobacco and Tobacco Products Use, the ban on advertising was extended to include the Internet. All forms of promoting tobacco products are banned, along with sales of cigarettes from vending machines, sales of single cigarettes and sales of tobacco products to minors.

716. The HIV/AIDS prevention programme has been systematically implemented since the beginning of the HIV/AIDS epidemics in Poland and is addressed to the society as a whole and particularly to young people. The objectives of the programme include:

- (a) Education aimed at promoting the right attitudes and responsibility for one's own health;
- (b) Promoting behaviours preventing HIV infections;
- (c) Promoting the attitudes of tolerance towards persons living with HIV/AIDS.

717. The programme is conducted by all sanitary and epidemiological stations in Poland in cooperation with the National AIDS Centre.

718. Educational activities:

- (a) Supporting education and training programmes addressed to teachers ("Life without the risk of AIDS" - a training course for teachers helping them conduct professional classes on the prevention of HIV and AIDS and providing young people with solid knowledge of HIV infection mechanisms and safe forms of contact with infected persons);
- (b) Publishing educational materials, including education and prevention-related films. In 2002, the largest group of the educational programme beneficiaries included young people from junior secondary schools and general education secondary schools.

719. Voivodship programmes regarding HIV/AIDS education or training covered:

- (a) Students of junior secondary schools, secondary schools of general education, vocational schools, students living in school boarding houses or dormitories - 50 500 persons;
- (b) Teaching staff - 1 118 persons;
- (c) Parents - 2 497 persons;
- (d) Religion instruction teachers - 189 persons.

720. In order to prevent the increase in the number of infected persons a campaign was conducted in 2002, entitled "HIV does not choose, you can", addressed to young people aged 15 - 19. Between 1 and 30 November 2002 a HIV/AIDS helpline was available. It gave the callers an opportunity to anonymously contact persons able to provide assistance and professional counselling, indicated the closest testing points and answered numerous questions. Anonymous calls were made at the cost of a local connection, regardless of the place in Poland from which they were made. The amount of PLN 525 thousand was allocated to the campaign.

721. Actions of NGOs for the benefit of children and young people from families suffering from the HIV/AIDS problems are supported. They include, inter alia, organization of holiday trips for mothers with children. Approximately 50 prevention programmes are addressed to the school environment. Publication of the book entitled "Zapobieganie HIV/AIDS w szkołach" [Prevention of HIV/AIDS in schools] is planned. The book is a translation of a brochure issued by the International Academy of Education.

722. Sex education is regulated by the following legal acts:

(a) Act of 7 January 1993 on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion;

(b) Regulation of the Minister of National Education and Sport of 26 February 2002 on Curriculum Basis for Nursery Education and General Education in Various Types of Schools;

(c) Regulation of the Minister of National Education and Sport of 19 July 2002 on manners of school education and scope of contents concerning the knowledge on human sexual life, principles of conscious and responsible parenthood, value of the family, life in the prenatal phase and methods and means of conscious procreation contained in the general education curriculum basis.

723. The subject is taught in schools within the education programme "Education for Family Life". It concerns human sexual life, principles of conscious and responsible parenthood, value of the family, life in the prenatal stage and methods and means of conscious procreation. The classes are conducted in grades V and VI of primary school, in junior secondary schools and post-junior secondary schools. The programme includes 14 hours (five for groups of girls and boys separately) and ten hours for students of the former post-primary schools. In grades V and VI of primary schools and in post-junior secondary schools the classes are conducted during the hours at the disposal of the headmaster/headmistress. In junior secondary schools they are one of three separate modules of the subject entitled "Social knowledge". Students' participation in the classes is voluntary and they are not subject to marking.

724. The participation of underage students is conditional on the decision of the parents upon their becoming acquainted with the curriculum. Adult students take the relevant decisions themselves. School certificates do not include the information on the participation. Qualifications of the teachers conducting the classes are determined in accordance with general applicable regulations. Each school is obliged to develop the following curricula: upbringing and problem-prevention with regard to children and young people. Both curricula must comply with the contents of the "Education for Family Life" and result from the diagnosis of the educational environment.



## Article 13

### Right to education

#### Question 1

**(a) and (b) Compulsory and free of charge primary education. Common access to education at the secondary level, including secondary technical and vocational education**

725. During the reporting period no significant changes occurred as compared to what was presented in the previous report.

**(c) Access to higher education**

726. During the reporting period no significant changes occurred as compared to what was presented in the previous report.

727. For statistical data concerning the number of students of post-graduate and doctoral studies see annex I, items 65 and 66.

**(d) Education of persons who supplement their general and professional education**

728. The issue of acquiring and supplementing general and vocational qualifications is regulated in the Regulation of the Minister of Education and Science of 3 February 2006 on obtaining and supplementing general knowledge, skills and professional qualifications by adults in extra-school education. The regulation is aimed at facilitating obtaining, supplementing and improving general and vocational education to adults, including professional qualification in extra-school education. It offers a possibility to graduate from vocational training courses conducted on the basis of curricula based on school curricula in the process of education in vocational schools for adults, and consequently shortening the education cycle in such schools. Moreover, mechanisms were introduced thanks to which it is possible to certificate partial vocational qualifications obtained as a result of graduating from a given extra-school type of education, which will help employees to adapt to the requirements of employers in a more swift and flexible manner. The issue of regulating distance education in extra-mural forms is also of importance, as it should have a positive impact on equalizing education opportunities of persons from marginalized groups and from rural areas.

729. Education in which students acquire and supplement their general knowledge and vocational qualifications in extra-school forms may be offered by:

- (a) Continuous education centres, practical training centres and vocational training and development centres;
- (b) Schools;
- (c) Personnel training, supplementary education and development centres;
- (d) Research and R&D institutions;

- (e) Enterprises;
- (f) Associations, foundations, companies and other legal entities and private persons.

730. Organizers of such education are obliged to provide:

- (a) Curricula and teaching plan;
- (b) Teaching staff with professional qualifications corresponding to the classes conducted by such staff;
- (c) Internal control;
- (d) Premises with appropriate teaching aids necessary for the proper performance of the education tasks;
- (e) Particular conditions provided for under separate regulations, if any, for this type of activities.

731. The organizer is obliged to maintain the basic documentation:

- Curricula
- Class registers
- Record of examinations
- Records of the documents issued (diplomas, certificates etc)

732. The curriculum should include:

- (a) Organizational and curriculum assumptions, including the name of the education form, purpose of the education, thematic scope, enrolment principles, duration and organization manner, manner of verifying teaching results;
- (b) Teaching plan, specifying subjects taught and their volumes, schedule of classes;
- (c) Teaching curricula regarding individual subjects, specifying the teaching contents, methodology guidelines, related literature, list of the necessary teaching aids.

733. In the recent years the interest in continuous extra-school education has considerably increased along with the number of public and non-public continuous and practical education establishments as well as vocational training and development centres.

734. In 2004, an accreditation mechanism was introduced involving voluntary undergoing verification procedure confirming the quality of education offered. The mechanism, introduced pursuant to the Regulation of 20 December 2003 on accreditation of continual extra-school education establishments and centres, was aimed at proper organizing of the market of educational services. The accreditations are given by school superintendents on the basis of

the assessment of the establishments' activities, provided by a team of independent experts. Those establishments which have obtained the accreditation are entered in the register maintained by the schools superintendent. The accredited establishments may apply for an entry to the register of educational establishments maintained by the voivodship labour office, which must be used by the county labour offices organizing trainings for unemployed persons and persons seeking employment, financed from public resources. By the end of 2006, 231 training centres and establishments had obtained the accreditation.

735. Adults may start or continue their education in the school education system or in extra-school establishments. School establishments may be public, with no tuition fees, or non-public, with tuition fees. Vocational educational system for adults involves basic and secondary vocational schools and post-secondary, post-college and university-level schools, educating both young (school-age) and adult students.

736. For statistical data on students in schools, public vocational education schools, teachers employed in public continuous education centres and practical education centres, see annex I, items 67-69).

## **Question 2**

### **Difficulties encountered in exercising the right to education**

737. No significant problems occurred during the period discussed in the report. Activities undertaken to solve the possible problems, if any, have been presented in answers to other questions regarding this article of the Covenant.

## **Question 3**

### **Statistical data**

738. There are practically no persons among adults who do not have primary education. The net enrolment rate has remained at the level of over 98 per cent for years, and persons who have not obtained primary education at the age appropriate for graduation from this type of schools may obtain such education in schools for adults.

739. No more than 2 per cent of the population fails to continue their education at the age appropriate for graduating from junior secondary schools (15 years). Those persons may continue their education in schools for adults. In post-junior secondary schools for young persons (aged 16-18) the net enrolment rate is approximately 90 per cent. Many persons who did not graduate from schools for youth continue their education in schools for adults - in the last several years their number exceeded 500 thousand.

740. For the net enrolment rates in the school year 2004/2005, see annex I, item 70.

741. Men and women enjoy equal right to education. At the level of compulsory education (primary and junior secondary schools), the percentage of boys and girls participating in education reflects the gender structure of the society. At the level of post-junior secondary schools there are no considerable differences between women and men with regard to their participation in education, with the only exception being that girls more often tend to choose general education schools, whereas boys opt for vocational schools (e.g. in the school year 2005/2006 43.25 per cent of persons aged 16-18 attended secondary schools of general education, but only 33.7 per cent of them were boys and the share of girls amounted to 53.23 per cent).

742. In the school year 2005/2006 1 953.8 thousand persons attended higher education schools, and 56.6 per cent of them were women. The net enrolment rate for the 19-24 age group (excluding foreigners and external studies) was 38.0 per cent, 43.4 per cent for women and 32.8 per cent for men.

#### Question 4

##### Spending on education from the State budget

743. Expenditures from the State budget and territorial self-government units' budgets for tasks related to education and upbringing as well as educational care

	Actual expenditure (in mln PLN)							
	1999	2000	2001	2002	2003	2004	2005	2006
Expenditures from the State budget and territorial self-government units budgets for tasks related to education and upbringing as well as educational care*	26 076.5	29 928.1	33 201.8	33 875.1	35 395.7	37 417.9	39 968.0	43 243.3
From which								
- Educational tasks of central Government - expenditures made directly by ministers and voivods (including purpose reserve)	2 890.0	1 959.9	2 097.4	2 221.2	1 767.6	1 571.2	1 856.4	2 951.6
- Part of general subvention going for education for territorial self-government units	16 551.1	19 367.4	22 117.6	22 318.2	24 321.2	25 082.9	26 097.5	26 781.0
- Revenues of territorial self-government units	6 635.4	8 600.8	8 986.8	9 335.7	9 306.9	10 763.8	12 014.1	13 510.7

\* Part 854 of the State budget - educational care was introduced on 1 January 2001.

744. The share of spending on education in the Gross Domestic Product has increased: from 3.6 per cent in 1991 to 4.2 per cent in 1999. In the subsequent years the share amounted to: 4.2 per cent in 2000, 4.4 per cent in 2001, 4.4 per cent in 2002, 4.3 per cent in 2003, 4.3 per cent in 2004 and 4.1 per cent in 2005, 4.1 per cent in 2006.

## Question 5

**Equal access to education at various levels. Activities aimed at supporting education of persons in particularly unfavorable situation (children from low-income families, children from rural areas, physically or mentally handicapped children, children of immigrants and migrating workers, children belonging to language, religious and other minorities)**

745. On 9 April 2002 the Council of Ministers established the Programme for Equalization of School Start for Pupils - the School Set. The programme included all voivodships. Textbooks and school equipment was bought under the programme for children from families in which monthly income per capita did not exceed the income criterion specified in the Act on Social Assistance. The school sets included:

- (a) Textbooks - up to PLN 100;
- (b) School equipment, gym kits, knapsacks - up to PLN 90.

746. Pursuant to the relevant agreement with Poczta Polska (Polish Post) 30 thousand parcels with textbooks were delivered to their recipients free of charge. School textbooks went to 144 thousand of first-formers, and 106 thousand received partial school set consisting of knapsacks, school equipment and gym kits.

747. The education department grants scholarships to students from farmers' families, families in difficult financial situation, students starting their education in schools in which they could obtain certificates of secondary education, since September 2002 they have been financed from the State budget. In 2002 the amount of PLN 73.4 million was spent for this purpose. The number of students receiving this type of financial assistance increased to 100 000.

748. On 28 September 2004, the Council of Ministers adopted the National Scholarship Programme. The aim of the programme is to establish a system of financial assistance granted to pupils and students whose financial situation may result in their dropping off from the education system, limiting their education aspirations or even abandoning education at higher levels. The programme also supports particularly gifted children. Moreover, the purpose of the programme is extending the scope and range of financial assistance of educational character, as well as creating the appropriate conditions for the assistance being granted by the broadest possible group of entities - territorial self-government units, NGOs, legal persons and individuals.

749. The programme includes:

- (a) Financial assistance granted to pupils, students and wards under the Act on Educational System;
- (b) Financial assistance for students;

- (c) Financial assistance granted pursuant to the programmes of government organizations;
- (d) Programmes implemented with the use of community public funds;
- (e) Sports scholarships;
- (f) Activities supporting the actions of entities other than government organizations with respect to educational assistance for students (including support of the actions of territorial self-government and NGOs).

750. The new model of financial assistance includes:

751. Module I - Financial assistance of social character for students:

- (a) Objective: decreasing the difference in access to education resulting from the difficult financial situation of a student;
- (b) The assistance is granted by the municipality and financed from earmarked subsidies from the State budget;
- (c) Pupils, students and wards complying the income criterion specified in the relevant Act are entitled to the assistance. Municipalities use guidelines in the process of granting the assistance, and the relevant criteria include: unemployment in the family, disability, a serious or long-term disease, being a member of a numerous family, the family's disability to perform the care and education functions, alcoholism or drug addiction, belonging to a single-parent family;
- (d) The assistance is granted primarily in kind.

752. Module II - financial assistance of social and motivation character, granted in shorter (varying) time intervals:

- (a) Financed from the State budget;
- (b) Belong to a programme supporting regional and local programmes of equalizing educational opportunities and supporting the education of gifted students.

753. Module III - financial assistance for students of motivational character, implemented as a continuous task pursuant to the Act on Educational System, to a large extent financed from the State budget.

754. Solutions regarding financial assistance for students came into force on 1 January 2005.

755. In 2004, a national programme “Equalizing Educational Opportunities through Scholarship Programmes”, addressed to students of post-junior secondary schools was implemented enabling such students to obtain the certificate of secondary education, realized by territorial self-government units. The programme is an element of the Integrated Operational Programme for Regional Development. Its objectives include improving access to education at the post-junior secondary school and higher levels for students coming from rural areas and areas threatened with marginalization (including in particular rural areas and industrial restructuring areas).

756. In 2004-2006 ESF and State budget funds amounting to EUR 151 million (with the 70 per cent share of the ESF subsidy) were spent on scholarships for students from rural areas. Scholarships for students of higher education are to amount to EUR 24 million (with the 75 per cent share of the ESF subsidy). The scholarship assistance covered 130 thousand pupils and 28 thousand students. The total assistance granted to a single person did not exceed PLN 2 500 for pupils and PLN 3 500 for students in the period of ten months.

757. Persons who are not Polish nationals, who are under the education obligation and who do not know the Polish language or know it to a degree insufficient to undergo education in Polish, have the right to additional tuition of the Polish language free of charge. Such tuition is organized by the municipality competent with regard to their place of residence. The tuition is financed from the municipality budget and co-financed from the State budget. The manner of organization of the additional tuition of the Polish language is provided for in the Regulation of the Minister of National Education of 4 October 2001 on admittance of persons who are not Polish nationals to public kindergartens, schools, teacher training colleges and establishments. The municipality may organize an additional, free tuition of the Polish language in the form of a yearly preparatory course or additional classes.

758. The task of facilitating the tuition of the native language with regard to children of migrant workers is provided for in item 5 of article 94 (a) of the Act of 7 September 1991 on Education System. For persons who are not Polish nationals and are under education obligation, the diplomatic or consular establishment of their state of origin operating in Poland may organize the tuition of the language and culture of their state of origin (of five hours a week) in a school in consultation with the head of the school or upon the consent of the managing authority, if the minimum of 15 persons under the school obligation enrol for the tuition. A school provides premises and teaching aids free of charge. The said regulation has been in force since 1 May 2004.

759. The following programmes improving the access to education of disabled persons are financed from the PFRON funds:

- (a) Student - continual education of disabled persons

760. The objective of the programme is preparing disabled persons to compete for employment in the open labour market by continuous improvement of their qualifications. The programme is

addressed to persons with certified significant or moderate degrees of disability (or with an equivalent certificate), who receive education in the stationary or extra-mural systems or study at institutions of higher education (including foreign ones), students undergoing professional internships abroad under EU programmes, post-graduate students, doctoral students and students of post-secondary schools, students of social work colleges, teachers' colleges or teachers' colleges of foreign languages.

761. The assistance may cover tuition fees, accommodation and traveling costs, participation in classes improving students' physical or mental abilities, the purchase of the accessories facilitating education or making it possible, including computer education software and costs of trips included in the school curriculum.

- (b) Education - programme facilitating access to education for disabled children and young people

762. The objective of the programme is improving the conditions facilitating the education process of disabled children and young people and improvement of the social infrastructure in establishments ensuring 24-hour-a-day care of disabled students/charges. The beneficiaries of the assistance under the programme may be municipality and county self-government units, running special school and educational centres and revalidation and education centres for children and young people with disabilities, as well as other entities running such establishments.

- (c) Pitagoras - assistance programme for persons with hearing impairments

763. The purpose of the programme is ensuring courses preparing for entrance exams to schools of higher education to all persons deaf or hard of hearing, including sign language interpreters if such need arises, or a possibility to use hearing aids during classes or exams. Persons entitled to participation in the programme include deaf or hard of hearing persons with medical statements assessing their disability, who study at preparatory courses for entrance exams to schools of higher education, organized by universities, and declare the need to use sign language interpreters or the need to use hearing aids. Addressees of the programme may include, inter alia, schools of higher education.

- (d) Computer for Homer 2003 - a programme of assistance in purchasing electronic equipment and software helping in the professional and social rehabilitation of blind and vision impaired persons

764. The purpose of the programme is extending financial assistance in the purchase of basic and specialist computer and electronic equipment as well as software and its extension elements, purchase of specialist electronic Braille equipment, talking devices and subsidizing computer courses regarding the operation of such equipment and products, making studying possible. Participants of the programme include children and young people aged up to 18, disabled due to vision impairment, holding current statement assessing their significant or moderate disability or current statement of disability.



(e) Programme of convergence among various regions

765. The purpose of the programme is the equalization of opportunities for persons with disabilities, residing in regions which are poorly economically and socially developed with regard to professional and social rehabilitation. Entities which have established and run educational establishments may apply for subsidies for the purposes of eliminating barriers and helping disabled persons move and communicate.

**Question 6**

**Conditions of work of teaching staff at all levels. Comparison of remuneration of teachers with those of Government officials**

766. In the years 2000-2002 a three-stage reform of the remuneration system of teachers was implemented. As a result, the remunerations increased faster than in the case of other employees of the State budget sector. The changes were initiated by the Act of 18 February 2000 on the amendment of the act - Teachers' Charter and on amendments of certain other acts, which introduced the reform of the education system regarding employment relations of teachers (a new system of professional development of teachers, connected with a new system of remunerations and forms of employment). A four-stage development system was introduced for teachers, and remunerations were accordingly assigned to the subsequent stages, which guarantee a clear and considerable financial promotion, corresponding with the professional development paths planned by the teachers themselves. Forms of employment for teachers are connected with professional development stage. A system of ratios determining the amount of the remuneration was introduced, along with a system of their annual increase in accordance with the basic macroeconomic ratios. The system clearly indicates the individual components of the remuneration and conditions determining them. The numerous (though low) supplements to the basic remuneration, four additional supplements were defined (seniority, motivation, management and related to working conditions). Competences regarding determining the amounts of the components of the remuneration have been clearly divided between the minister competent for education and upbringing and bodies running schools and establishments constituting territorial self-government units.

767. A system of professional and remuneration-related development is in place, and it is conditional upon the individual activity, commitment and externally evaluated effects of work. The new promotion system motivates teachers to pursue vocational advancement and involve themselves in work for the benefit of their school, which should lead to the improved quality of the didactic and education process.

768. Following the analysis of regulations concerning professional development and remunerations of teachers conducted in 2004, the Act of 15 July 2004 was introduced on the amendment of the Act - Teachers' Charter and on amendments of certain other acts; the necessary changes in the regulations were introduced. The average remuneration is presently determined on the basis of the base amount determined for the employees of the State budget sector pursuant to the Act of 23 December 1999 on remunerations in the State budget sector and amendments of certain other acts.

769. Teachers' remunerations consist of:

- (a) Base remuneration;
- (b) Additional benefits:
  - (i) Seniority bonus;
  - (ii) Motivation benefit (whose amount depends on the quality of teachers' work and performing additional tasks or activities);
  - (iii) Management (to which teachers are entitled due to the positions or functions held);
  - (iv) Related to working conditions (for work in difficult, arduous or hazardous conditions);
- (c) Remuneration for overtime and emergency replacement classes;
- (d) Awards and other benefits following from the employment contract:
  - (i) Additional benefit for arduousness of work;
  - (ii) Additional remuneration for work at night time;
  - (iii) Jubilee awards;
  - (iv) Additional annual remuneration;
  - (v) Benefit to start up one's household;
  - (vi) Severance pays (retirement, disability pension, related to termination of employment relationship);
  - (vii) Awards from special award fund.

770. In 2006 the average statutory remuneration of teachers at the subsequent levels of professional development was as follows:

- Trainee teachers - not less than 82 per cent of the base amount
- Contract teacher - 125 per cent of trainee teacher's remuneration
- Nominated teacher - 175 per cent of trainee teacher's remuneration
- Certified teacher - 225 per cent of trainee teacher's remuneration

771. Teachers' remunerations are increased not later than on the date specified for employees of the State budget sector, and compensated from 1 January of the given year. Consequently, the increases come into force within three months of the promulgation of the Budget Act for the given year.

772. For data on average remunerations of teachers compared with average remuneration of other employees see annex I, item 71.

## Question 7

### Proportion of non-public schools in all levels of teaching

		1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
		Number of students in thousands							
Primary schools	Total	4 741.57	3 957.99	3 220.57	3 105.16	2 983.99	2 856.54	2 724.42	2 602.65
	Public	4 705.77	3 926.58	3 192.86	3 075.60	2 953.96	2 825.34	2 691.21	2 567.39
	Non-public	35.80	31.41	27.71	29.56	30.03	31.20	33.21	35.26
	Non-public/ total	0.76%	0.79%	0.86%	0.95%	1.01%	1.09%	1.22%	1.35%
Junior secondary schools	Total	0.00	615.33	1 189.95	1 743.12	1 721.54	1 693.79	1 661.44	1 610.29
	Public	0.00	609.41	1 176.95	1 721.74	1 697.26	1 667.05	1 632.57	1 578.68
	Non-public	0.00	5.92	13.00	21.38	24.28	26.74	28.87	31.61
	Non-public/ total	0.00%	0.96%	1.09%	1.23%	1.41%	1.58%	1.74%	1.96%
Basic vocational schools and secondary vocational schools	Total	1 565.53	1 552.35	1 527.89	1 136.10	1 264.14	1 060.78	941.60	877.46
	Public	1 541.70	1 526.09	1 502.48	1 117.74	1 185.48	989.37	888.02	832.11
	Non-public	23.83	26.26	25.41	18.36	78.66	71.41	53.58	45.35
	Non-public/ total	1.52%	1.69%	1.66%	1.62%	6.22%	6.73%	5.69%	5.17%
Secondary schools of general education and secondary schools of specialized education	Total	809.86	864.09	924.18	716.80	898.91	1 095.89	1 161.18	1 125.23
	Public	769.73	823.05	883.57	686.48	800.93	988.16	1 048.79	1 000.62
	Non-public	40.13	41.04	40.61	30.32	97.98	107.73	112.39	124.61
	Non-public/ total	4.96%	4.75%	4.39%	4.23%	10.90%	9.83%	9.68%	11.07%
Post-secondary schools	Total	202.83	205.54	200.11	211.00	236.59	265.74	291.22	290.71
	Public	104.67	100.73	97.64	108.43	124.63	137.41	141.64	129.13
	Non-public	98.16	104.81	102.47	102.57	111.96	128.33	149.58	161.58
	Non-public/ total	48.40%	50.99%	51.21%	48.61%	47.32%	48.29%	51.36%	55.58%
All types of schools - total	Total	7 319.79	7 195.30	7 062.70	6 912.18	7 105.17	6 972.74	6 779.86	6 506.34
	Public	7 121.87	6 985.86	6 853.50	6 709.99	6 762.26	6 607.33	6 402.23	6 107.93
	Non-public	197.92	209.44	209.20	202.19	342.91	365.41	377.63	398.41
	Non-public/ total	2.70%	2.91%	2.96%	2.93%	4.83%	5.24%	5.57%	6.12%

## Article 14

### Right to free of charge primary education

773. During the reporting period no significant changes occurred as compared to what was presented in the previous report.

## Article 15

### Right to take part in cultural life

#### Questions 1 and 4

#### Implementation of the right to take part in the cultural life

- (a) **Implementation of the right of everyone to take part in the cultural life and manifest their own culture. Funds for the promotion of cultural development and participation in cultural life, including public support for private initiatives**

774. The right to unhindered participation in culture is guaranteed to everyone in the Constitution of the Republic of Poland of 1997. Detailed solutions regarding cultural activities, including the financing of such activities, are contained in:

- The Act of 25 October 1991 on Organization and Conducting Cultural Activities
- The Act of 29 December 1992 on Broadcasting
- The Act of 21 November 1996 on Museums
- The Act of 27 June 1997 on Libraries
- The Act of 24 April 2003 on Public Benefit and Volunteer Work
- The Act of 23 July 2003 on the Protection of Monuments and the Guardianship of Monuments
- The Act of 13 November 2003 on Revenues of Territorial Self-Government Units
- The Act of 20 April 2004 on the National Development Plan
- The Act of 30 June 2005 on Cinematography
- The Act of 30 July 2005 on public finances

775. Public spending on culture and protection of national heritage (see annex I, items 72-74).

776. Since 2003 the funds for co-financing the operation of foundations and associations in the area of culture have come from the surcharges to stakes, lottery tickets or other evidences of participation in games of chance (a State monopoly) and since 2005 they have been collected by the Fund for the Promotion of Culture). The funds are used to co-finance the following, in particular:

- (a) National and international artistic enterprises, including those of educational character;
- (b) Literary work and periodical press and activities for the culture of the Polish language and propagating reading, support of cultural periodicals and low-circulation literature;
- (c) Activities for the protection of the Polish national heritage;
- (d) Activities of young authors and artists;
- (e) Actions for ensuring access to cultural goods to persons with disabilities.

777. In 2003 the spending amounted to PLN 58 488 000, in 2004 - to PLN 147 429 325 and in 2005 to PLN 72 647 233. Within those amounts PLN 1 156 500 was spent in 2003-2005 on activities aimed at ensuring access to cultural goods to persons with disabilities.

**(b) Institutional infrastructure established to implement the policy supporting participation in the culture (cultural centres, museums, libraries, theatres, cinemas, traditional arts and crafts)**

778. According to the Act on Organization and Conducting Cultural Activities, units of territorial self-government conduct cultural activities by establishing cultural institutions.

779. For data on cultural institutions, see annex I, item 75.

780. Public libraries run by territorial self-government units contribute to satisfying the educational, cultural and information-related needs of the whole of the society. The obligation to establish such institutions by territorial self-government units of all levels follows from the Act on Libraries. According to the Act, each unit, a municipality, district and voivodship establishes and runs at least one public library (belonging to the municipality, district or voivodship).

781. Over the last years the number of public libraries has decreased, which results from the difficult financial situation of self-governments. The number of readers using public libraries began to decrease also:

- Number of libraries: 2 893 in 1999, 2 636 in 2005
- Number of libraries with branches: 9 046 in 1999, 8 591 in 2005
- Number of persons using libraries: 7 332 000 in 1999, 7 337 000 in 2005

782. Actions have been taken to stop the tendencies. The basic activity, aimed principally at improving the quality of the library book collections and consequently the offer of public libraries, is subsidizing the purchases of the latest publications. Funds for public libraries were increased and they were allocated to the renewal of the collections. The subsidies amounted to: in 2004 - to PN 10 million, in 2005 to PLN 30 million. The ratio of latest publications purchases, counted in volumes per 100 inhabitants in 2004 increased for the first time after 1990 and amounted to 6.6 as compared with 5.1 in 2003. Public libraries development programmes and programmes of promoting reading will be continued.

783. The Act on Cinematography, passed on 30 June 2005, defines the principles of supporting film works and other activities in the area of cinematography and protection of film art resources. The Act adapted the organization of cinematography to market conditions. On the other hand, it contains provisions regarding the necessity to support non-commercial, ambitious works and national productions. It offered the Polish cinematography development conditions similar to those existing in other European countries. This complies with the EU guidelines regarding pursuing active policies supporting national cinematography. The development of cinematography is supported by the Polish Film Institute, established in 2005 to perform the tasks of the State regarding cinematography.

**(c) and (d) Supporting cultural identity, the awareness and enjoyment of the cultural heritage of ethnic groups and minorities as well as indigenous peoples**

784. The main area of cooperation with organizations propagating, promoting and preserving the cultures of national and ethnic minorities was co-financing artistic and educational events. Thanks to the artistic values present in the process of inclusion and education, organizers of the events increase public awareness and overcome harmful stereotypes, which underlie xenophobic attitudes. The main groups of the co-financed events are those relating to the Polish cultural and historical heritage, involving the participation of national minorities in creating the national culture. Their main objective is preserving the remembrance of the common, multicultural past.

785. In 1999-2004 the amount of PLN 32 million was spent (from the budget of the Minister of Culture) on supporting the cultivation of cultural identity of national and ethnic minorities.

786. Subsidies supported 35 periodicals of national and ethnic minorities (mainly in their national languages), the organization of cultural events, the activities of 100 amateur art and music groups, choirs and orchestras, as well as the operation of regional clubs and libraries.

787. The following enterprises of cultural character were subsidized: concerts for children and young people, e.g. "Musical Traditions of the Podlasie National Minorities", "Under the Common Sky. Polish-Jewish Relations against the Common Historical Background", Singer's Warsaw - Festival of the Jewish Culture, the Jewish Culture Festival in Kraków and the International Festival of Orthodox Church Music in Hajnówka. Subsidies were also granted to support the educational and scientific activities of cultural institutions specializing in the cultures of national minorities, such as the Jewish Historical Institute - Research Institute in Warsaw and the "Borderland of Arts, Cultures, Nations" Centre in Sejny.

788. In the years 1999-2004 the amount of PLN 2.6 million was granted to support the Roma organizations. In 2006 approximately PLN 6 million from the State budget were granted to the performance of the tasks under the Programme for the Roma community in Poland. Some of the Programme tasks involve supporting the cultural identity of the Roma population in Poland.

789. The Roma community issues two periodicals: "Rrom po Drom" and "Dialog-Pheniben". Annual celebrations of the anniversary of the liquidation of the Roma camp in Auschwitz-Birkenau are held, and their importance for the identity of the community is considerable. International Meetings of Roma Bands "Romane Dyvesa" are also organized.

790. Since 1999 special emphasis has been placed on the artistic education of Roma children. New children's art groups are particularly supported.

791. Muzeum Okręgowe (the District Museum) in Tarnów specializes in the Roma culture. It offers the world's unique permanent exhibition presenting the Roma culture and history. A mobile version of the exhibition is shown in Poland and over ten European countries, accompanied by live performances of Roma artists. The Government programme for the Roma community includes a project entitled "Roma Children in the Museum", which has so far involved several hundred Roma and Polish children, studying together at schools. Since 1996 the museum has worked on the project "Roma Caravan Memorial". In 2002, following the Museum initiative, the Roma Educational Association - Harangas was established. The association has 30 members.

792. Cultural identities are also supported by museums, including primarily: district and ethnographic museums, which offer educational programmes, exhibitions and publications aimed at establishing and reinforcing the sense of belonging to the given region, sense of identity regarding the area of residence, its culture and history. The programmes are co-financed from the State budget and the budgets of local self-governments.

793. The Museum in Tarnów specializes also in the Jewish culture and history. Since 1996 it has pursued a project entitled "Galizianer shtetl" [Galician Shtetl], involving one of Poland's largest festivals of Jewish culture, including exhibitions and concerts. In 2004 an educational session for teachers, entitled "Jews in Tarnów", was organized. Two guidebooks have been published: "The Jewish Route of Tarnów" (in Polish, English and Hebrew) and "Tarnowski cmentarz żydowski" [The Jewish Cemetery in Tarnów].

794. Examples of other museums' activities are listed below:

(a) Muzeum Okręgowe w Nowym Sączu (District Museum in Nowy Sącz) (an open-air museum) opened a Roma architecture sector in 2003;

(b) In 2003 Muzeum Narodowe Ziemi Przemyskiej (National Museum of the Przemysł Region) in Przemyśl opened an exhibition of the religious art of 3 nations: Jews, Ukrainians and Poles, entitled "Three Faiths, Two Religions, One God";

(c) Museums participate in the Multicultural Festival Galicia, organized to inspire and cultivate the interest in the cultures of ethnic minorities.

795. On 6 January 2005, the Act on National and Ethnic Minorities and the Regional Language was passed. The competencies as concerns supporting cultural identities of minorities were passed to the Minister of Internal Affairs and Administration. Article 18 of the Act obliges public authority bodies to undertake the appropriate measures in order to support the activities aimed at protecting, preserving and developing cultural identities of minorities. This objective is pursued by subsidizing the following:

- (a) Activities of cultural institutions, artistic movements and activities of minorities as well as artistic events of importance for the culture of minorities;
- (b) Investments made to preserve the cultural identities of minorities;
- (c) Publication of books, periodicals and leaflets in the languages of minorities or in the Polish language, in the form of print or with the use of other techniques of recording images and sounds;
- (d) Supporting television and radio programmes made by the minorities;
- (e) Protection of places connected with the culture of minorities;
- (f) Operation of (youth) clubs;
- (g) Operation of libraries and documentation of the cultural and artistic life of minorities;
- (h) Education of children and young people in various forms;
- (i) Propagating knowledge regarding minorities;
- (j) Other programmes pursued to protect, preserve and develop the cultural identity of minorities.

796. Apart from earmarked subsidies, the Act provides for granting subsidies to particular entities. It also provides for the possibility for the state administration, inter alia, to support investments aimed at preserving the national identity of minorities and protecting places connected with the culture of minorities. According to the article 18, paragraph 3 of the Act the Minister of Internal Affairs and Administration announced in 2006 information on the principles of granting subsidies for realization of tasks aimed at protection, preservation and development of the cultural identity of national and ethnic minorities and the development of the regional languages. The principles of granting subsidies were consulted with representatives of national and ethnic minorities and communities using regional languages.

797. Subsidies from the budget of the Minister of Internal Affairs and Administration for 2005 amounted to PLN 5 900 00 and in 2006 to PLN 10 944 000 (following the entry into force of the Act. In 2006 subsidies were granted to approximately 200 events such as concerts, festivals, festivities, reviews of arts ensembles, exhibitions, organized by national and ethnic minorities and communities using the regional languages. Support was also granted to tens of artistic ensembles involving minorities (rehearsals, participation in concerts, employment of instructors, purchase of costumes and musical instruments).

798. Subsidies were also granted to publications - over ten books published by minority organizations (mostly in minority languages) and periodicals of national and ethnic minorities (mainly weeklies and monthlies in the minority languages). Subsidies were also granted to support radio programmes for national and ethnic minorities and communities using the regional



languages, as well as investments made to preserve the cultural identity of minorities, such as support for the construction of a school building, renovations of an organization buildings or extensions of open-air museums.

799. Moreover, some activities for the development of the cultural identity of national and ethnic minorities were supported from the budget of the Minister of Culture and National Heritage due to their exceptional importance for national culture. In 2005 the amount of PLN 1 034 000 from the budget of the Minister was spent on co-financing such events, whereas in 2006 the amount totaled to PLN 995 000.00. Organizations of national and ethnic minorities rely on subsidies from the State budget as the basis of their operation.

800. The Act on National and Ethnic Minorities and the Regional Language has also provided for the possibility of using traditional names of places and physiographical objects and names of streets along their official names in order to support the development of the cultural identity of national and ethnic minorities. The additional name of a place or a physiographical object in a minority language may be introduced at the proposal of the municipality council if the number of the municipality inhabitants belonging to a minority is not lower than 20 per cent of the total number of inhabitants of the municipality or if over a half of the inhabitants of a place participating in social consultations supported the proposal of establishing such additional name in the minority language. The additional name of a place may be introduced in the whole municipality or in some of places. The name may be used within the municipality registered in the register carried out by the Minister of the Internal Affairs and Administration. Putting name to the registry is done by the minister on the basis of application made by the municipal council. The Ministry of Internal Affairs and Administration has received two applications concerning registering a municipality in the Official Register of Municipalities in whose areas names in minority languages are used. As of 22 December 2006 the Register contained one municipality.

801. The Act provides for the use of minority languages as auxiliary languages in the municipalities in which the number of inhabitants belonging to minorities is not lower than 20 per cent of the total number of inhabitants and which have been entered into the state register of municipalities in which auxiliary languages are used. The possibility of using an auxiliary language means that persons belonging to minorities, subject to the appeal procedure conducted in an office, have the right to: approach the municipality authorities in the auxiliary language in writing or in speech and obtain responses, at their clear request, also in the auxiliary languages in writing or in speech. As of 31 December 2006 the register of municipalities in which auxiliary languages are used contained 15 municipalities.

802. In the course of education of children belonging to national and ethnic minorities in art schools the provisions of the Act on National and Ethnic Minorities of 2005 are applied, regarding the sustaining of national, ethnic, linguistic and religious identities in the spirit of tolerance and mutual understanding. Puńsk, which is a large centre of Lithuanian population, has a music school, a branch of the State Music School of I and II degree in Suwałki, in which

students belonging to the minority prevail. A similar situation is observed in Leśnica, whose music school teaches a large group of students belonging to the German minority, and in Przemyśl, where the Ukrainian minority is taught. One of primary schools in Nowy Sącz offers arts classes for the young Roma, who will become members of the Roma music ensembles in the future. A reputable school of icon painters from Orthodox Christian environments has been operating for many years in Bielsko Podlaskie.

**(e) Role of mass media in promoting participation in the cultural life**

803. Electronic media operate on the basis of the Act on Broadcasting. It defines the rights and obligations of broadcasters, including making cultural and artistic goods available, facilitating the use of education and scientific heritage, propagating civil education, providing entertainment, as well as the right of the National Broadcasting Council, responsible for the level of the broadcast messages.

804. In the years 2000-2004, the Ministry of Culture supported literary, artistic, social and cultural periodicals of reputation and culture-forming character.

805. For the amounts of funds allocated to the protection of the periodicals market, see annex I, item 76.

806. A special group of periodicals supported from the budget of the Ministry of Culture are the so-called "sponsored" periodicals, financed with the intermediation of the National Library. These include: *Dialog*, *Literatura na Świecie*, *Nowe Książki*, *Ruch Muzyczny*, *Twórczość*, *Nowaja Polska* (in Russian). The funds spent on their publication amount to approximately PLN 4 400 000 a year.

**(f) Preservation of the cultural heritage of mankind**

807. Issues regarding the preservation of cultural heritage are provided for in the Act on Protection of Monuments and the Guardianship of Monuments. The Act provides for four forms of monuments' protection: entry into a register of monuments, recognition as a historic monument, establishment of a culture park and defining protection in the local land management plans. In connection with Poland's accession to the EU regulations regarding "restitution of monuments", i.e. assistance regaining the monuments taken abroad in an illegal manner, have been introduced.

808. The National Culture Development Strategy for the years 2004-2013 includes the National Culture Programme "Protection of Monuments and Cultural Heritage". Its assumptions include recognizing the heritage as the basis of the development and propagation of culture, as well as potential of regions.

809. For data on register of monuments, see annex I, item 77.

810. Until 2003, three national programmes of conservation of monuments had been functioning:

- (a) The national programme for the protection of wooden monuments;
- (b) The national programme for the conservation of Romanesque monuments;
- (c) The national programme for the conservation of particularly valuable or threatened monuments.

811. In 2003, the spending on subsidies for renovation and conservation works within the programmes amounted to:

- Wooden monuments - PLN 5 219 830.67
- Romanesque monuments - PLN 1 654 586.00
- Monuments of a particular value or menaced - PLN 1 163 918.00

812. Following the Act of 23 July 2003 on Protection of Monuments and the Guardianship of Monuments, these programmes were ceased. In 2004 subsidies for conservation works regarding monuments were granted in accordance with the statutory principles and amounted to PLN 16.5 million. Since 2005 the operational programme “Cultural Heritage” has been the basic instrument in the process of applying for funds connected with protection and conservation of monuments. The budget of the programme amounted to PLN 21 million and to PLN 44 million in 2005 and 2006, respectively.

813. The operational programme “Cultural Heritage” involved activities regarding:

- (a) Comprehensive restoration of monuments;
- (b) Protection of archaeological heritage;
- (c) Increasing the role of monuments and museum artefacts in the development of tourism and entrepreneurship;
- (d) Improving the institutional, legal and organizational conditions pertaining the protection of monuments and the related documentation;
- (e) Protecting monuments, museum artefacts and archive material from the effects of natural disasters, theft and illegal export and against crisis situations;
- (f) Making monuments available for public purposes;
- (g) Preserving the resources of cultural heritage in digital records.

814. Since Poland's accession to the EU the possibility of subsidizing projects regarding protection of cultural heritage was guaranteed within structural funds, particularly the Integrated Regional Operational Programme and the SOP Restructuring and Modernization of the Food Sector and Rural Development. Another possibility of obtaining funds for the protection of cultural heritage is guaranteed by the EEA Financial Mechanism and the Norwegian Financial Mechanism. In 2005 14 projects, amounting to EUR 48 186 763, were recommended, including 13 projects regarding cultural heritage (concerning, inter alia, modernization of monuments, creating an archaeological open air museum, digitalization of historic book collections and archive materials).

815. In the period from 1999 - 2006, the President of the Republic of Poland declared the following to be historic monuments:

- Wrocław - the Centennial Hall (Hala Stulecia)
- Bochnia - the salt mine
- Chełmno - the Old Town
- Gdańsk - the Westerplatte battlefield
- Góra św. Anny - the composed cultural and natural landscape
- Kalwaria Zebrzydowska - the landscape Mannerist complex of the pilgrimage park
- Kamień Pomorski - the cathedral complex
- Krzeszów - the Cistercian abbey
- Legnickie Pole - the former Benedictine monastery complex
- Leżajsk - the Observants monastery
- Łańcut - the palace and park complex
- Łęknica - Park Mużakowski
- Racławice - the battlefield
- Srebrna Góra - the Srebrna Góra Fortress
- Tarnowskie Góry - the basements of the historic mine of silver ore and the "Czarny Pstrąg" [Black trout] drift

816. The following Polish properties were entered to the UNESCO World Heritage list in the years 1999-2006:

- The architectural and park landscape complex in Kalwaria Zebrzydowska
- Churches of Peace in Jawor and Świdnica
- Wooden churches of Małopolska (in Binarowa, Blizne, Dębno, Haszów, Lipnica Murowana and Sękowa)
- Park Mużakowski/Muskauer Park in Łęknica - a trans-border Polish and German entry
- The Centennial Hall (Hala Stulecia) in Wrocław

817. Poland participated in the campaign of the Council of Europe “Europe, a Common Heritage”, lasting from September 1999 until December 2000, particularly in the programmes “Wood Culture” and “Industrial Heritage”.

818. The European Heritage Days are organized every September following the initiative of the Council of Europe and under the patronage of the EU. Their objective is to raise the social awareness regarding the existence of monuments and the necessity to protect them and to draw attention to the cultural community over the state boundaries.

819. In 2000 Poland joined the HEREIN programme developed by the Council of Europe and financed by the EU, whose purpose is to develop an Internet database concerning policies and structures of cultural heritage protection in countries of Europe. Issues concerning the protection and propagation of folk culture were included in the operational programmes announced in 2005. The most significant financial resources were allocated to the programme Culture Education and Propagation of Culture (priority II: Protection of folk culture heritage), aimed at preserving the tradition and message of the folk culture heritage. This is a continuation of the “Dying Professions” programme, supplemented with provisions which meet the needs of the environment, culture institutions and NGOs in the area.

820. In 2005 the most significant funds were allocated to activities connected with preservation and propagation of folk culture within the following programmes:

- (a) Development of Local Initiatives (PLN 5 334 362);
- (b) Cultural Heritage (PLN 4 736 713).

821. The following tasks were undertaken:

- (a) Documentation and archiving of the most valuable phenomena of folk culture, creating visual, audio and text sources;
- (b) Scientific research, publication of materials propagating folk culture;

- (c) Organization of seminars and conferences on folk culture;
- (d) Transfer of skills during workshops, schools of tradition;
- (e) Establishing collections of folk art, purchases cultivating the local and regional traditions;
- (f) Propagating folk art by supporting exhibitions, contests, reviews and festivals;
- (g) Protection of the cultural environment of rural areas by assistance in the preservation of regional architecture, traditions and customs;
- (h) Preserving and propagating the dialects of ethnographic regions;
- (i) Stimulating local cultural initiatives and creating favourable conditions for the development of folk art at the local level;
- (j) Protection of the cultural heritage of rural areas of investment character (revitalization, restoration, conversion of monument buildings and modernization of the surrounding infrastructure).

822. Folk artists receive grants, jubilee awards and Annual Awards of the Minister of Culture and National Heritage. The Minister also founds the Oskar Kolberg Awards, granted during the annual Reviews of the Work of Folk Artists and Propagators of Folk Culture. The award expresses the highest recognition for artists, researchers and propagators of traditional culture and shows and promotes the best achievements in modern folk art.

823. Protection of heritage of mankind in film is pursued by the National Film Archive, established to archive films, store them and make them available to the public and to pursue educational, scientific and documenting activities concerning film.

- (g) **Protection of freedom of artistic creation, including the freedom to disseminate the results of such activities. Implementation of the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. Legal solutions and the system of judicial protection which guarantee the respect and protection of the freedom necessary to conduct scientific activities and artistic works**

824. The basic protection of the freedom of artistic creation is set forth in article 73 of the Constitution of the Republic of Poland of 1991, which guarantees the freedom of artistic creation, scientific research as well as dissemination of the fruits thereof, the freedom to teach and the freedom to enjoy the products of culture. The Act of 4 February 1994 on Copyright and Related Rights provides for the protection of personal and economic copyrights. Creators are entitled to protection regardless of their having complied with any formalities, and the subject of protection is any work within the meaning of the Act (expression of creative activity having individual character and manifested in any material form, regardless of the value, intended purpose and manner of expression thereof). Work is protected by copyright from the moment of its establishment, even if it is not completed.

825. The rights of the creator to disseminate are limited by the principle of lawful personal (private) and public use. Exceptions from the creator's exclusive rights following from social reasons must not infringe the rightful interests of the creator or hinder the normal use of the work. Using the works within the lawful use limits requires that the name of the author and the source be mentioned.

826. The Act also provides for the protection of artistic performances. An artist is entitled to remuneration for the use of artistic performance or for the disposal of the right to such performances set forth in relevant agreements or granted under the provisions of the Act.

827. The Act specifies the legal measures protecting the rights of the creator and the related rights connected with the work.

828. The most significant amendments to the Act on Copyright and Related Rights were connected with Poland's EU membership. The following directives have been implemented:

(a) 91/250/EC of 14 May 1991 on the legal protection of computer programmes;

(b) 92/100/EC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property;

(c) 93/83/EC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission;

(d) 93/98/EC of 29 October 1993 on harmonizing the term of protection of copyright and certain related rights;

(e) 96/9/EC of 11 March 1996 on the legal protection of databases;

(f) 2001/29/EC of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society;

(g) 2001/84/EC on the resale right for the benefit of the author of an original work of art.

829. Detailed regulations have been introduced regarding the control of visual carriers and the related business activity. These regulations have been harmonized with the EU law. Also regulations concerning the use of computer programs have also been updated.

830. Regulations have been introduced to guarantee to the author and his/her successors in the case of professional sales of original copies of three-dimensional artistic works or photographic works the right to remuneration amounting to a share in the profits of the seller of the original work, the so-called *droit de suite*. On this basis the author obtained the right to a share in profits achieved by other entities with regard to the exploitation of the work. This is of particular importance if works increase their value with time.

831. On 21 November 2006 the Council of Ministers adopted a draft of the act amending the Act on Copyright and Related Rights, aimed at implementing Directive 2004/48/EC on the enforcement of intellectual property rights.<sup>3</sup> Moreover, changes are planned in order to harmonize the situation of co-authors of audiovisual works by equalizing their economic protection.

832. On the basis of the periodical reports regarding compliance with the Act on Copyright and Related Rights in Poland, the Team for Counteracting Violation of the Act on Copyright and Related Rights is developing a strategy of acting for the protection of intellectual property in Poland (the strategy for 2006 was adopted by the Council of Ministers on 27 June 2006), and its main assumptions include:

- (a) Increasing the effectiveness, efficiency of state services (police, Border Guard, Customs) and better coordination of their work in counteracting piracy;
- (b) Increasing the efficiency of the judiciary system in counteracting piracy;
- (c) Limiting the phenomenon of piracy in open-air markets;
- (d) Increasing the efficiency of the law enforcement bodies in combating Internet crime;
- (e) Undertaking activities aimed at raising the social and legal awareness on the criminal character of violations of intellectual property rights and the role of the State administration in combating those violations.

833. On 27 June 2006 the Council of Ministers also adopted the report of the Team. Its conclusions indicate that the most important achievements regarding the protection of intellectual property in 2005 include:

- (a) Consistent continuation of activities against persons trading in pirated goods and unrelenting enforcement of the ban regarding all trade in optical carriers;

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<sup>3</sup> The project is also intended to implement the following:

- Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission
- Council Directive 93/98/EEC harmonizing the term of protection of copyright and certain related rights
- Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases



(b) Considerably intensified activities of the police, Border Guard and Customs in combating production and trade in pirated or forged goods;

(c) Measurable results of the regulation on the register of data on the production of optical carriers and types of identification codes and the implementation of the regulation.

834. In spite of the considerable improvement and decreasing scale of threats regarding trade in pirated goods, violation of intellectual property rights continues to be a problem in Poland. Notably, the stable and permanent progress in the process of combating piracy will be possible thanks to the support of international organizations. Violation of intellectual property rights must not be considered as a problem of the state in question, which should not be left to rely upon itself only in its attempts to find solutions. Intellectual property in the broad sense is a heritage of transborder nature that should be protected with particular care.

**(h) Vocational training in culture and art**

835. Art education is supported by:

(a) Plans regarding its development;

(b) Realization of tasks following from the education reform and the reform of teachers' and headmasters' professional development system;

(c) Coordination of public art schools, including the establishment and transformation of schools, allocation of budget funds for art schools;

(d) Coordination of non-public art schools, including granting the rights of a public schools to non-public art schools;

(e) Coordination of financial assistance granted to students;

(f) Developing projects regarding the principles and division of subsidies granted to individual entities;

(g) Issuing certificates on the equivalence of certificates and diplomas obtained in foreign schools and institutes of higher education, legalization of the certificates and diplomas of Polish schools for persons traveling abroad;

(h) Coordinating the cooperation of schools and schools of higher education under international agreements and EU programmes, coordination of tasks resulting from art schools of higher education participating in the Central European Exchange Programme for University Studies - CEEPUS;

(i) Recruitment of students and graduates of Polish art schools for studies and internships abroad, and recruitment of foreign students for studies and internships in Poland;

(j) Promotion, in Poland and abroad, of the most talented students of arts schools and schools of higher education;

(k) Supervision of the GAUDE POLONIA and MŁODA POLSKA [Young Poland] grant programmes;

(l) Handling issues concerning the Minister's awards for teachers of art schools and schools of higher education, as well as those concerning distinctions;

(m) Cooperation on issues regarding art education with international organizations, including: the International Society for Music Education (ISME), the European Music School Union (EMU), the European Union of Music Competitions (EMCY) and INSE.

836. Scholarships are awarded:

(a) From the budget of the Minister of Culture - these include annual and semi-annual scholarships for persons dealing with artistic activities and propagation or protection of cultural goods;

(b) From special funds (since 2005 - from Fund for the Promotion of Culture) - for young artists and performers;

(c) From the Arts Promotion Fund;

(d) Scholarships of the Minister of Culture for artistic achievements - to students of secondary arts schools who have very good academic results and have won domestic or international contests;

(e) Scholarships of the Minister of Culture for students of art schools of higher education - for academic achievements;

(f) Scholarships for internships abroad for graduates and young employees of Polish art schools of higher education.

837. For statistical data on art schools, see annex I, items 78-79.

## **Question 2**

**Measures taken to realize the right to enjoy the benefits of scientific progress and its applications, in particular:**

**(a) Measures taken to ensure the application of scientific progress for the benefit of everyone;**

**(b) Measures taken to promote the diffusion of information on scientific progress;**

**(c) Measures taken to prevent the use of scientific and technical progress for purposes which are contrary to the enjoyment of all human rights;**

**(d) Any restrictions upon the exercise of this right.**

838. Under the Minister of Science and High Education, a Team for Ethics in Science was created in 1998. The task of the Team is to safeguard reliability of scientific research, including that respect for human rights is assured. At many occasions the Team provided its opinions as concerns the use of results of scientific research. For example, in 2001 the Team initiated the ratification process of the Helsinki Declaration (Ethical Principles for Medical Research Involving Human Subjects), and in March 2006 the Team made public its opinion on research involving the use of embryonic stem cells. According to this opinion such scientific research should not be financed from the public funds, the members of the Team made also known their doubts as to whether the results may serve for public good and underlined that these results are in breach with human rights (right to life). The opinion was endorsed by the Council of Ministers on 7 March 2006.

839. Legal measures as concerns disseminating information on scientific progress and restrictions upon the exercise of the rights to enjoy the benefits of scientific progress are provided for by the Act of 8 October 2004 on Financing the Scientific Activities.

840. The Act:

(a) Allows to influence the choice of directions of the scientific research according to the needs of a modern society;

(b) Introduces effective financial measures allowing the implementation of a national policy in the field of science and technique, by directing spending on research in chosen areas;

(c) Allows stimulating innovation and competitiveness of the national economy through scientific and development research;

(d) Increases effective use of funds other than from the State budget;

(e) Adapts the system of financing the scientific research in order to allow effective use of the EU budget and funds;

(f) Counteracts to break up of the scientists' community and allows coordinating the choice of subjects for scientific research in order to allow establishing Polish Research Area and participation in establishment of the European Research Area.

841. Stimulating the improvement of innovativeness and competitiveness of the national economy is operated by implementing purposeful projects and development projects as well. The most important for economy development purposeful projects are co-financed by the authors of these projects. Among these projects are in particular, these related to the implementation of tasks provided for in the National Development Plan and in the Integrated Operational Plan for Regional Development. Projects aim at supporting access to EU funds and funds other than State budget and also integrate scientific community and voivodships self-governments and entrepreneurs around shared objectives. Development projects concern mainly applied sciences and development. Results of these projects should be of practical applicability and support innovativeness, in particular of the SMEs. Access to the results is open to all economic entities interested in their practical application.

842. In order to ensure access to scientific research results and possibility to make widely known in the Act provides for:

(a) Establishing by the minister competent for science of programs and projects open to the whole scientific community and concerning ways and means of ensuring scientific knowledge development in informatized form (development of IT infrastructure of the science), as well financing these projects and programmes;

(b) Possibility to assign funds for investments in the field of IT infrastructure development serving the scientific research, undertaken by the scientific entities;

(c) Supporting implementation of the tasks allowing for creation, making accessible and widely known scientific and technical information and making publicly known the results of scientific and technical research and in the field of innovation, all undertaken by entities supporting scientific research.

843. When deciding on granting funds taken into consideration are, among others:

(a) Conformity of proposed work or projects with objectives of the State policy in the field of science, technique and innovation;

(b) Scientific level of work or projects proposed;

(c) Practical usefulness of research results or tasks to be performed;

(d) Importance of the proposed works for international cooperation development in the field of science and technique.

844. The Research Committee for Science Development, which members are representatives of the scientific community prepares evaluation and opinions on scientific research entities and demands for funds to finance scientific research. This evaluation is a basis on which the minister decides on financing the proposed project of scientific research. The Research Committee for Society and Economy Development oversees the issues of the use of results of the scientific research and development projects, in particular of purposeful projects and development projects.

### **Questions 3 and 5**

#### **Legal and other measures taken to exercise the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author**

845. The Act of 4 February 1994 on Copyright and Related Rights provides that the subject matter of copyright is any expression of creative activity having individual character and manifested in any material form, regardless of the value, intended purpose and manner of expression thereof. Consequently, the principles set forth by the Act also cover scientific works. In this respect the comments relating to the protection of copyright and related rights also apply

to scientific activities. Protection provided for by the Act on Copyright and Related Rights and in the intellectual property law, i.e. protection of intellectual property in the broad sense, is a compensation of the investments made in development and innovation, and in this sense the protection is a guarantee of scientific and technological progress.

846. See also information in point (g).

## **Question 6**

### **Support for international scientific and cultural cooperation**

847. International cultural cooperation is pursued on the basis of bilateral agreements. Pursuant to such agreements reviews of Polish culture were organized abroad, Polish artists participated in international music or arts competitions, Poland hosted conferences, open-air workshops or contests.

848. Poland participates in many multilateral programmes and projects of European organizations. 18 films were co-produced in the years 1999-2006 within the European Cinema Support Fund - Eurimages. Apart from co-financing film production, Eurimages also supported the distribution of foreign films. The Fund also supported the repertoire planning works in four Polish cinemas.

849. Since 2001 Poland has also participated in the EU Culture 2000 programme as an organizer or co-organizer of projects. The number of projects in which Poland is active has systematically grown. Since 2003 the tasks involving distribution and programming support offered to cinemas were taken over by the MEDIA PLUS Programme (EU). Between 2002-2006 Polish projects participating in the Media Plus Programme (its different fields: development, distribution, festivals, training) received EU co-funding, amounting to EUR 2 160 604. Media Plus is to be continued by the Media 2007 programme, which is to come into force on 1 January 2007.

850. In 2002, the European Convention on Film Co-production was ratified. The legal regulation of the participation in joint enterprises with producers from European countries offers greater production possibilities, protection of jobs and more intense presence on the European markets.

## **II. COMMENTS AND ADDITIONAL QUESTIONS OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/C.12/1/Add.82)**

### **1. Possibility of invoking the rights provided for by the Covenant before the national courts**

851. In compliance with article 9 of the Constitution, "The Republic of Poland shall respect international law binding upon it", whereas pursuant to article 87, paragraph 1, ratified international agreements are a source of universally binding law. International agreements which have been ratified by the President upon the prior consent of the Parliament granted by an Act have precedence over (other) Acts if such an agreement cannot be reconciled with the provisions of the Acts.

852. This, however, is not tantamount to entities being able to invoke those provisions before national courts. Article 91, paragraph 1 of the Constitution provides that “a ratified international agreement shall, upon promulgation thereof in the Journal of Laws of the Republic of Poland, constitute part of the domestic legal order and shall be applied directly, unless its application depends on the enactment of an Act”. This means that direct application of an international agreement is conditional upon the following: ratification, promulgation in the Journal of Laws and the “self-enacting” character of its provisions. Consequently, only those provisions of the Covenant whose application is not conditional on an Act may be directly invoked by individuals before national courts. In the remaining cases individuals may pursue their rights under the Covenant only on the basis of and in the scope provided for in the Acts.

853. The possibility of the direct application of the International Covenant of Economic, Social and Cultural Rights was adjudicated upon by the Supreme Court, particularly in the ruling of 8 February 2000 (file No II UKN 374/99), in which the Supreme Court ruled that parties to national proceedings might not directly invoke the rights under the Covenant. The Supreme Court ruled that the Covenant defined a group of standards regarding the rights and freedoms of individuals which the States - signatories of the Covenant undertook to apply in the national legislation and in application of internal law. However, in the opinion of the Court, the Covenant contains no indications as to uniform regulations in the internal law. According to article 2, paragraph 2 of the Covenant, States parties to the Covenant undertook to take steps with a view to achieve the realization of the rights recognized in the Covenant according to their own constitutional processes.

854. With regard to the courts’ case law it should be noted that the Covenant, which is a ratified international agreement and consequently a part of the domestic legal order (art. 91 of the Constitution of the Republic of Poland), is not directly applied by Polish common courts.

855. The ruling of the Supreme Court of 8 February 2000, file No SN II UKN 374/99 (excerpts):

“The Supreme Court, having recognized the case upon the suit of Richard L. against the Agricultural Social Insurance Fund, regional branch in C. on 8 February 2000 regarding the inclusion in farmers’ social insurance, following the claimant’s cassation against the verdict of the Court of Appeal in Katowice of 22 December 1998 [...] has dismissed the cassation. (...) In Article 9 the International Covenant on Economic, Social and Cultural Rights of 19 December 1966, opened for signing in New York ratified and by Poland provides that States Parties to the Covenant recognize the right of everyone to social security, including social insurance. However, in the opinion of the Court of Appeal, the provision may not be regarded as the claimant’s subjective right to be covered by farmer’s social insurance. The Covenant provides for a group of rights with parties to the Covenant should strive to ensure to the maximum of their available resources. This follows from Article 2, providing that Parties to the Covenant undertake to take steps, individually and through international assistance and co-operation, with a view of achieving the full realization of the rights recognized in the present Covenant by all appropriate means, including the adoption of legislative measures. The ratification of the Covenant obliges

Poland to take legislative measures aimed at, inter alia, ensuring social insurance to all citizens, but the Covenant itself may not be a basis of covering the claimant with farmers' social insurance. The Covenant is an example of an international agreement which may not be applied directly, as its application is conditional upon the passing of an Act. (...)

The Supreme Court noted the following:

“The accusations regarding violation of substantive law concern other legal acts, which may imply that in the opinion of the claimant applying for cassation, the appropriate application of the provisions specified in the cassation would lead to the claimant's demand being satisfied. One of those provisions is article 91 of the Constitution of the Republic of Poland, whose para. 1 provides that a ratified international agreement constitutes part of the domestic legal order and shall be applied directly, unless its application depends on the enactment of an Act. Paragraph 2 contains a provision that an international agreement which has been ratified by the President upon the prior consent granted by an Act has precedence over (other) Acts if such an agreement cannot be reconciled with the provisions of the Acts. The subsequent paragraph 3 provides that if an agreement, ratified by the Republic of Poland, establishing an international organization so provides, the laws established by it shall be applied directly and have precedence in the event of a conflict of laws. The provision of the Constitution giving precedence to international agreements over Acts was referred to in the cassation in order to prove that the provision of Article 1 para. 1 of the Act on Social Insurance of Farmers, unfavourable and discriminatory in the opinion of the claimant should not be applied as not compliant with an international agreement. In such events an international agreement with precedence over the Act and regulating the same issue in a different manner should be indicated. The claimant indicated the International Covenant of Economic, Social and Cultural Rights of 19 December 1966 as such agreement. However, it is not an agreement whose provisions could be applied directly. The Covenant defines a group of standards regarding the rights and freedoms of individuals, which States – signatories of the Covenant undertook to apply in the national legislation and in application of internal law. One of such rights is the right to social security defined in Article 9. However, there are no indications as to uniform regulations in this respect in the States Parties concluding the Covenant. In accordance with article 2 item 2, States Parties to the Covenant undertake to take steps with a view to achieve the realization of the rights recognized in the Covenant according to their own constitutional processes. This means that legal regulations are made within the system adopted in the given state. Provisions of the Covenant do not oblige States Parties to the Covenant to include citizens of other states in their legal systems.”

**2. Development and implementation of the national plan of action for the promotion and protection of human rights in compliance with the para. 71 of the Vienna Declaration and Programme of Action of 1993**

856. On 18 May 2004, the Council of Ministers adopted the National Programme against Racial Discrimination, Xenophobia and Related Intolerance. The Programme is implemented in the years 2004-2009 and may be continued upon the verification of its purposefulness and objectives by the competent ministers, central public administration bodies, central public institutions, the Commissioner for Citizens' Rights, public broadcasters and government administration bodies in voivodships in close cooperation with NGOs. The goal of the National Programme is

undertaking tasks aimed at combating xenophobia and racism, including anti-Semitism, and developing the culture of tolerance in the broad sense in the Polish society. Such tasks are realized in the areas of research, statistics, education, culture, health, mass media, employment and social situation of refugees, members of national and ethnic minorities, migrants and other persons who may be subject to ethnic or racial discrimination. Those groups are regarded as direct beneficiaries of the Programme.

857. Following the initiative of the Minister of Foreign Affairs on 28 June 2006, a working group was appointed for the preparation of the Government action plan regarding the implementation of the judgments of the European Court of Human Rights towards Poland. The team developed proposals of actions aimed at preventing Poland being found guilty of violating the European Convention on Human Rights and Fundamental Freedoms. The Action Plan project includes suggestions of legal changes, changing the practice of law administration, training regarding human rights and propagation of the Court judgments and decisions.

### **3. Legislative and other measures aimed at introducing the ban on organizations inciting or promoting racial discrimination and at prosecuting such organizations**

858. According to article 13 of the Constitution of the Republic of Poland, political parties and other organizations whose programmes are based upon totalitarian methods and the modes of activity of Nazism, fascism and communism, as well as those whose programmes or activities sanction or condone racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure or membership, are prohibited.

859. Entries to the records of political parties are made by the District Court in Warsaw, which may approach the Constitutional Tribunal with a request to examine the constitutionality of the goals or principles of operation of a political party, specified in the statutes or programme of the party. Should the Tribunal find such goals or principles to be unconstitutional, the court refuses to enter such a party in the register. Principles of establishing or operation of political parties are regulated by the Act of 27 June 1997 on Political Parties.

860. Organizations whose aims include racial discrimination are regulated by article 258 of the Penal Code, which provides:

(a) Paragraph 1 “Whoever participates in an organized group or an association aimed to commit crimes is liable to the penalty of imprisonment of up to three years” (the penalty is more severe if the group or association have an armed character. Paragraph 2 “the perpetrator is liable to a penalty of imprisonment of a term of which shall not be less than three months and more than five years”);

(b) Paragraph 3 “Whoever establishes a group or an association specified in paragraphs 1 or 2 or is in charge of such a group or association is liable to a penalty of imprisonment a term of which shall not be less than six months and more than eight years”.



861. In the area of criminal law, this principle is complemented by provisions indicating that public inciting national, ethnic, racial, religious hatred or insulting a population group or an individual due to their national, ethnic, racial or religious status or assault and battery resulting from such reasons are prosecuted under articles 256 and 257 of the Penal Code, and using violence or unlawful threats for such reasons against groups of persons or individuals or public abetting such offences are prosecuted pursuant to articles 119, paragraphs 1 and 2 of the Penal Code.

862. The planned amendment to the Penal Code assumes tougher penalties for such offences, as well as introducing changes pursuant to which prosecution will be possible with regard to preparatory activities undertaken in order to propagate materials inciting racial, national, ethnic, religious hatred or hatred inspired by non-denominational beliefs. The planned regulations will also make it possible to rule the forfeiture of such materials as well as objects used in their production or propagation - even if they are not a property of the perpetrator.

863. The Penal Code also penalizes the use of violence or unlawful threat towards a group of individuals or an individual due to their national, ethnic, political, or religious affiliation or non-denominational beliefs. Such offences are subject to a penalty of imprisonment a term of which shall not be less than three months and more than five years (art. 119, para. 1 of the Penal Code). Moreover, the Penal Code provides for a penalty of imprisonment a term of which shall not be less than 12 years, the penalty of imprisonment of 25 years or life imprisonment for the murder or causing severe health impairment with regard to a person belonging to a national, ethnic, racial, political, religious group or a group with a specific views if the purpose of the act was to destroy such group in whole or in part (art. 118, para. 1). The penalty of imprisonment a term of which shall not be less than five years or the penalty of 25 years of imprisonment for activities taken to destroy such a group in whole or in part. Preparations for such offences are also punishable (penalty of imprisonment the term of which shall not be less than three years, art 118, para. 3 of the Penal Code).

864. Persons convicted by valid sentences

Legal Qualification	Number of sentences	Convictions				Probationary dismissal of proceedings
		Total	Stand-alone fine	Restriction of freedom	Imprisonment	
1999						
Article 118, paras. 1-3 of the Penal code	-	-	-	-	-	-
Article 119, para. 1 of the Penal code	3	3	3	-	-	-
Article 119, para. 2 of the Penal code	3	-	-	-	-	3
Article 256 of the Penal code	7	4	2	-	2	3
Article 257 of the Penal code	22	16	2	2	12	6

Legal Qualification	Number of sentences	Total	Convictions			Probationary dismissal of proceedings
			Stand-alone fine	Restriction of freedom	Imprisonment	
2000						
Article 118, paras. 1-3 of the Penal code	-	-	-	-	-	-
Article 119, para. 1 of the Penal code	7	7	6	-	1	-
Article 119, para. 2 of the Penal code	-	-	-	-	-	-
Article 256 of the Penal code	9	6	1	-	5	3
Article 257 of the Penal code	13	6	2	-	4	7
2001						
Article 118, paras. 1-3 of the Penal code	-	-	-	-	-	-
Article 119, para. 1 of the Penal code	-	-	-	-	-	-
Article 119, para. 2 of the Penal code	-	-	-	-	-	-
Article 256 of the Penal code	16	16	1	5	10	-
Article 257 of the Penal code	9	6	1	1	4	3
2002						
Article 118, paras. 1-3 of the Penal code	-	-	-	-	-	-
Article 119, para. 1 of the Penal code	-	-	-	-	-	-
Article 119, para. 2 of the Penal code	-	-	-	-	-	-
Article 256 of the Penal code	7	6	2	-	4	1
Article 257 of the Penal code	8	8	-	2	6	-

Legal Qualification	Number of sentences	Convictions				Probationary dismissal of proceedings
		Total	Stand-alone fine	Restriction of freedom	Imprisonment	
2003						
Article 118, para. 1 i 3 of the Penal code	-	-	-	-	-	-
Article 188, para. 2 i 3 of the Penal code	-	-	-	-	-	-
Article 119, para. 1 of the Penal code	4	4	-	-	4	-
Article 119, para. 2 of the Penal code	1	1	-	-	1	-
Article 256 of the Penal code	7	6	2	1	3	1
Article 257 of the Penal code	11	9	3	2	4	2
2004						
Article 118, para. 1 i 3 of the Penal code	-	-	-	-	-	-
Article 188, para. 2 i 3 of the Penal code	-	-	-	-	-	-
Article 119, para. 1 of the Penal code	3	3	2	-	1	-
Article 119, para. 2 of the Penal code	-	-	-	-	-	-
Article 256 of the Penal code	7	7	1	3	3	-
Article 257 of the Penal code	12	8	2	-	6	4

Legal Qualification	Number of sentences	Convictions				Probationary dismissal of proceedings
		Total	Stand-alone fine	Restriction of freedom	Imprisonment	
2005						
Article 118, para. 1 i 3 of the Penal code	-	-	-	-	-	-
Article 188, para. 2 i 3 of the Penal code	-	-	-	-	-	-
Article 119, para. 1 of the Penal code	6	6	-	1	5	-
Article 119, para. 2 of the Penal code	-	-	-	-	-	-
Article 256 of the Penal code	-	-	-	-	-	-
Article 257 of the Penal code	16	16	2	1	12	-

865. The most frequently disclosed violations of provisions are related to:

- (a) Putting inscription of nationalist and fascist contents on façades of buildings, monuments; obelisks, road signs;
- (b) Placing nationalist and fascist leaflets in public places;
- (c) Propagating fascist slogans and symbols by pronouncing them and flying flags;
- (d) Dissemination of publications of anti-Semitic and fascist nature.

866. Prosecuting perpetrators is possible also if the offence is committed on the Internet.

867. In 2003, the Act on the Liability of Collective Entities for Acts Prohibited under Pain of Penalty came into force. The Act provides for the principles of liability of collective entities for acts prohibited under pain of penalty as offences or tax offence and principles of conduct with regard to such liability. The Act contains a definition of a collective entity and premises for their liability. A collective entity is liable under the Act if an individual having a specific relationship with the entity commits an offence indicated in article 16 of the Act, including an offence against public order specified in articles 256-258 of the Penal Code:

- (a) “Article 256. Whoever publicly propagates fascist or any other totalitarian state system or incites hatred relating to national, ethnic, racial, religious differences or non-denominational beliefs shall be liable to a fine, restriction of freedom or imprisonment the term of which shall not be more than two years”;

(b) “Article 257. Whoever publicly insults a population group or an individual due to their national, ethnic, racial or religious status or due to their non-denominational beliefs or infringes the personal inviolability of another person shall be liable to a penalty of imprisonment the term of which shall not be more than three years”.

868. With regard to collective entities, courts may adjudicate fines amounting to not less than PLN 1 000 and not more than PLN 20 000 000, not higher, however, than 10 per cent of the revenues of the entity in the financial year in which the prohibited act was committed for which the collective entity is liable.

869. Among activities aimed at prosecuting organizations inciting or supporting racial discrimination, the National Programme against Racial Discrimination, Xenophobia and Related Intolerance 2004-2009 is of the greatest significance. According to this Programme, an analysis of the existing prosecuting and court ruling practice is to be conducted with regard to organizations acting on the basis of anti-Semitic or racist ideas, in order to develop new standards of de-legalization of such organizations. A system of respecting the law banning the propagation of ideologies promoting racial hatred and discrimination in mass media, including the electronic media, is to be developed and implemented.

870. In order to implement the Programme, in 2005 the National Prosecutor’s Office undertook activities aimed at finding whether organizations based on anti-Semitic or racist ideas operated in Poland. In particular, all appellate prosecutors were instructed to verify whether such organizations occurred in the preparatory proceedings conducted by the prosecutor’s offices subordinate to them.

871. In compliance with the recommendation of the National Prosecutor’s Office, since 2004 all preparatory proceedings regarding acts committed in connection with racial discrimination or hatred have been supervised by regional prosecutor’s offices in order to eliminate the hasty or imprudent refusals to instigate such proceedings or their dismissals due to negligible social noxiousness. Once a quarter appellate prosecutor’s offices investigate cases in the category of offences ended with refusals to instigate preparatory proceedings or dismissals, verify the justifiability of those decisions and submit information on the results of the investigation and further steps taken in the cases to the National Prosecutor’s Office.

872. Under the National Programme against Racial Discrimination, Xenophobia and Related Intolerance, the Ministry of Interior and Administration began cooperation with the NIFC Hotline Polska Team, operating at the Research and Academic Computer Network (NASK). The Team’s tasks include responding to illegal content on the Internet, propagating fascist or totalitarian systems, xenophobia and anti-Semitism. The purpose of the cooperation is counteracting the occurrence and combating the illegal contents on the Internet.

873. On 24 October 2006 Poland joined the Law Enforcement Programme on Combating Hate Crime, implemented by the OSCE Office for Democratic Institutions and Human Rights. The purpose of the Programme is training police officers and prosecutors regarding various aspects of hate crime, including in particular: investigation, gathering intelligence and working with prosecutors. The Programme focuses on developing strategies of combating hate crime on the basis of cooperating with the involved communities and developing an effective system of gathering and distributing data on hate crimes.

**4. Activities aimed at solving problems encountered by the Roma population, measures taken to combat the low school attendance and high dropout rates among Roma pupils**

874. The problem of social exclusion regarding national and ethnic minorities is encountered only by persons belonging to the Roma ethnic minority. In order to counteract the phenomenon and improve the difficult situation of the Roma population, on 19 August 2003 the Council of Ministers adopted the Programme for the Roma Community in Poland.

875. The prevailing majority of the solutions included in the Programme had been verified during the pilot government programme for the Roma community in the Małopolskie voivodship 2001-2003 and they are presently continued in the national Programme. It is coordinated by the Minister of Interior and Administration. The implementation of the Programme is supervised by voivods (with regard to tasks implemented in voivodships), the Minister of Interior and Administration and the Minister of National Education (in the field of education).

876. Within the Programme the government administration, territorial self-government units and NGOs undertake a broad scope of activities aimed to improve the living and social situation of the Roma population, counteracting unemployment, health, safety, culture and sustaining the Roma identity, propagating knowledge on the Roma community and propagation of civil knowledge among the Roma.

877. Tasks relating to education have been regarded as priority issues, similarly as in the case of the previous Małopolskie Programme. Most significant successes are achieved in this area. The number of children fulfilling their education obligation has considerably increased (in some voivodships all the children to whom the obligation applies attend schools), attendance and teaching results regarding Roma students have also improved. The successes are a result of the work of Roma education assistants and teachers supporting Roma education, as well as supplementary activities - most of all the organization of compensatory and additional classes. Educational tasks include also the organization of summer camps and play centres, winter camps, scout camps as well as tourist trips and sports and recreation activities. The educational activities are supplemented with financial assistance.

878. This concerns primarily subsidies thanks to which Roma children may systematically attend kindergartens and reception classes. In this respect, other activities should also be noted, including: provision to students particularly requiring financial assistance with textbooks, school equipment, teaching aids and co-financing their trips to school and back, as well as accident insurance.

879. Moreover, thanks to the education-related part of the Programme, NGOs selected through a contest (including a Roma association) were entrusted with implementing a scholarship system for Roma students and pupils with particular artistic talents. In the last three years scholarship support has been extended to a group of 80 students and 30 pupils with artistic talents.

880. The Programme for the Roma Community in Poland will be implemented in 2004-2013 and may be continued in the subsequent years. The funds for the implementation of the Programme come from the State budget, in which a special reserve was created for the purpose

(at the disposal of the Minister of Interior and Administration). The Programme assumes that the budget funds will be supplemented with EU funds, similarly as in other European states. The PO KL for 2007-2013 provides for the support for the Roma community, aimed at increasing the social inclusion of the Roma and increasing the participation of the community's representatives in the education system.

881. Priority I "The National Programme of Professional Integration and Activation" includes the Roma component, within which projects for the Roma community will be implemented to promote social inclusion and education. The target groups of the activities undertaken for the benefit of the Roma community will also include individuals, institutions and entities realizing tasks supporting this social group.

882. Programmes aimed to equalize educational opportunities and develop key competences among students will be realized under Priorities III and IX. Support in this regard will be addressed particularly to students whose situation for various reasons impedes their access to and participation in the education system. One of the groups disfavored in this area are students belonging to the Roma community. PO KL will consequently help implementation of educational projects addressed to this group of beneficiaries, involving, inter alia, additional compensatory classes, scholarships for continuing education and renting textbooks free of charge. At the same time, programmes will be realized to counteract dropouts, addressed to groups threatened by the problem to the greatest extent (including Roma children), as well as programmes addressed to children and young people who have dropped out of the education system, thanks to which they will be able to return and continue education.

## **5. Ensuring protection of the rights of migrant workers and members of their families**

883. Foreigners and Polish nationals enjoy the access to courts on an equal basis with regard to pursuing the rights under the national legislation and the rights to which persons other than Polish nationals are entitled.

884. With regard to criminal cases, in compliance with article 72 of the Code of Penal Proceedings, the accused foreigner has the right to use the assistance of a translator if he does not have the sufficient command of the Polish language. Such an accused person is furnished with the decision to submit, supplement or change the charges and a ruling which may be appealed against or which ends the proceedings along with the translation. Costs of the participation of a translator in the case in the extent necessary to ensure the right to defense to the accused are incurred by the State Treasury.

## **6. Intensification of efforts to implement the national plans of action with a view to adapting the workforce to a changing labour market and providing alternative sources of income for workers affected by restructuring programmes, particularly in the heavy industry and agricultural sectors**

885. See the answer to Question 2 (b) on article 6.

886. Additional information:

887. Until the entry into force of the Act on Promotion of Employment and Institutions of Labour Market, employment services implemented programmes addressed to persons who, due to their professional qualifications and the situation in the local labour market, were at risk of long-term unemployment (unemployed, employees during the notice period for reasons attributable to the employer, persons seeking work and collecting a social benefit or social allowance, repatriates, persons receiving the guaranteed periodical social assistance benefit).

888. Pursuant to the relevant agreements concluded between the starostas and the employer or the person subject to activation the programme, such programmes included:

(a) Supporting employment opportunities by reimbursing a part of the labour costs, costs of transport or commuting to work, accommodation costs and costs of equipping the workplace or training;

(b) Supporting the creation of additional jobs by extending low-interest loans from the funds of the Labour Fund to create additional jobs for the persons referred or reimbursement of part of the costs of interest on the credit extended for the creation of additional jobs;

(c) Support for undertaking business or agricultural activity by extending loans with interests lower than bank interest from the funds of the Labour Fund, reimbursement of part of the costs of training, consultation and counselling related to undertaking the activity;

(d) Vocational activation by reimbursing a part of the costs of vocational training of the unemployed at the workplace to the employers.

889. Several thousand persons were included in the programmes every year.

890. Presently the programmes have been replaced with additional activities for the benefit of persons “in a particularly difficult situation on the labour market”. This group of unemployed persons includes:

- Unemployed of up to 25 years of age
- Long-term unemployed
- Unemployed of over 50 years of age
- Unemployed with no professional qualifications
- Unemployed single parents raising at least one child of up to seven years of age
- Unemployed persons with disabilities

891. Within six months of the registration, district labour office should offer to persons in a particularly difficult situation on the labour market an employment proposal, other paid work, internship, vocational preparation at the workplace or employment in intervention or public works.



892. Starostas, acting on their own or in cooperation with other bodies, organizations and entities dealing with labour market issues, initiate and realize local projects with a view to promoting employment and activating persons unemployed or seeking work. Such projects consist of groups of activities combining labour market services and instruments.

893. The basic labour market services include:

(a) Job placement, consisting of providing assistance in finding the appropriate employment, gaining job offers, initiating and organizing contacts between employers and persons seeking work and informing the unemployed about their rights and obligations;

(b) The EURES services provided in the EU Member States and consisting in particular of providing assistance to persons unemployed and seeking work in gaining the appropriate employment in accordance with the right of free movement of employees in the EU, providing assistance to employers in finding employees with the professional qualifications sought in the labour market, informing the interested persons about the living and working conditions and situation on the labour markets with special attention paid to deficit and excess professions occurring in the those markets, initiating international projects and management of such projects;

(c) Vocational counselling and information, consisting of, inter alia, assisting persons unemployed and seeking work in selecting the right profession and place of employment, changing their qualifications, undertaking or changing employment including interests and professional abilities tests and referrals to specialist psychological and medical tests thanks to which opinions on vocational usability of candidates for the given type of work, profession or training;

(d) Assistance in active work seeking, consisting of preparing persons unemployed and seeking work to cope better with the tasks, particularly by participation in training courses improving job-seeking skills and activation classes, access to information and electronic databases helping gain the job-seeking skills and fostering self-employment;

(e) Training courses initiated and organized by the starostas in order to improve the chances to undertake employment or other paid work, improve professional qualifications and increase professional activity.

894. Instruments of the labour market supporting the basic labour market services include:

(a) Financing the costs of travel to an employer placing a job offer or to a place of work, internship or vocational preparation at a workplace, training or vocational counselling classes in places other than the permanent place of residence in connection with the person's being referred to one of the above by the district labour office;

(b) Financing the costs of accommodation in the place of work with regard to a person who has undertaken employment or other paid work, an internship, vocational preparation at a workplace or a training in a place other than the place of permanent residence in connection with the person's being referred to one of the above by the district labour office;

(c) Co-financing the costs of equipping the workplace, undertaking self-employment, costs of legal assistance, consultation and counselling;

(d) Reimbursement of the costs of contributions to social insurance in connection with employing an unemployed person referred to the employer by the labour services;

(e) Financing of activation supplements.

895. The following positive changes should be noted with regard to trainings of unemployed and other persons:

(a) The spending of the Labour Fund for financing training increased more than twofold, from PLN 50.8 million in 2002 to PLN 181.8 million in 2005;

(b) The number of persons referred to training by labour offices increased twice, from 63.8 thousand persons trained in 2002 to 123.4 persons trained in 2003;

(c) The share of trained unemployed persons in the total number of such persons increased from 2 per cent in 2002 to 3.8 per cent in 2003 and 3.9 per cent in 2004;

(d) The effectiveness of the training courses for the unemployed, measured with the percentage of the trained persons who found work within three months after finishing the training as compared with the total number of training participants increased from 33 per cent in 2004 to 34 per cent on 2003, whereas in 2004 the figure dropped to 32 per cent.

896. After 2002 restructuring of coal mining was conducted on the basis of:

(a) The Act of 28 November 2003 on the Restructuring of the Hard Coal Mining Sector in 2003-2006;

(b) The programme entitled "Restructuring of the Hard Coal Mining Sector during the Period 2004-2006 and Strategy for the Period 2007-2010", adopted by the Council of Ministers on 27 April 2004.

897. The basic objectives for 2004-2006 included: mining enterprises maintaining sustainable profitability, satisfactory level of financial liquidity and creditworthiness in order to ensure sustained operation and development of mining industries, balancing funds so as to enable current payment of liabilities, in particular those due to public sector creditors, adjustment of production capacity to the local market demand and economically viable exports to the uniform EU market and elsewhere, adjustment of employment to the actual production needs along with ensuring greater productivity and efficiency, and actions towards a rational cost structure.

898. Due to the unpredictable character of the supply-demand changes occurring in the external market, two routes of the planned restructuring processes have been assumed:

(a) A target model, assuming the necessity to terminate ca. 14 million tonnes of capacity and reduce employment by 25.5 thousand persons by the end of 2006;

(b) An alternative scenario assuming the reduction of capacity by 7.8 million tonnes and reducing employment by 19.5 thousand persons by the end of 2006, pursued if the high demand for coal persists and if the mining enterprises comply with certain economic conditions.

899. Restructuring activities regarding employment reduction are based on mitigation and activation-adaptation measures for mines' employees:

- (a) Mitigation benefits - miners' benefits;
- (b) Activation-adaptation benefits;
  - (i) Re-training scholarship;
  - (ii) Re-training contract;
  - (iii) Business start-up loan.

900. Miners' benefits were offered to employees of mines working underground and activation-adaptation benefits to persons employed on the surface. Using the benefits was voluntary. Funds to implement the instruments were ensured in the State budget.

901. In the documents referred to above (the Act, the Programme) an assumption was made that if an employee does not agree to resign from working in the mine using the instruments presented above, work within the sector will be ensured to them.

902. Due to the favourable economic conditions on the hard coal market in the years 2004-2006 the alternative scenario was implemented. Nevertheless, due to the long period of the boom, the programme assumptions were abandoned. In 2004-2006 the production capacity was reduced by 0.66 million tonnes a year, i.e. by 1.2 million tonnes less than assumed. The employment in the mining sector as at 31 December 2006 was higher than that specified in the programme assumptions, and totaled to 119 500 persons, i.e. 2.3 thousand persons more than assumed. This resulted from the new employment in the mining sector being higher than assumed. The benefits for persons leaving the mining sector were used to a relatively small extent. In total, in 2004-2006 employment in the mining sector decreased by 17 142 persons.

903. The labour market policy pursued in Poland is a function of the economic capabilities of the country. Active forms of counteracting unemployment are financed by the Labour Fund, whose resources come from contributions of employers and subsidies from the State budget.

904. Due to the lower growth of the GDP and increasing budget deficit, savings proved necessary. This resulted in lower budget spending. The lower growth and economic stagnation meant lower growth of funds from employers. In the years 1999-2001 the spending on unemployment benefits and pre-retirement allowances and benefits considerably increased (from PLN 3 870.3 million to PLN 7 298 million) following the growth in the unemployment rate from 13 per cent in 1999 to 19.4 per cent in 2001. These expenses cannot be avoided in the light of the law currently in force in Poland.

905. In this situation the Government resorted to other methods which did not result in increased spending. In 2001 and 2002 the Government implemented the following programmes:

- (a) Economic strategy "Entrepreneurship - Development - Work";
- (b) The programme "Entrepreneurship above All";

- (c) The programme “First Job”, and between 2004 and 2006;
- (d) The National Development Plan with the SPO RZL.

906. The following activities promoting sustainable structural change of the labour market contained in the programmes were regarded as priorities:

- (a) Supporting the development of entrepreneurship;
- (b) Supporting active forms of counteracting unemployment and social exclusion;
- (c) Continued reform of the education system;
- (d) Extending continuous education of adults and improving professional qualifications;
- (e) Improving the qualifications of the human resources of the national economy;
- (f) Undertaking active work to promote equality on the labour market.

907. The activities resulted in mitigation of the negative phenomena on the labour market, primarily thanks to stimulating growth in employment. Notably, full effects of the activities must not be expected to be immediately visible. One of the immanent characteristics of the labour market is the fact that changes occur in the perspective of several months or even several years. Consequently, actions taken by the state in the area of the labour market should be evaluated in a prudent manner. The unemployment ratio, the level of spending on various forms of counteracting unemployment reflects only a part of the actual situation.

908. A breakthrough in the negative tendencies was observed in 2003. The Labour Fund spent PLN 1 357 million on the active labour market policy, i.e. over 800 million more than in 2002, and in 2004 - 1 464.6 million. The growth in the funds at the disposal of the Labour Fund is possible thanks to the growth in the GDP - higher subsidies from the State budget were possible, and they were accompanied by growing employers' contributions to the Labour Fund. The level of spending on the implementation of programmes for the active counteracting of unemployment depended to a large extent on the financial capabilities of the state, i.e. the volume of the budget subsidies to the Labour Fund. The share of the spending on the active counteracting of unemployment in the total spending of the Labour Fund amounted to:

- 11.1 per cent in 2000
- 7.0 per cent in 2001
- 5.5 per cent in 2002
- In 2003 the spending increased to the level of 12.8 per cent
- In 2004 it amounted to 17 per cent (the growth results partly from the fact that on 1 August 2004 spending on pre-retirement benefits and allowances was transferred from labour offices to ZUS)

909. In the subsequent years further growth of the spending financing active forms of counteracting unemployment is expected along with the amounts from the ESF for the implementation of the SPO RZL programmes.

910. For statistical data, - see annex I, item 14.

911. Apart from the actions within the active policy of the labour market, legislative activities have been undertaken. The Act on Promotion of Employment and Institutions of Labour Market provides the legal framework for the increase of the scale and effectiveness of the active forms of counteracting unemployment. The Act provides, inter alia, for the following:

- (a) One-time benefits granted to unemployed to undertake business activity;
- (b) Reimbursements of costs of equipping the workplace in the event of employing an unemployed person to employers;
- (c) Reimbursement of employment costs in the event of organizing intervention and public works;
- (d) Referring unemployed persons to employers to undertake vocational preparation;
- (e) Referring unemployed to replacement works.

**7. Implementation of legal provisions and administrative regulations guaranteeing equal remuneration for men and women and the equal opportunity for promotion in employment. Status of the work on the draft Act on equal status of men and women**

912. The Constitution of the Republic of Poland (art. 33) guarantees women and men the right to equal compensation for work of similar value. The Labour Code confirms this principle and provides that employees are entitled to equal remuneration for equal work or for work of equal value.

913. The GUS studies (October 2002) indicate that gender is a determinant of the remuneration:

- (a) The average remuneration of women amounted to 81.3 per cent of the average remuneration of men. Women earned less in all large professional groups in spite of being better educated and of performing work requiring higher qualifications. The most commonly earned gross remuneration of employees in the national economy amounted to PLN 1 476.18 (31.4 per cent of employees out of which 54.2 per cent were women), in the group of the 10 per cent of the highest paid persons (the ninth decile) women accounted for 34.5 per cent;
- (b) Remunerations of women differed from remunerations of men also at the same education level. Women were much better educated employees and 76.8 per cent had secondary or higher education, whereas the same level of education was found among only 54 per cent

of men. For persons with secondary or higher education, the ratio of the remunerations of women to remunerations of men was 75.3 per cent. The highest differences were observed among persons with higher education holding titles of engineers, BA, certified economist or an equivalent degree, where women obtained on average 65.1 per cent of the remuneration of men, and for women with higher education with the minimum degree of PhD or an MA (MSc), the title of medical doctor or an equivalent degree the proportion was 67.3 per cent. The remuneration of women was closest to the remuneration of men among persons with general secondary education, where the proportion was 85.3 per cent;

(c) Men were better remunerated than women also in every age group. In the mobile age (18-44 years) the average remuneration of women accounted for 84.6 per cent of the average remuneration of men;

(d) The highest differences were noted among persons with 10-14 years of work experience. The average remuneration of women in this group amounted to 80.8 per cent of the average remuneration of men. To achieve the average remuneration exceeding PLN 2 000.00 women worked on average for 5 to 9 years, whereas the same level was achieved by men with two-four years of work experience;

(e) In the cross-section by the large professional groups the highest difference between the average remuneration of women and men was noted in the group of industrial workers and craftspeople. The proportion of the average remuneration of women to the average remuneration of men in this group was 65.4 per cent. The lowest differences in remunerations were noted in the large professional group "office staff", where the average remuneration of women accounted for 100.4 per cent of the average remuneration of men. In the "specialists" large group women employed on the positions of mathematicians, statisticians and similar received the average remuneration amounting to 52.0 per cent of the average remuneration of men. A similar situation was observed among the managerial staff. On the positions of directors, presidents and their deputies, women received 63.1 per cent of the average men's remuneration.

914. In 2004, a considerable improvement in the relation between the remuneration of women and men was observed. In 1999 the average remuneration of women constituted no more than 80 per cent of the average remuneration of men, in 2004 the proportion increased to 83.6 per cent. In addition, the share of women in the lowest-earnings group decreased by 5.8 percentage points, whereas in the highest-earnings group it rose by 5.1 percentage points. The situation of women with regard to remuneration improved also in the following groups:

(a) In the mobile group aged 18 - 44, where the relation between the average remuneration of women and men in 1999 was 79.6 per cent, whereas in 2004 the figure was 84.6 per cent;

(b) In the group of persons with higher and secondary education, where the relation regarding the remuneration of women and men improved by approximately 3.1 percentage points;

(c) In the group of persons employed in the huge professional group labeled "office staff" - the relation improved by 4.1 percentage points.

	October 2004			
	Share of women in the total number of employed persons (per cent)	Average gross remuneration in PLN		per cent
		Women	Men	
Physicians	56.4	3 093.63	3 640.86	85.0
Nurses and midwives	98.7	1 660.45	1 829.79	90.7
Education specialists	76.3	2 621.69	3 345.11	78.4
Specialist in economy and management	65.6	3 245.16	4 028.81	80.5
Mid-level office staff	90.5	2 377.38	2 590.12	91.8
Financial and statistical staff	88.8	2 166.22	2 446.70	88.5
Household staff	93.0	1 209.75	1 265.39	95.6

915. For measures taken to combat discrimination, see the answer to Question 3 on article 6 and question 2 (c) on article 7.

916. Information regarding the bill on equal status of men and women have been included in the annex to the combined fourth and fifth report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

## **8. Legal prohibition of sexual harassment**

917. The ban on sexual harassment is provided for in Article 18<sup>3a</sup>, paragraph 6 of the Labour Code, introduced by the Act of 14 November 2003 amending the Labour Code. According to the definition contained therein, sex discrimination includes all unaccepted behaviour of sexual nature or relating to the sex of an employee, whose purpose or effect is a violation of the employee's dignity or humiliation of the employee. Such behaviours may include physical, verbal or non-verbal elements (sexual harassment). Sexual harassment is a manifestation of sex discrimination.

918. For detailed information, see the answer to Question 3 on article 6.

## **9. Adoption of the equal age of retirement for men and women**

919. The social insurance system is of general character and includes all groups of professionally active persons. The social insurance system provides for no sex-related differences with two exceptions regarding entitlements to benefits. The exceptions include the system of maternity benefits, due to obvious biological differences, and the retirement system. The common age of retirement for women is 60 years and for men - 65. Moreover, a provision exists which allows women with longer work experience, amounting to 30 years, to retire at the age of 55. The provision will remain in force until 31 December 2007.

920. The Act of 20 April 2004 on Employee Pension Funds provides for the same age for men and women from which they are entitled to the payment of the funds collected within employee pension programme (PPE).

921. PPE is an additional manner of saving for one's future pension (an element of the third pillar of the retirement pension system). PPE is created by the employers for the employees working for them. The PPE payment is an additional retirement benefit obtained from the funds accumulated in PPE on the basis specified in the employer-operated pension agreement and in the Act. Payment is made in cash, after the investment fund repurchases participation units accumulated on the member's account. Payment may be made, inter alia, in the following cases:

- (a) At the request of the member when he/she reaches the age of 60;
- (b) Upon the member reaching the age of 70 (payments are made without the member's request);
- (c) At the request of the members, upon their becoming eligible for a retirement pension.

922. The lower retirement age for women results from the tradition. In the programme of changes regarding the social security system, the Government has proposed equal retirement age for men and women several times. However, in each case the projects failed to meet with social acceptance. For example, on 9 April 2004 the Government submitted to the Sejm a bill amending the Act on Retirement and Disability Pensions from the Social Insurance Fund, in which gradual equalization of retirement ages of women and men was assumed. On 11 August 2004 the government submitted its own amendment to the Sejm, and withdrew from the proposal. This was a response to the negative opinions of employers' organizations, trade unions, NGOs and science institutes.

923. In the retirement pension system introduced in 1999, the amount of the pension depends on the amount of the capital from contributions, deposited on individual accounts of the insured persons. The amount of the capital depends on, inter alia, the length of the contribution-paying period. The earlier a person retires, the lower capital is deposited on their account, and consequently, the lower their retirement pension. Information activities are conducted (by the Ministry of Labour and Social Policy, ZUS in cooperation with mass media) in order to present the consequences of retiring at an earlier/later age and in order to raise the awareness regarding the relation referred to above, particularly among women, who traditionally end their professional activity earlier than men.

## **10. Adjustment of the minimum wage to the cost of living**

924. As studies of the Institute of Labour and Social Studies indicate, the subsistence level in 2003 for a one-person employee's household was PLN 789, and in a four-person household - PLN 580 per person. In 2004 the figure for a one-person employee's household stood at PLN 819.50 and in a four-person household - PLN 604.20 per person.

925. The minimum subsistence level in 2003 was as follows: PLN 335 per person for a one-person household and PLN 309 per person in a four-person household. In 2004 the figures were PLN 371.20 per person for a one-person household and PLN 302.10 per person in a four-person household.



926. The minimum wage in 2003 amounted to PLN 800 gross, and the net amount (less social insurance contributions and advances for personal income tax) was PLN 590. In 2004 the minimum wage was PLN 824 gross, and PLN 602.70 net.

927. For mechanisms of determining the minimum wage, including its adjustment to the costs of living, see the answer to Question 2 on article 7.

**11. Intensifying efforts at ensuring that occupational health safety legislation is respected to a more satisfactory extent**

928. The number of accidents at work has considerably decreased over the last decade. The number of persons injured at serious accident at work, and the number of persons who died as a result of such accidents have systematically decreased.

929. Data regarding accidents at work in Poland cannot be compared with data from other EU Member States due to different principles of classification of such accidents. Comparisons may only be made with respect to frequency ratios concerning fatal accidents. The ratio for Poland, calculated per 1 000 of persons working (in 1999 - 0.045, in 2000 - 0.052, in 2001 - 0.050, in 2002 - 0.049, in 2003 and in 2004 - 0.050, and in 2005 - 0.044), is comparable to the ratios of other states, such as France (in 2000 0.044 per 1 000 insured) or Austria (in 2001 - 0.045 per 1 000 insured) and lower than in Spain (in 2003 - 0.055 per 1 000 insured) and Italy (in 2000 - 0.070 per 1 000 insured).

930. Frequency ratios regarding fatal accidents in Poland are close to those noted in the new EU States: in the Czech Republic (in 2002 - 0.046 per 1 000 workers), in Slovakia (in 2003 - 0.047 per 1 000 workers), in Hungary (in 2003 - 0.034 per 1 000 workers), and the ratio is higher in Lithuania (in 2003 - 0.110 per 1 000 workers), in Estonia (in 2003 - 0.052 per 1 000 workers) and in Slovenia (in 2003 - 0.051 per 1 000 workers).

931. On 1 January 2004, pursuant to an amendment of the Act of 24 August 2001 Code of Proceedings in Offence Cases, fines imposed by PIP inspectors were raised to PLN 1 000. This should result in forcing employers to respect the provisions of the labour law, including occupational safety regulations and principles.

932. Works are currently underway in the Sejm on a new act on the National Labour Inspectorate. Within this scope, sanctions for failure to observe regulations regarding occupational safety and health will be strengthened.

933. See also the answer to Question 3 on article 7.

**12. Amendment of the legislation on civil service with a view to lifting the restrictions imposed on civil servants' right to join trade unions and on their right to strike, in conformity with the comments made by the ILO Committee of Experts in 2001 concerning Convention No. 87 (148) on the Right of Association and Protection of the Right to Organize Convention.**

934. The draft of a bill amending the Act of 8 December 1998 on Civil Service, prepared in 2003 and including, inter alia, an annulment of Article 69, item 4 (prohibiting government officials from holding functions in trade unions), was not approved by the Permanent Committee

of the Council of Ministers. In 2004 a working team was appointed to develop a new bill on civil service. The project was not included in the plan of work of the Council of Ministers for 2005. The draft bill amending the Act on Civil Service, prepared by the Civil Service Office in 2006 provided for lifting the ban on government officials holding functions in trade unions. Pursuant to a decision of the Council of Ministers, the draft amendment was not further acted upon.

935. The Act of 24 August 2006 on Civil Service repealed the Act of 18 December 1998 on Civil Service. The new Act on Civil Service (art. 49, item 6) provides for a ban on civil servants holding functions in trade unions.

936. After the new legal status quo has been analyzed, works will be undertaken on a solution taking into account both the standpoint of the Committee on Economic, Social and Cultural Rights, trade union rights and freedoms following from the Constitution and acts of international law, and the admissible restrictions.

### **13. Adoption of legislation in order to regulate child labour in agriculture - guaranteeing the right to health protection and right to education of children**

937. According to article 65, item 3 of the Constitution of the Republic of Poland, permanent employment of children less than 16 years of age is prohibited. The forms and character of the admissible employment are specified by the Labour Code.

938. In compliance with article 190 of the Code, employment of a person less than 16 years of age is prohibited, whereas juveniles, i.e. persons who have reached the age of 16, but have not reached the age of 18, may be employed on the principles provided for by the Code.

939. The problem of involving children in works performed in family households/farms concerns relations between children and parents. According to article 96 of the Code of Family Law, parent raise children under their parental authority and direct them. Parents are obliged to care for the physical and spiritual development of the child and prepare him to work for the benefit of the society according to his abilities. At the same time, according to article 91, paragraph 2 of the Code, a child dependant on its parents and living with them is obliged to assist them in the household.

940. The specific character of running an agricultural farm involves a combination of a family's place of residence and the place of agricultural activity. Due to this fact, children initially observe adults perform agricultural works and with time begin to help their parents with some of them and finally take over certain duties. Involving children in agricultural works in a farming family also serves pedagogical purposes. However, involving children in such works in an incompetent manner, i.e. the farmer parents entrusting them with works inappropriate for the capabilities of the children or with works in a dangerous or harmful environment, negatively affects the health of children and their development. Such conduct of parents infringes Article 95, paragraph 3 of the Code of Family Law, providing that parental authority should be used according to the welfare of a child and social interest. Consequently, it is of utmost importance that farmers be aware that they should not involve their children in works that excessively burden such children or pose a threat to the development, health and lives of the children.

941. Parents do not expose their children to danger on purpose. Situations in which children are involved in works in an incompetent manner, or even abused, most often result from family life pathologies, dramatic economic conditions of the family, the age or sickness of the parents or the parents' lack of knowledge or imagination.

942. The institution competent with regard to assisting parents in dramatic financial circumstances is the social assistance, and in pathological situations, when the welfare of a child is threatened, guardianship courts issue the appropriate decisions. It is only a guardianship court that may oblige parents and a minor to undertake a specific conduct or indicate a manner of controlling the compliance with the orders issued or submit the parental authority to a permanent supervision of a court guardian.

943. As the scope and degree of children's participation in works on an agricultural farm is decided upon by parents, parents must be aware of the potential threat to the health and lives of the children in the agricultural working environment and the types of physical and mental burdens connected with those works. Consequently, educating both parents and children about the threats is one of the most important ways of improving the situation.

944. The safety and health conditions on agricultural farms are considerably affected by the low profitability of agricultural production and the poor condition of agricultural farms, due to which possibilities of improving the technical equipment on farms are limited. Another important factor with negative consequences for children's work on farms is the low level of knowledge on the safe manners of performing agricultural works, both among children and parents. Many owners of farms manifest low level of technical culture and to a greater extent appreciate high usability values of agricultural equipment than its ergonomic or safety values. The reasons for the high number of accidents include also disregarding threats and measures preventing dangers, which often result from the low level of education.

945. The KRUS statistics indicate that approximately 1 500 accidents involving children up to the age of 15 who suffered from the accident while assisting their parents on their farms are reported every year. Since May 2004 KRUS has not maintained statistics regarding accidents of underage children of farmers (following the amendment of the Act on Social Insurance of Farmers in 2004). The statutory changes restricted the groups of persons entitled to one-time compensation due to accidents at farming work - the compensation may be paid only to insured persons and concerns only accidents connected with the agricultural activity conducted in a direct or indirect manner. Farmers' children aged up to 15 are not entitled to the one-time compensations, which consequently are not reported to KRUS.

946. In 1998, out of concern for the welfare of children from agricultural environments, the Minister of Agriculture and Food Economy, the Chief Labour Inspector and the President of KRUS developed a list of works that should not be entrusted to children below 15 years of age. The list is published and sent to all farmers, and has been applied as a reference regarding dangerous works and activities on agricultural farms.

947. Following the initiative of the Minister of Agriculture and Rural Development, the Chief Labour Inspector and President of KRUS, the covenant on the cooperation for the improvement of safety and health in agriculture was updated in 2001. New partners joined the covenant, whose parties presently include: the Minister of Agriculture and Rural Development, the Chief Labour

Inspector, the President of KRUS, the President of the National Association of Agricultural Societies and Organizations, the President of Agricultural Property Agency, the Chairman of the Board of the Trade Union of Agricultural Workers in the Republic of Poland, the President of the Board of the Association of Employers - Lessees and Owners of Agricultural Property, the President of the National Council of Agricultural Chambers, the President of the Board of the Association of Voluntary Fire Brigades of the Republic of Poland and the President of the National Association of District Governors.

948. The purpose of the Covenant is cooperation among the parties concerning:

- (a) Limiting the occupational threats in agriculture, resulting in accidents at work and occupational diseases;
- (b) Elimination of the employment of children at dangerous and harmful works and prevention of accidents involving children on farms;
- (c) Improvement of preventive health care in agriculture;
- (d) Providing farmers and agricultural employers with agricultural production means safe for people and the environment.

949. The above objectives are pursued through:

- (a) Occupational safety and health education addressed to individual farmers, agricultural employees and employers and students of vocational schools;
- (b) Propagation of the labour protection in agriculture - agricultural publications and press, central and local mass media, presentation of the issues during exhibitions, fairs and other agricultural events;
- (c) Propagation of labour protection in agriculture in contests and competitions regarding occupational safety and health on farms for farmers and children and young people from rural areas;
- (d) Promoting safety-oriented attitudes and behaviors of children on farms, providing assistance to teachers, mini-lectures and talks to children and young people from rural and agricultural schools;
- (e) Promoting the idea of producing safe agricultural machines, tools and equipment, individual protection means and use of plant protection agents safe for people and the environment;
- (f) Undertaking activities to include farmers in preventive health care;
- (g) Supporting initiatives undertaken by farmers and agricultural employers and their organizations in order to improve safety and health conditions, providing assistance to farmers improving safety conditions on their farms.

950. Voivodship agricultural safety and health commissions operate pursuant to the covenant, and they define the activities of institutions, agricultural organizations and associations, aimed at limiting accident and health-related threats.

951. Thanks to the increased number of partners, the form and contents of the undertakings were extended, and in 2001-2004 the number of joint activities of educational and promotional character, addressed to farmers and their families, increased significantly. Special attention was paid to increasing the number of lectures, contests, and competitions for students of agricultural schools of primary level.

952. Pursuant to article 63 of the Act of 20 December 1990 on Social Insurance of Farmers, the KRUS is obliged to undertake activities regarding the propagation of knowledge on accident threats and agricultural occupational diseases and knowledge on the principles of life and health protection on farms, by, inter alia, organization of free, voluntary training courses and instruction for farmers and undertaking efforts regarding proper production and distribution of safe production means used in agriculture and protective equipment and clothes for farmers. Activities of KRUS are addressed not only to farmers, but also directly to children and young people from rural areas.

953. Preventive actions undertaken by the KRUS organizational units are implemented on the basis of the regional programmes of counteracting accidents at agricultural work. On the basis of analyses regarding the circumstances and reasons of accidents, as well as its experience on preventing accidents at agricultural work, KRUS defines the main directions of its preventive activity, including:

(a) Propagation of the list of particularly dangerous works which should not be performed by children under 15 among children, young people and their parents, and indicating threats occurring in the rural environment;

(b) Practical teaching of pre-medical first aid addressed to farmers and their children.

954. The basic form of the preventive actions undertaken by the KRUS is organization of training and instructions regarding health and safety on agricultural farms. The Fund organizes shows of practical operation of machinery and equipment, which are regarded as one of the more effective prevention activities. The most frequently organized shows concerned: exchanging jointed and telescopic shaft casings, safe acquisition of wood for household purposes, including the use of sawing machines (particularly chain sawing machines), personal protection equipment and working clothes and shows of pre-medical first aid. Contests, competitions and quizzes are another tried and tested form of improving safety and health knowledge.

955. Life and health protection principles and presenting threats occurring on agricultural farms are propagated in press articles, radio and TV programmes and on the Internet. KRUS information stands and points with brochures, leaflets, posters and films, displayed during harvest festivals; fairs, exhibitions, fêtes and picnics also serve the purpose.

956. The Fund participates in the development of pre-medical aid system in rural areas and equips units of voluntary fire brigades in pre-medical aid kits. By 2006, 4 530 such kits were distributed.

957. Since 1995, the President of KRUS has marked safe products (machines and equipment with safety levels exceeding standards or other products improving the safety of agricultural work) with “Znak Bezpieczeństwa KRUS” [KRUS Safety Mark] in order to support the production and distribution of safe agents used in agriculture and protective equipment and clothes for farmers. As many as 14966 products have been marked over the last 120 years. Another form of support is the “DOBROŚLAW” distinction granted by the President of the Fund to products increasing work safety on farms. The President has so far granted 51 distinctions to 420 vendors (manufacturers and importers) of 77 types of products. By the end of 2006, 122 products were marked with the KRUS Safety Mark, and 42 distinctions went to 42 vendors of 75 types of products. Until the end of 2006 46 certificates were issued allowing 19 manufacturers to mark 129 products.

958. According to article 56 of the Act on Social Insurance of Farmers, the KRUS President demands the reimbursement of benefits paid to persons injured in accidents at work and members of their households from the vendors of products and services for agriculture whose defectiveness was the sole or main reason for accidents at agricultural work, and questions the quality of such products. In the years 1993-2006 the Fund questioned the quality of over 470 types of machinery and equipment and other products.

959. In 2006 common and voluntary trainings on occupational safety and health prevailed among other forms of preventive actions. As many as 3 559 trainings and mini-lectures were organized and attended by 118.225 farmers, district governors, students of secondary agricultural schools, rural primary schools and junior secondary schools. Teaching and information materials devoted to the safety of children’s work in the country were developed for the purposes of the training courses and other activities.

960. The Fund closely cooperates with headmasters and teachers of the schools in which the educational programme “Principles of children’s participation in the works of family agricultural farms” is included in the curriculum.

Type of KRUS activity	1999	2000	2001	2002	2003	2004	2005	2006
Number of training courses for farmers	2 267	2 168	2 190	2 015	1 937	2 212	2 015	2 199
Number of participants	56 880	49 046	50 243	45 600	41 836	55 573	46 290	51 310
Number of training courses for students of agricultural schools		215	247	244	227	228	215	236
Number of participants	No data available	9 361	9 347	8 906	8 338	9 159	8 458	8 955
Number of training courses for students of junior secondary and primary schools		416	506	614	824	929	1 165	1 124
Number of participants		23 850	27 850	34 550	45 050	49 450	63 660	57 960
Number of contests for farmers	192	304	365	391	376	387	451	489
Number of contests and competitions for children and young people from rural areas	137	318	475	532	650	673	760	726
Number of information points at agricultural events	130	191	217	267	288	280	279	316
Number of practical presentations	No data available	70	142	154	157	144	327	509

961. Funds of the Prevention and Rehabilitation Fund of the Agricultural Social Insurance Fund allocated to prevention activity

Year	Amount in PLN '000
1999	652
2000	453
2001	758
2002	709
2003	842
2004	934
2005	1 443
2006	1 416

962. For the last four years the Ministry of Agriculture and Rural Development in cooperation with KRUS, Agricultural Property Agency and PIP has organized the National "Safe Farm" Contest, involving the participation of 1 500 individual farms. The purpose of the Contest is to promote the principles of life and health protection and improving safety and health on agricultural farms. Its effects include eliminating accident threats on the farms of contest participants and other farmers, copying good practices and applying the principles of safe work on agricultural farms and using modern production technologies.

963. PIP inspectors conduct broad actions aimed at propagating among farmers the awareness of the impact of occupational safety on their lives and the lives of their families and perspectives of their farms. These actions primarily consist of:

- (a) Propagating knowledge on threats involved in agricultural work and manners of counteracting them, particularly by showing examples of appropriate behaviors during agricultural and farm works;
- (b) General education regarding the right attitude to the agricultural safety issue;
- (c) Developing the right habits and behaviors among the young generation, regarding their safety and the safety of their families.

964. PIP encourages farmers to improve the technical condition of the agricultural equipment, covering some of the costs of purchasing new casings for power take-off shafts for tractors and casings for other machines, by organizing shows of safe operation of tractors and aggregated machines, sawing machines and other equipment. Thanks to labour inspectors' visits many farmers improved their working conditions and the conditions of their farmyards. The number of farms on which works are highly mechanized is growing, the technical condition of agricultural equipment is improving, and personal protection measures are used (particularly for works involving the use of chemicals), and the general sanitary condition and hygiene in stock buildings.

965. Results of the visits indicate considerable differences in the safety level on farms. Some of them, more affluent, have new, safe machines and equipment, a growing number of farmers have the right education and contacts with counselling centres, and this in turn translates into care for safety standards on farms. At the same time, unattended farms can be found, where occupational safety raises serious objections. Old and faulty agricultural machines are used on such farms and self-made equipment is used with no protection elements. No individual protection is used, also during works involving plant protection agents.

	2001	2002	2003	2004	Total
Visits in total	9 150	9 462	9 155	9 554	37 321
Visits during harvest works	6 500	6 522	6 026	5 640	24 688
Visits during other field works	750	1 390	640	429	3 209
Visits on farms in total	1 900	1 550	3 129	3 485	10 064
Visits following accidents	90	238	156	118	602
Visits of students' practice classes	65	239	147	141	462
Visits of farms participating in National "Safe Farm" Contest	250	1 070	1 840	1 372	4 532
Number of persons visited	12 500	14 400	13 200	14 900	55 000

966. In the years 2001-2003, during the visits the condition of 28.1 thousand tractors, 25.0 thousand trailers, 14.3 thousand harvest combines and 15.3 thousand of other machines used on farms was reviewed. In 2004 the technical condition of 8.8 thousand tractors, 7.4 thousand trailers, 3.7 thousand harvest combines and 3.4 thousand of other machines used on farms (straw pressers, reapers, binders, threshers, other) was reviewed. The technical reviews are conducted because a large number of accidents are connected with the use of technically unfit, machines, elements without casings, often self-made.

967. During the visits of farms particular attention was paid to safety of children. Many of them perform no work, but accompany their parents in the field, often in the area of direct danger - close to working tractors and combines, or even on them. However, increasingly often farmers aware of the threats to the children, organize childcare with at least one adult person. Such actions, indicated by concern for children during particularly intense field works, are increasingly common.

968. Similarly as in the previous years, in 2005 labour inspectors conducted preventive actions aimed at limiting the number of accidents at agricultural work and occupational diseases of farmers. The basic form of this activity was propagation among farmers and their families the knowledge on occupational threats and encouragement to apply safety principles concerning work on a farm on a daily basis. Information and counselling activities of inspectors involved 10 258 visits of places where agricultural works were performed, including 6 094 visits during harvest and threshing works, 360 places where other field works were performed and 3 804 visits inspecting works performed within the farms. During the visits inspectors reviewed the technical condition of 6.3 thousand tractors, 5.9 thousand trailers, 3.5 thousand harvest combines and 4.9 thousand of other machines used on farms (straw pressers, reapers, binders, threshers, other). A worrying increase in the percentage of machines and their elements in poor technical condition was noted as compared with 2004. A positive phenomenon observed by the inspectors was the elimination of multi-stage harvesting involving the use of binders and reapers, replaced by combine harvesting. This means lower amounts of human labour, which in turn should limit the risk of accidents.



969. During their visits labour inspectors noted 1 864 of children assisting their farmer parents with field and farm works. The number is admittedly by almost 300 lower than in 2004, but children continuing to perform works prohibited to juveniles (mainly driving agricultural machines, operation of stationary machinery and manual transport works involving loading and unloading of heavy rolls of straw) is still a worrying phenomenon.

970. The percentage of children who do not perform any work but accompany their parents at the workplace remained high (928 such cases were found). During the visits of labour inspectors to the places of agricultural work almost 50 per cent of children remained in the area of direct risk (close to working tractors and combines, or even on the machines).

971. In 2005, PIP inspectors inspected 3 804 of individual farms, i.e. over 10 per cent more than in the previous years. This form of activity is particularly effective with regard to eliminating (limiting) specific accident or disease-related threats. At the same time, it is a particularly difficult task to perform, as it involves interfering with agricultural activities of individuals on the area of a private farm. It requires both high professional qualifications and a responsible psychological approach. As the opinions of labour inspectors indicate, the condition of the inspected farms varied considerably. Apart from farms in which various threats to life and health were found, also farms equipped with safe machines and agricultural equipment were noted, whose owners gladly use preferential credits for this purpose and maintain contacts with agricultural counselling centres. Many farmers improved their working conditions and farmyards following visits of labour inspectors.

972. The number of copies of the publications propagating the principles of safe work in the country increased almost twice as compared with 2004 (90 000 copies). A new element in this respect is the illustrated guide "Pracuj bezpiecznie" [Work safely] and a guide for young people - "Jak bezpiecznie zachować się na wsi" [How to behave safely in the country] and a new version of a leaflet and poster "Jakich prac nie mogą wykonywać dzieci do lat 15 na wsi" [Works which children under 15 must not perform]. Due to the importance of the issue, the information publication "Uwaga, azbest" [Watch out for asbestos] was released again. It was distributed during labour inspectors' visits to farms, during training sessions and contests, with the assistance of district governors, municipality offices, rural culture centres, health-care centres, post offices, parish churches, schools. The publication was also distributed among institutions operating for the benefit of agriculture, e.g. agricultural counselling centres, regional and industry press. Agricultural events were excellent occasions to reach the readers with the publications and also the specially prepared thematic exhibitions. The events included: fêtes, Open Door Days, shows of agricultural equipment and its operation, exhibitions. In total 332 such events took place in the reported period and PIP information and counselling points were available.

973. Educational activities involved 479 training courses on safety and hygiene during agricultural and animal production. The subjects covered during the trainings included primarily the prevention of threats during the operation of agricultural machines and equipment, during works involving plant protection agents, during transport works and the issue of the safety of children helping their parents on farms and staying in places where field works are performed.

974. Thanks to the assistance of primary and junior secondary school teachers, talks and mini-lectures were organized for over 45 thousand students of such schools (by 13 per cent more

than in 2004), during which basic safety principles on farms were discussed along with works dangerous for children. Contests and competitions on occupational safety and health and the related arts contests attracted as many as 44 thousand children and young people from rural areas (by 6 per cent more than in 2004). During those events, labour inspectors showed the children the irregularities that may be found in the performance of works on a farm and manners in which their effects may be prevented. Mini-lectures and talks were organized on subjects related to safety in rural areas for almost 5 thousand children (i.e. almost 30 per cent more than in 2004) from such areas, participating in summer play groups and summer camps organized within the Stationary Summer Action in cooperation with the Polish Scouting Association. During the Action inspectors were invited to meetings with children and young people from rural areas, participated in fêtes, evening plays or bonfires, participated in the organization of thematic field games and contests of knowledge regarding the promotion of safety in farms.

975. An effective way of reaching numerous groups of farmers were the exhibition and counselling points at various agricultural events (fairs, machinery shows, exhibitions, open days), among which the presidential harvest festival in Spała or the International Agricultural Fair "POLAGRA" were of importance.

976. Cooperation with media (regional radio and TV stations, newspapers and magazines) is of particularly significant importance for the efficiency of preventive actions in agriculture. In 2005 as many as 225 press publications appeared on occupational safety and health in individual farming, 188 radio and 70 TV programmes were broadcasted in which the subject was discussed.

977. Propagating the idea of safe work is also reflected in the brochures published by PIP, distributed by the inspectors during visits, trainings and meetings, in municipal offices and parish churches. District inspectorates cooperate closely with regional media, i.e. radio stations, papers, regional and national TV stations.

	1999	2000	2001	2002	2003	2004	2005
Safety and health training for farmers	460	594	486	486	684	534	449
Participants of the trainings	15 500	19 600	14 400	13 000	16 600	16 000	13 800
Training on farms offering practical vocational training	No data available	No data available	No data available	868	486	43	30
Lectures at agricultural schools	356	297	309	346	337	240	290
Participants of the lectures	13 800	11 200	10 000	10 700	12 600	9 200	9 400
Mini-lectures for primary school and junior secondary school children	503	514	700	657	829	1 030	988
Students/listeners	16 900	15 600	23 100	22 500	33 700	40 700	45 300
Contest on safety and health for farmers	70	51	73	85	117	118	118
Contests and competitions on safety and health for children and young people from rural areas	122	171	141	155	217	205	214
Arts contests for children from rural areas	No data available	No data available	No data available	85	127	154	138
Participants				13 000	14 600	21 800	20 400
Information and counselling points on mass agricultural events	83	80	126	171	219	224	332

978. The Ministry of Agriculture and Rural Development initiated cooperation with the Agriculture Section of the Polish TV in order to produce programmes devoted to safe work methods in agriculture.

979. International seminars on ergonomics, occupational safety and health are also organized. Their subjects include physical and mental burdens connected with agricultural work, agricultural occupational diseases and harmful chemical agents (plant protection agents, mineral fertilizers, petroleum products etc).

#### 14. Measures to combat trafficking in women

980. On 26 September 2003, Poland ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the Convention against Transnational Organized Crime (Palermo Protocols). On 12 November 2001, Poland ratified the Convention against Transnational Organized Crime.

981. According to article 253 of the Penal Code, trafficking in persons, even at their consent, is a crime subject to penalty of imprisonment the term of which shall not be less than 3 years. The Penal Code categorizes behaviors comprising the so-called exploitation of prostitution, including organization of trafficking in persons in order for them to work as prostitutes abroad (art. 204, para. 4 of the Code, penalty of imprisonment the term of which shall not be less than one year and more than ten).

982. Results of proceedings concerning trafficking in persons

	Number of proceedings ended	Number of proceedings ending in charges being pressed	Number of proceedings dismissed		Number of persons accused	Number of persons injured
			Due to failure to detect the perpetrators	Due to non-existence of crime		
1999	17	14	-	3	24	109
2000	43	38	1	4	119	172
2001	49	35	6	8	71	93
2002	19	11	4	4	40	167
2003	45	30	4	11	134	261
2004	25	18	2	5	39	98
2005	31	19	2	10	42	99
2006	26	17	-	9	36	126

Legal classification	Proceedings initiated							Proceedings ended							Crimes found						
	1999	2000	2001	2002	2003	2004	2005	1999	2000	2001	2002	2003	2004	2005	1999	2000	2001	2002	2003	2004	2005
Article 204 of the Penal Code	5	3	10	5	8	123	128	12	7	6	9	4	176	220	3	6	10	2	3	428	484
Article 253, para. 1 of the Penal Code	8	12	7	7	7	5	6	4	13	13	8	10	5	14	5	19	24	8	21	44	19
Article 253, para. 2, of the Penal Code	-	-	-	-	1	-	-	-	-	-	-	-	-	-	3	-	1	-	-	-	1

- Article 204 of the Penal Code - abduction with the purpose of prostitution abroad
- Article 253, paragraph 1 of the Penal Code - trafficking in people
- Article 253, paragraph 2 of the Penal Code - illegal adoption for the purpose of unlawful economic gains

983. In cases regarding trafficking in women, after testifying at the investigation stage the injured persons often return to their home country and there is no guarantee that they will appear at the trial. Consequently, the Code of Penal Proceedings (art. 316, para. 3) provides for the court hearing the witness at the stage of preparatory proceedings. The Code also provides for the possibility of hearing the witness from a remote location with the use of technical equipment (since 1 July 2003). The Code of Penal Proceedings provides for solutions aimed at protecting the witness - the possibility of the injured party testifying before the court at the absence of the accused, the institution of the incognito witness.

984. On 1 October 2005 the legal institution of the so-called reflection period was introduced. The institution was introduced to the Act on Foreigners (art. 33, item 3) and is to help foreigners undertake cooperation with the institutions competent for conducting criminal proceedings on trafficking in people. It is an important instrument in counteracting such crime, as the victim who may use the reflection period, not exceeding two months, may decide to make a testimony on trafficking in people, thanks to which such persons may avoid immediate deportation. In this period the "La Strada" Foundation guarantees safe accommodation, social and legal assistance to the victim. This type of assistance follows from the agreement concluded by the Minister of Interior and Administration with the Foundation. A visa may also be issued to a foreigner which is of major importance for the process of gathering evidence concerning organized crime groups dealing with trafficking in people, particularly women.

985. On 16 September 2003 the Council of Ministers adopted the National Programme for Fighting and Preventing Trafficking in Human Beings. The continuation of the programme for 2007-2008 is currently being prepared.

986. The problem of trafficking in persons, including trafficking in women, is one of the tasks of the Central Team for Combating Trafficking in Persons, belonging to the structure of the Chief Police Headquarters. The proper teams/coordinators were also appointed in voivodship headquarters and the Capital City Headquarters in order to intensify and coordinate combating such crimes in Poland and abroad.

987. Tasks of the Central Team for Combating Trafficking in Persons include:

(a) Coordination and supervision of coordinators and teams for combating trafficking in persons appointed in voivodship police headquarter and the Capital City Police Headquarter with regard to trafficking in persons and human organs, pedophilia and child pornography;

(b) Conducting preventive actions aimed at limiting trafficking in persons and human organs, pedophilia and child pornography;

(c) Coordination and initiation of vocational training and development of police officers combating the crimes;

(d) Participation in the organization of international operations aimed at combating crime connected with trafficking in persons and human organs, pedophilia and child pornography;

(e) Organization of cooperation with bodies other than police;

(f) Cooperation with the Institute of Social Prevention and Rehabilitation of the Warsaw University, aimed at conducting an analysis of the legislation concerning trafficking in persons and human organs, pedophilia and child pornography regarding its functionality, coherence and clarity.

988. Tasks of the Voivodship Teams for Combating Trafficking in Persons include:

(a) Implementation of tasks resulting from “The Algorithm of Conduct of Law Enforcement Officers in the Event of Disclosing the Crime of Trafficking in Persons”;

(b) Investigation regarding phenomena and events regarding trafficking in persons and human organs, pedophilia and child pornography;

(c) Preparatory proceedings and operational cases in the said scope, with the use of the existing operational fund;

(d) Conducting investigation in the Internet environment - communicators, chats, for a and discussion lists;

(e) Systematic control of escort agencies, massage parlours and places of roadside prostitution;

(f) Maintaining, in cooperation with criminal intelligence departments (within the intelligence reporting system), a central database regarding trafficking in persons and human organs, pedophilia and child pornography;

- (g) Participation in international operation connected with trafficking in persons and human organs, pedophilia and child pornography;
- (h) Maintaining contacts with non-police entities and local self-governments with regard to criminal prevention in the said scope (lectures in schools);
- (i) Organization of training courses for officers of other departments of the voivodship headquarters and subordinate units.

989. Law enforcement bodies, including the police, closely cooperate with NGOs such as the “La Strada” Foundation, “Nobody’s Children” and “Itaka” foundations, as well as “Caritas”.

990. Cooperation is also developed with international institutions, both closely connected with the police system and law enforcement in the broad sense (INTERPOL, EUROPOL, EUROJUST, BALTCOM) and organizations such as the International Organization for Migration (IOM), FRONTEX. Thanks to this, tasks connected with combating trafficking in people, particularly with regard to helping the victims of the crimes and their cooperation with law enforcement bodies, can be performed in a more complete and effective manner.

991. Separating police structures specializing in combating trafficking in persons has contributed to limiting the criminal practice. The “Terra Promesa” operation, conducted in cooperation with the Italian party, was a notable achievement. It concerned trafficking in Polish citizens lured to Italy and used as slave labour force. At present, the voivodship structures combating trafficking in persons conduct international operations with several European States. These issues, advanced to varying degrees, concern the practice of trafficking in persons in most forms provided for in the Palermo Protocol, from trafficking in women forced to undertake prostitution to trafficking in persons with the purpose of criminal exploitation.

992. Police has not established separate structures dealing solely with trafficking in women. According to the adopted concept and the international obligations of Poland (particularly those pursuant to the Convention against Transnational Organized Crime and Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the Convention), the phenomenon is handled in a comprehensive manner: only such an approach will reveal the actual scale of the phenomenon and will allow to combat it in an effective way.

993. Detailed information on the issue are included in the annex to the combined fourth and fifth report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, submitted in 2006.

## **15. Strengthening the programmes combating domestic violence**

994. See the answer to Questions 4 (b) and 6 (d) on article 10.

## **16. Conditions for permissible forced evictions, with provisions that address the need for alternative lodging for those evicted**

995. See the answer to Question 3 (a) and (d) on article 11.

**17. Monitoring the level of poverty and national strategy for poverty reduction**

996. See the answer to Question 1 on article 11.

**18. Providing access to family planning services in the public health-care system, school curricula regarding sexual and reproductive health education**

997. Results of the study entitled “Health Condition of the Population of Poland”, conducted in 2004, indicate that over 65 per cent of women aged 15-49 who declared being sexually active, use contraception. A notable change in the contraception methods applied has occurred since the situation observed 8 years before. Data of 1996 indicated that the most popular methods of birth control were the rhythm method and coitus interruptus. The age of women is of considerable importance with regard to the choice of the contraception method. Younger women tend to use condoms and oral contraceptives more often, whereas older women, over 40 years of age, choose the rhythm method and coitus interruptus.

998. Methods of birth control - in percentages of women using contraception

	1996	2004
Temperature monitoring and cervical mucus observation	9.7%	4.7%
The rhythm method	42.5%	21.2%
Coitus interruptus	35.1%	19.5%
Condom	22.0%	36.9%
Oral contraceptives or other hormonal contraceptives	7.9%	26.9%
IUD	6.9%	5.6%
Chemical and other mechanical contraceptives	3.8%	1.8%
Other	5.0%	4.5%

999. In 2006, 38 medical products used as contraceptives (gestagens, oestrogen, including two progestogens) were granted marketing authorization. The list of reimbursed medicines still contains three medical products - Microgynon 21, Rigevidon and Stediril 30.

1000. Number of packages of medicines covered with reimbursement from public funds

	2004	2005	2006 (I-III quarters)
Microgynon 21	1 099 195	1 053 733	270 913
Rigevidon	642 565	746 896	239 103
Stediril 30	726 154	853 954	107 735

1001. All women in Poland are covered with prenatal care. According to the studies of the Mother and Child Institute, only 1 per cent of women fail to consult physicians during pregnancy.

1002. The number of spontaneous abortions has remained stable for several years: in 2005 in public health-care establishments 40 754 such abortions were registered, whereas in 2002 the figure stood at 41 707. The number of registered spontaneous abortions over the last

several years was slightly lower than in the 1990s (45 054 in 1996). In 2002, 3 800 invasive prenatal tests were performed, in 2003 - 3 228, in 2004 - 3 420, following which 242 foetal pathologies were diagnosed, and genetic counselling was provided in 18 163. In 2004 the number of public genetic centres was 16.

1003. Schools respect parents' constitutional right to raise their children in accordance with their views. In every school year, before beginning lessons with the class, the class teacher holds at least one information meeting with parents of students or adult students. Before taking the decision to participate in the classes, the interested persons receive information on the curriculum, textbooks and teaching aids and methods. Teachers are obliged to pass objective knowledge on various methods of contraception. They are obliged to adapt the contents and methods of work to the age, social and psychological and emotional development of the students. They also have the right to choose the curriculum and textbooks and use various teaching aids in the teaching process (foil sheets, display charts, boards, video films, transparencies). The school is obliged to provide complete and reliable information, compliant with scientific knowledge, free from prejudices and stereotypes.

1004. The tasks of the minister competent for education, upbringing regarding family planning, protection of the human foetus and conditions of the admissibility of abortion were specified in the Act of 7 January 1993 on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion.

1005. The Minister of National Education and Sport has ensured the conditions of realization in schools of teaching curricula regarding human sexual life, principles of conscious and reliable parenthood, value of the family, life in the prenatal phase and methods and means of conscious procreation: the curriculum base of general education specifies the contents provided by schools during classes "Education for family life" (Regulation of the Minister of National Education and Sport of 26 February 2002 on Curriculum Basis for Nursery Education and General Education in Various Types of Schools). They include sexual education and reproductive health issues in the context of quasi-familial upbringing. The manner of school teaching and scope of the knowledge regarding human sexual life, principles of conscious and reliable parenthood, value of the family, life in the prenatal phase and methods and means of conscious procreation were specified by the Minister of National Education and Sport in the Regulation of 19 July 2002.

1006. Education classes "Education for family life" were conducted in V and VI grades of primary schools, junior secondary schools and post-junior secondary schools, including: basic vocational schools, secondary schools of general education, specialized secondary schools, technical colleges. The purpose of sexual education offered during the classes is preparing young people to understand the physical and mental changes occurring during their development, accepting the changes and treating their sexuality in a positive manner.

1007. The sexual education offered at schools:

(a) Supports the upbringing role of the family;

(b) Shapes pro-family, pro-health and pro-society attitudes, particularly in the area of sexual behaviors;



- (c) Fosters positive attitude towards sexuality;
- (d) Fosters psychosexual maturity;
- (e) Prepares for the future marital and parental roles;
- (f) Makes students aware of the role and importance of the family in human life.

1008. The education for family life offered at schools:

- (a) Helps understand human sexuality and develop proper peer relations;
- (b) Confronts students with sex stereotypes and myths regarding human sexuality; propagated by peers, youth press and media;
- (c) Fosters attitudes towards otherness, including sexual minorities, teaches tolerance and openness;
- (d) Develops various psychological and social skills, considerably affecting life quality (skills regarding communication, expression of feelings and emotions, taking decisions and accepting responsibility for them, empathy, coping with stress and failures, assertiveness).

1009. The manner in which classes were conducted was subject to educational supervision and monitoring. In the 2004/2005 school year education for family life was offered by 96 per cent of schools.

1010. Teachers are prepared to conduct classes of education for family life in schools of higher education during MA and post-graduate studies. MA studies regarding family studies, during which teachers are prepared to conduct the classes, are offered by the University of Opole, the Cardinal Wyszyński University in Warsaw and the John Paul II Catholic University of Lublin. Post-graduate studies in the education for family life are offered, inter alia, by: the Rzeszów University, the Gdańsk University, Studium Generale Sandomiriense in Sandomierz, Akademia Świętokrzyska, the Adam Mickiewicz University in Poznań, the Cardinal Wyszyński University in Warsaw, Academy of Physical Education in Katowice, the Technical University of Radom, the Warmia and Mazury University, the Mazovian Higher School of Humanities and Pedagogy in Łowicz, the Pomerania University of Pedagogy, the Alliance of Families University in Warsaw, the Paweł Włodkowic University College in Płock, the Pedagogical University in Kraków, the Witelon University of Applied Sciences in Legnica, the University of Opole, the Pontifical Faculty of Theology in Wrocław and the Pontifical Faculty of Theology in Kraków.

1011. Moreover, teachers of primary schools, junior secondary schools and basic vocational schools can gain qualifications necessary to conduct the education for family life classes at qualifying courses. The courses are organized in compliance with principles specified by the Minister of National Education and Sport in the Regulation of 23 April 2003 on the Conditions and Manner of Establishment, Transformation, Liquidation and Organization and Manner of Operation of Teacher Development Establishments, including their Obligatory Activities and Tasks of Methodology Counselors, Conditions and Manner of Entrusting Teachers with Tasks of

Methodology Counselors. The qualifying courses could be organized and conducted by teacher development establishments and teacher education establishments (upon the consent of the pedagogic supervision body).

1012. Sex education was also discussed during the National Conference entitled “Education for Family Life - Problems and Dilemmas Prevention of HIV/AIDS at School”, organized in November 2005 by the Ministry of Education and Science in cooperation with the National AIDS Centre. The conference was attended by school superintendents, school inspectors and methodology counsellors.

1013. With regard to protection of the human foetus, in cases of student pregnancies, schools are under obligation to provide pedagogic assistance and grant her a leave of absence and offer assistance in finishing her education. If the pregnancy, childbirth or puerperium results in the student’s inability to take exams important for the continuity of her education at the scheduled dates, the school is obliged to set the date of another exam convenient for the student, within the period not exceeding six months.

1014. In 2005, the Ministry of Education and Science implemented an educational programme “Be Responsible - Education for Responsibility and Partnership in the Family” in cooperation with the Youth Counselling and Sex Education Unit of the University of Zielona Góra. The programme was implemented in 90 schools in the Podlaskie, Mazowieckie and Wielkopolskie voivodships. The objective of the programme was developing the attitude of responsibility for decisions taken among students, presenting challenges of adult life and consequences of early sexual initiation, as well as promoting understanding of partnership in the family in the broad sense and the responsibility of both parents for children. The programme discussed such values as love, marriage, and parenthood. Its implementation was preceded by special training sessions for teachers and students and meetings with parents. Students could participate in the programme upon their parents’ consent. Students’ taking care of infant dummies during free days (Saturdays and Sundays) included the students’ parents in the experience. The programme was an incentive for students and their parents participating in it to discuss sexuality, which is hardly ever talked about at homes.

## **19. Data on abortion in Poland and measures undertaken to protect women from illegal and unsafe abortions**

1015. In the opinion of the Polish Government, the provisions of the International Covenant on Economic, Social and Cultural Rights do not provide a basis for adopting a standard regarding performing abortions.

### **Additional information**

1016. Conditions of admissibility of abortion are specified in the Act of 7 January 1993 on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion, which is a result of a broad social consensus.

1017. An alternative for illegal abortion is offered by the regulations thanks to which women may leave the child in the hospital after childbirth and give up their parental rights. Every woman who decides that she does not want to take care of the child, cannot do it or is incapable

of doing this may approach a nurse cooperating with an adoption and care establishment. A child may then be placed in a pre-adoption ward or in a foster family - family emergency and await its legal situation to be regulated. If after six weeks of the birth the mother declares the will to give up the child, the court accepts the declaration on the resignation, which also indicates the mother's consent to the child being adopted without indicating the adopting person. In order to secure the interests of the child, the court immediately decides upon the guardianship.

1018. Number of newborns left in hospitals by mothers for reasons other than those related to health:

1993	252
1999	737
2000	861
2001	899
2002	1018
2003	1090
2004	1012
2005	1013

1019. Taking into consideration doubts regarding the implementation of the Act on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion, on 7 March 2005 the Minister of Health sent a letter to all voivods in which he requested that public health-care establishments providing gynecology and obstetrics services be reminded about the absolute obligation to implement the provisions of the Act. The letter was intended to prevent women's difficulties in pursuing their rights to:

- (a) Terminate pregnancies in the cases provided for in the Act;
- (b) Free of charge abortion in a public health-care establishment in the events provided for by the Act, if the woman is entitled to free health care under separate provisions regarding free health care;
- (c) Free access to information and prenatal tests, particularly in the event of higher risk or suspicion of the incidence of a genetic or developmental malformation of the foetus or an incurable disease threatening the life of the foetus;
- (d) Free access to methods and means of conscious procreation.

1020. The Minister of Health reminded the addressees that the head of the health-care establishment is responsible for the complete and proper observation of the law in force, including the Act on Health-care Establishments, Act on the Medical Profession and the Act on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion. The related obligations concern both creating the conditions in which performing an abortion is possible under the Act, and providing complete information on family planning, including access to methods and means of conscious procreation. The Act on Family Planning guarantees free access to information and prenatal tests, particularly in the event of higher risk or suspicion of the incidence of a genetic or developmental malformation of the foetus or an incurable disease threatening the life of the foetus.

1021. Moreover, the Minister of Health reminded the addressees that the conscience clause provided for in the Act of 5 December 1996 on the Medical Profession refers solely to individual physicians in individual case and may not be applied in the health-care establishment on the basis of collective conscience principle following from general declarations on the part of the management. Invoking the conscience clause is effective only in compliance with the statutory procedure. Under the procedure, such fact accompanied by a justification must be recorded in the medical documentation. Invoking the conscience clause results in an obligation on the part of the physician to indicate the possibility of obtaining the service from another service provider (where and by whom it will certainly be provided), which should also be recorded in the medical documentation. A physician working on the basis of an employment or service relationship, who intends to make use of the conscience clause, is obliged to notify his superior about his intention in writing prior to using the clause. Consequently, the conscience clause must not be used in a free and informal manner.

	Total	Abortions performed in compliance with the Act:		
		Due to a threat to the health and life of the mother	Due to medical indications concerning the foetus	Following a prohibited act
2002	159	71	82	6
2003	174	59	112	3
2004	193	62	128	3
2005	225	54	168	3

1022. An important instrument protecting the rights of patients are regulations specifying the obligations and rights of self-governments of medical profession. According to the Act of 17 May 1989 on Chambers of Physicians, proceedings in cases of professional liability of physicians are conducted by the district screener for professional liability.

1023. Cases considered by screeners for professional liability of physicians

	Cases concerning							
	Care over pregnant women		Perinatal care		Genetic tests of the foetus		Abortion	
	Total	Refusals to initiate proceedings/ dismissals	Total	Refusals to initiate proceedings/ dismissals	Total	Refusals to initiate proceedings/ dismissals	Total	Refusals to initiate proceedings/ dismissals
2002	41	25	84	48	3	2	3	1
2003	58	44	126	50	-	-	6	-
2004	23	1	39	7	-	-		
2005	45	13	94	34	0	0	6	1

1024. Proceedings before district medical courts

	Cases concerning							
	Care over pregnant women		Perinatal care		Genetic tests of the foetus		Abortion	
	Total	Punished physicians	Total	Punished physicians	Total	Punished physicians	Total	Punished physicians
2002	3	3	15	9	0	0	4	4
2003	15	8	16	9	0	0	2	2
2004	16	7	16	12	0	0	0	0
2005	3	1	10	12	0	0	2	2

1025. In 2002, the Patients' Rights Office was established at the Ministry of Health. In 2005, the Office registered 51 cases regarding care over women during pregnancy, childbirth and puerperium. The cases were reported on the telephone and in writing. They concerned:

- Deaths of newborns - 11 cases
- Perinatal injuries - 24 cases
- Negligence regarding the care over patients in puerperium - 4 cases
- Death of a woman in puerperium - 1 case
- Improperly managed pregnancies - 7 cases
- Obstruction in access to prenatal tests - 1 case

1026. Information provided by the Office to the patients:

- (a) Legal advice, particularly concerning the procedure of making claims regarding service providers;
- (b) Explanation of the procedure of filing complaints to district screeners for professional liability in the event of suspicion of a medical error or negligence;
- (c) Information on the procedure of settling the case with the service provider.

1027. Activities undertaken by the Patients' Rights Office:

- (a) Approaching district screeners for professional liability of physicians with requests for information regarding the explanatory proceedings in a given case;
- (b) Written inquiries for national or voivodship gynecology, obstetrics and neonatology consultants;
- (c) Referring cases, with due justifications, to district screeners for professional liability of physicians;
- (d) Notifying the voivodship sanitary and epidemiological stations on the incidence of, inter alia, cases of sepsis or infections with *Staphylococcus aureus*;
- (e) Approaching the service providers in writing in order to explain the problem situation;
- (f) Intervening with service providers (in cases of refusal to refer pregnant patients to tests).

1028. Among the cases reported to the Patients' Rights Office special attention should be paid to:

(a) Improper interpretation of ultrasonography examinations in the case of doubts as to the proper course of the pregnancy, failures to refer patients to consultations with other specialists or to refer patients to medical establishments with modern medical equipment;

(b) Failure to respect the recommendations of physicians managing pregnancies specified in the referral document or following directly from the pregnancy documentation, on the part of medical personnel. Failure to undertake decisive medical actions in situations when Caesarean sections should have been performed (the consequences include e.g. perinatal injuries requiring long and painful rehabilitation, deaths of newborns, perinatal complications in women).

1029. The most often recorded information on violations of patients' rights includes failures to respect:

(a) The right to intimacy and personal dignity during the provision of medical services (particularly during hospitalization);

(b) The right to reliable information on the health condition of the patient, no information on the possible complications due to high-risk pregnancies;

(c) The right to medical services corresponding with latest medical knowledge (ultrasonography);

(d) The right to inspect the medical documentation (data of the Patients' Rights Office indicate that the impeded access to the said documentation occurred in the maximum of two cases: of a death of a newborn and perinatal injury).

1030. The Penal Code provides for sanctions for illegal performance of an abortion.

1031. Art. 152, paragraph 1. Whoever with the consent of the woman terminates her pregnancy in violation of the law shall be subject to the penalty of imprisonment the term of which shall not be more than three years.

1032. Article 152, paragraph 2. The same punishment shall be imposed on anyone who renders assistance to a pregnant woman in terminating her pregnancy in violation of the Act or persuades her to do so.

1033. Article 152, paragraph 3. Whoever commits the act specified in paragraphs 1 or 2 after the foetus has become capable of living outside the pregnant woman's body shall be subject to penalty of imprisonment a term of which shall not be less than 6 months and more than eight years.

1034. Article 153, paragraph 1. Whoever, through the use of violence against a pregnant woman or by other means, without her consent, or induces her by force, an illegal threat or deceit to terminate the pregnancy, shall be subject to penalty of imprisonment a term of which shall not be less than 6 months and more than eight years.

1035. Article 153, paragraph 2. Whoever commits the act specified in paragraph 1 after the foetus has become capable of living outside the pregnant woman's body shall be subject to penalty of imprisonment a term of which shall not be less than 1 year and more than ten years.

1036. Article 154, paragraph 1. If the consequence of an act specified in article 152, paragraphs 1 or 2 is the death of the pregnant woman, the perpetrator shall be subject to penalty of imprisonment a term of which shall not be less than one year and more than ten years.

1037. Article 154, paragraph 2. If the consequence of an act specified in article 152, paragraph 3, or article 153 is the death of the pregnant woman, the perpetrator shall be subject to penalty of imprisonment a term of which shall not be less than two years and more than 12 years.

1038. In 2005, prosecutor's offices recorded 100 cases regarding offences under the Act on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion (in 2004 - 98 cases, in 2003 - 89 cases, in 2002 - 69 cases).

1039. With regard to the cases recorded in 2005:

- In 82 preparatory proceedings were initiated
- In 18 actions were undertaken to verify the facts invoked in notifications on offences, or trial actions were undertaken and as a result a refusal to instigate preparatory proceedings were issued or proceedings were dismissed before being initiated

1040. In 2005 80 preparatory proceedings were ended:

- In 26 cases they were referred to courts
- In 54 cases preparatory proceedings were dismissed

1041. Common courts considered 22 cases in 2005 and the following decisions were taken:

(a) Seventeen convictions for 22 accused for offences of abortions violating provisions of the Act, attempt to perform such acts and impelling other persons to perform such acts, as well as physical and mental cruelty towards a cohabitee and impelling her to terminate a pregnancy;

(b) In three cases the court decided upon a probation dismissal of the criminal proceedings against four perpetrators;

(c) In two cases the court acquitted three accused persons on all charges.

1042. In the 17 cases of convictions, the court adjudicated upon the following:

(a) With regard to 21 accused persons - penalties of one to two years of imprisonment suspended on a probation basis for two to four years, fines of 60 to 300 daily rates at PLN 10 to 50 each, compensatory damages of PLN 500 to 10 000 for the benefit of institutions dealing with protection of children's rights and forfeiture of the amounts obtained as a result of the offences for the benefit of the State Treasury;

(b) With regard to one accused person - a stand-alone fine of ten daily rates of PLN 30 each.

1043. Additional measures were taken in the case of four accused gynecologists - a prohibition to pursue the medical profession for the period of two to ten years, and in the case of one accused physician - a ban on private medical practice for four years.

1044. Adults sentenced pursuant to valid sentences following an indictment

Legal qualification	1999	2000	2001	2002	2003	2004	2005
Article 152, para. 1 of the Penal Code	0	1	2	7	5	9	14
Article 152, para. 2 of the Penal Code	3	8	5	2	3	15	11
Article 152, para. 3 of the Penal Code	0	-	-	2	-	-	-
Article 153, para. 1 of the Penal Code	4	2	2	1	2	3	7
Article 153, para. 2 of the Penal Code	1	0	0	0	1	0	
Article 154, para. 1 of the Penal Code	11	4	4	-	-	2	1
Article 154, para. 1 of the Penal Code in connection with article 152, para. 1	0	0	0	0	0	1	

## **20. Monitoring of the number of deaths from cardiovascular diseases and results of the measures taken to reduce their number**

1045. In 2003 the Minister of Health decided upon the implementation of the National Programme for Prevention and Treatment of Cardiovascular Diseases POLKARD (for 2003-2005). The year 2006 saw another release of the programme for 2006-2008. The main objective of the POLKARD programme is to continue the present rate of reduction in the number of deaths caused by cardiovascular diseases in Poland. The priority involves a reduction of not less than 30 per cent of premature deaths (regarding persons below 65 years of age) by 2012.



1046. The National Programme for Prevention and Treatment of Cardiovascular System POLKARD covers the following actions:

- (a) Prevention, diagnosis and treatment of diseases of the cardiovascular system and key risk factors;
- (b) Equipment upgrades for cardiology, pediatric cardiology, cardiosurgery and neurology wards;
- (c) Implementation of effective and safe medical technologies, in particular preventative intervention as well as diagnosis and treatment within a nationwide network of reference centres;
- (d) Organization of training for specialists in cardiology, pediatric cardiology and neurology;
- (e) Data collection and monitoring of changes in Poland regarding epidemiology and standards of care in the area of cardiovascular diseases.

1047. The tasks specified in the POLKARD 2003-2005 and 2006-2008 comply with the objectives of the EU documents, including Heart Plan for Europe, Healthy Heart, the WHO Helsingborg Declaration and guidelines of the European Stroke Initiative.

1048. The spending on the implementation of the POLKARD programme amounted to:

- In 2003 - PLN 118 572
- In 2004 - PLN 125 413
- In 2005 - PLN 80 646
- In 2006 - PLN 60 494

The spending planned for 2007 is to amount to PLN 63 500.

1049. Percentage of deaths caused by cardiovascular diseases as compared with the total number of deaths:

1999	47.6
2000	47.7
2001	47.9
2002	47.1
2003	47.2
2004	46.4
2005	45.7

**21. Conditions in psychiatric inpatient health-care facilities, results of the implementation of the Mental Health Protection Programme**

1050. The Act of 19 August 1994 on Protection of Mental Health defines the general model of psychiatric care, i.e. a modern environmental model of psychiatric health care. Health-care services, including psychiatric care, are financed by the NFZ. The Fund pays for individual health services for which usually consist of single elementary medical services. No charges are collected for health-care services provided to persons suffering from mental illnesses or mental impairment. Individual psychiatric medical practice/private practice/centres rarely have signed contracts with the NFZ and most of their services are paid for by patients.

1051. The Mental Health Protection Programme defines accessibility standards for individual types of psychiatric health-care establishments, and employment ratios for various groups of professionals.

1052. Undertaking tasks concerning promotion and protection of mental health and preventing mental disorders is the responsibility of Government administration and territorial self-government bodies, social assistance units, schools and universities, penitentiary institutions, rehabilitation establishments and military units. The activities may also involve the participation of NGOs, industry self-governments, churches and religious associations, self-help groups of parents and their families and other legal entities and individuals.

1053. Since the entry into force of the Act on Protection of Mental Health social assistance develops new forms of social support for persons suffering from long-term mental illnesses and mental impairment, i.e. environmental self-help homes and specialist care services rendered in the patients' places of residence.

1054. Activities in this respect may also involve the participation of NGOs, industry self-governments, churches and religious associations, self-help groups of parents and their families and other legal entities and individuals.

1055. Another form of assistance is occupational therapy workshops organized by PFRON, and some of them (approximately 10 per cent) are organized for persons with mental disorders.

**22. Results of the implementation of the Charter of Disabled Persons' Rights (1997) as well as of the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons**

1056. Rights of disabled persons are guaranteed by the Constitution. It ensures the right to non-discrimination, providing that no one shall be discriminated against in political, social or economic life for any reason whatsoever (art. 32, para. 2). The principal Act also provides for public authorities obligation to ensure special health care to disabled persons (art. 68) and an obligation to provide aid to disabled persons to ensure their subsistence, adaptation to work and social communication (art. 69).

1057. The Charter of Disabled Persons' Rights is one of the basic documents regarding disabled persons in Poland. It was adopted by the Sejm of the Republic of Poland on 1 August 1997. The document is a resolution of the Sejm, which means that it does not guarantee any specific rights.

1058. The Charter provides that disabled persons have the right to "independent, self-reliant and active life and may not be subject to further discrimination". Moreover, the document contains a catalogue of ten rights, thus indicating areas of key importance for the policy of equal rights for disabled persons. These areas require particular attention, active support preventing discrimination and constant monitoring.

1059. Every year, according to the disposition contained in the Charter of Disabled Persons' Rights, the Government prepares information on the undertaken initiatives in order to implement the rights of persons with disabilities.

1060. The current system of vocational and social rehabilitation and employment of disabled persons was shaped in the early 1990s. The Act on Vocational and Social Rehabilitation and Employment of Disabled Persons is a continuation of the Act on Employment and Vocational Rehabilitation of Disabled Persons, passed in 1991. However, the numerous changes in the regulations have not altered either the philosophy of the whole system or the manner of solving disability-related problems.

1061. The numerous amendments of the Act currently in force had a negative effect on its clarity and implementation applicability. The relatively poor evaluation of the efficiency of the instruments used so far as regards the actual improvement of the situation of the disabled - particularly on the labour market - requires an adequate response. All this, as well as the new approach to the issue of disability manifested over the last several years by the international structures to which Poland belongs, indicate that the existing system needs verification. A part of this process is also developing a separate legal act on certifying disability, aimed at uniforming and simplifying the five certification systems existing today (four certifying systems for the purposes of disability pension and the fifth - the non-pension system of certifying the degree of disability and disability). These issues are of primary importance for defining who is a disabled person for the purposes of the existing legal regulations and consequently - who is the beneficiary of the assistance and support extended pursuant to those regulations.

1062. Works are currently underway to provide greater support and equalize the chances of disabled persons, both in the open and protected labour market. The amendment to the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Persons with Disabilities (works on the bill are presently - i.e. as of January 2007 - conducted in the Sejm) is aimed at increasing the efficiency of the instruments supporting the social and vocational rehabilitation of the disabled, including improving the operation efficiency and effectiveness of entities enjoying the support of PFRON.

1063. Thanks to the new solutions it will be possible to reimburse the costs of equipping the workplace for a disabled person up to the amount of 15 average remunerations, and reimbursement of 60 per cent of the remuneration costs for a year will be possible in the case of disabled persons who have been registered in district labour offices as unemployed or seeking

work, not in employment. Moreover, the one-time loans for disabled persons for undertaking business activities will be replaced with a one-time granting of the funds, which should result in the increased self-employment of disabled persons.

1064. The amended Act on Supporting Employment and Vocational and Social Rehabilitation of Disabled Persons will introduce general principles of compensating the increased costs of employment of disabled persons from public funds (with the exception of employers obliged to make contributions to PFRON). The principles will be the same for the open and protected labour markets and their purpose is increasing the number of the employed disabled persons, particularly in the open labour market.

1065. The basic goal of the proposed changes is to:

- (a) Guarantee disabled persons the possibility of full use of the rights, conditions for equal participation and active and independent life in full inclusion;
- (b) Increase professional activity and employment of disabled persons;
- (c) Ensure a good start in life to disabled children and young people;
- (d) Ensure diverse and effective support for disabled persons in undertaking and maintaining employment;
- (e) Connect the scope of support with the actual needs resulting from disability;
- (f) Coordinate the regulations supporting employers employing disabled persons, including:
  - (i) Adapt the national legislation to the community principles of providing public assistance to entrepreneurs;
  - (ii) Simplify the principles of providing public assistance to entrepreneurs employing disabled persons;
  - (iii) Define the principles of supporting employers not conducting economic activities within the understanding of regulations regarding business activities;
- (g) Ensure greater cohesion between the provisions of the planned act and other acts regarding social policy (including the Act on Public Benefit and Volunteer Work, the Act on Social Assistance and the Act on Promotion of Employment and Institutions of the Labour Market).

### **23. Legislation and programmes for persons with HIV/AIDS**

1066. See the answer to Questions 5 (e) and (g) and 8 on article 12.

#### **Additional information**

1067. The most important goals of the state strategy regarding combating the HIV/AIDS epidemics are defined in the National Programmes for HIV Prevention and Care for People Living with HIV/AIDS. The subsequent programmes were adopted for 1996-1999, 1999-2003 and 2004-2006. The programme for 2007-2011 is being presently implemented. The main focus of the programmes includes:

- (a) Streamlining the existing system of HIV prevention;
- (b) Education of the society, protection and promotion of human rights, strengthening the role of women;
- (c) Ensuring an integrated system of care for people living with HIV/AIDS.

1068. Implementation of the programme is based on:

- (a) The Act on of 27 August 2004 on Health-care Benefits Financed out of Public Funds;
- (b) Regulation of the Council of Ministers of 13 September 2005 on the National Programme for HIV Prevention and Care for People Living with HIV/AIDS, issued on the basis of article 9, item 1 of the Act of 6 September 2001 on Communicable Diseases and Infections.

1069. NGOs contribute to the Polish strategy of combating HIV/AIDS. Guidelines of international organizations and structures (WHO, UNAIDS, EU) were also regarded during the development of the strategy.

1070. An important element of the National Programme for HIV Prevention and Care for People Living with HIV/AIDS is its multi-sectoral character and multi-level structure of actions. Joint implementation of preventive actions guarantees their greater effectiveness and broader scope. The main purpose of appointing voivodship coordinators was to ensure better assessment of the needs of the society at the local level and intensifying actions aimed at limiting the spread of the HIV virus by promotion of cooperation of local self-governments with NGOs.

1071. Persons living with HIV/AIDS have had access to specialist treatment since 1990. Poland offers its HIV positive patients modern treatment using protease inhibitors since the beginning of their existence (immediately after the 1996 World AIDS Conference in Vancouver). All 3 000 patients (all of whom comply with medical criteria) have access to free

antiretroviral therapy and latest diagnostic techniques, including genotyping. No social group is discriminated with regard to the access to ARV treatment. The ARV treatment will also include pregnant women infected with HIV and newborns of the mothers infected with HIV in compliance with the standards of the time. Free antiretroviral therapy and specialist diagnostics are also offered to persons staying in penal institutions, persons using drugs intravenously, persons participating in methadone programmes and persons who do not have social insurance or remain homeless.

1072. Apart from the ARV treatment offered to persons living with HIV/AIDS, the programme includes post-exposure treatment after exposure to HIV infection during work and after non-occupational accident exposures.

1073. All ARV medicines applied in the world are available in Poland. If a medicine has not been registered in Poland and patients need it, it is imported under target import procedures. Professional health care consists of helping patients maintain the best possible quality of life and is based on such values as equality and self-esteem.

1074. The HIV prevention and AIDS treatment are financed from the State budget.

1075. Over the last several years a considerable growth has been observed in the number of persons performing HIV tests on a voluntary, anonymous and free basis, which is a result of educational campaigns. Persons undergoing the tests have access to professional counselling compliant with the relevant international standards before and after the tests.

1076. In 2004 almost 40 NGOs operating in the area of counteracting the HIV/AIDS epidemics obtained financial and substance-related assistance from the State budget.

**24. Human rights education in schools at all levels and measures adopted to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary**

1077. In 2004, the “UN Awareness” campaign began, and its goal was to present the operation of the United Nations and Polish initiatives made within the organization. An Internet website “Poznajmy ONZ” was opened to serve the purpose of the campaign ([WWW.poznajmyonz.pl](http://WWW.poznajmyonz.pl)). It is primarily addressed to school and university students, and contains information on the United Nations activities regarding promotion and protection of human rights and links to reports on the implementation of international human rights conventions.

1078. Two seminars were organized in 2004 for NGOs, local administration and media on the activities of the United Nations regarding combating racism and racial discrimination. NGOs were informed about the possibility of filing individual complaints under the Convention on the Elimination of All Forms of Racial Discrimination.

1079. The Ministry of Justice organizes trainings, such as the three trainings held in 2002 for judges belonging to the “human rights” group (they are to function as contact points in their courts and conduct trainings). In 2003, two trainings, each for 25 judges, were organized. Similarly as in 2003, the trainings were co-organized by the Helsinki Foundation for Human Rights and devoted to the judiciary of the European Court of Human Rights.

1080. The website of the Ministry of Justice is regularly developed. It contains, inter alia, the texts of both Covenants, other human rights conventions, current court reports, final comments and recommendations of committees and information on the possibility to file complaints and specimens of such complaints. A website presenting the basic information on human rights has also been developed.

1081. Lectures on human rights and their protection are also included in the curriculum of the apprenticeship for legal advisers. The Polish Bar Council organizes annual cycles of seminars for barristers and trainee barristers on the European Convention on Human Rights.

1082. In connection with the Government Action Plan regarding education and dissemination of the European Convention on Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights, the Minister of Regional Development as Managing Body for Priority V of the PO KL, is preparing a training curriculum for representatives of public administration, which will be implemented in the years 2007-2013.

1083. Formal education on human rights, regarding counteraction and combating of racism, racial discrimination, anti-Semitism and xenophobia is organized within public administration - human rights issues are included in the vocational training or in the system of trainings organized within broader educational programmes such as:

(a) The PHARE 2002 project “Strengthening Anti-Discrimination Policy” was developed under the twinning agreement concluded between the Government Plenipotentiary for Equal Status of Women and Men and the Austrian partner - the Ludwig Boltzmann Institute of Human Rights. The project was implemented from August 2003 to November 2004 and its results include:

- (i) Training a group of trainers from NGOs, who will hold subsequent trainings on discrimination and standards regarding counteracting its occurrence;
- (ii) Development and evaluation of a training programme regarding raising the awareness, shaping attitudes and implementation of anti-discrimination measures and strategies;
- (iii) Holding instruction trainings for trainers from such professional groups as: police officers, State officials (also at the voivodship level), labor inspectors, judges, barristers and lawyers of educational institutions, journalists, regarding raising the awareness shaping attitudes and implementation of anti-discrimination measures and strategies. Those persons will then hold subsequent trainings within their professional corporations;

(b) Community Action Programme to Combat Discrimination 2001 - 2006, within which the following projects have been implemented:

- (i) Implementation of the community anti-discrimination law in Poland, which included trainings regarding identification of discrimination, legal and social measures of combating it and initiatives helping combat discrimination for judges, barristers and NGO representatives. Moreover, two brochures were published and widely distributed: "Przeciwdziałanie dyskryminacji w Polsce - jak bronić swoich praw" [Combating discrimination in Poland - how to defend your rights] and "Przeciwdziałanie dyskryminacji w Polsce - aspekty prawne i instytucjonalne" [Combating discrimination in Poland - institutional and legal aspects];
- (ii) Attitudes of tolerance towards diversity were fostered within a programme consisting of five anti-discrimination workshops for judges, prosecutors, border guard and police officers, journalists and trade union representatives (250 persons in total).

1084. The National Programme against Racial Discrimination, Xenophobia and Related Intolerance assumes:

- (a) Developing and dissemination of a publication presenting the provisions of the Programme among representatives of public administration;
- (b) Developing and dissemination of didactic materials propagating anti-racist attitudes and combating xenophobia and intolerance in the military circles;
- (c) Developing and dissemination of didactic materials propagating anti-racist attitudes and combating xenophobia and intolerance among police, border guard, customs and penitentiary officers;
- (d) Including the issues of combating and counteracting racial discrimination, xenophobia and intolerance in the human rights context in civil education curricula for compulsory service soldiers and seminars for professional military staff;
- (e) Including issues of anti-racism, combating and counteracting anti-Semitism, xenophobia and intolerance in the context of human rights of migrants, refugees, members of national and ethnic minorities in the education curricula of police, border guard, customs and penitentiary services;
- (f) Including the issue of trafficking in people, particularly female migrants, in the education curricula of police, border guard, customs and penitentiary services;
- (g) Developing and holding trainings for government and self-government administration representatives regarding tolerance and open society;
- (h) Holding conferences and seminars for government and self-government administration representatives regarding raising social awareness concerning racial discrimination, xenophobia and related intolerance.



1085. Within the framework of implementing the Programme, the National School of Public Administration holds cyclical workshop on discrimination, including its symptoms as well as legal and institutional protection.

1086. The issue of racism, racial discrimination and intolerance was included in the training curriculum of border guard officers (in the basic course, course for warrant officers and officers). In 1999-2006 vocational training of policemen included human rights modules on:

(a) The basic level;

(b) The specialist level (criminal service, prevention, operational, investigation, community officers, duty officers, traffic, peace missions, services supporting the Police in the scope of organization, logistics and technology, for policemen performing anti-terrorist tasks);

(c) The high level.

1087. The basic programme contains files of Teachers' Guides for individual units. Methodological guidelines found in the files indicate the connections between the contents of the programme with contents of other units, draw attention to the issues which students may find most difficult and elements of importance for the purposes of the training, they also define effective teaching methods, class organization manners and conditions of the training. Preference is given to methods integrating theoretical issues of various areas with practical exercises conducted in simulated conditions, in accordance with teaching contents included in the key teaching points.

1088. The major aspect of the curriculum implementation involves the analysis of complaints concerning the Police filed with the European Court of Human Rights and interpretation of the Strasbourg case law. Classes regarding police intervention, being on duty in establishments for detained persons etc. are conducted with the use of the conclusions and recommendations of the European Court of Human Rights.

1089. Conduct respecting human rights is required during the performance of professional tasks (detaining a person, interrogating a suspect, searching a person or an object). The basic programme prepares policemen for acting in compliance with those requirements.

1090. In specialist training curricula the human rights issues included the following areas:

- Essence, classification and importance of human rights
- Human rights protection systems - Polish and international
- Human rights in police practice - the role and tasks of the Police with regard to respecting and protection of human rights

1091. Curricula for university graduates include the following human rights issues:

- Introduction to human rights - general issues
- Convention on Human Rights and Fundamental Freedoms
- International acts regarding the status and principles of operation of the Police
- System of control regarding European standards - European Court of Human Rights

1092. The Regulation of the Minister of National Education and Sport of 26 February 2002 on Curriculum Basis for Nursery Education and General Education in Various Types of Schools obliges schools to offer tuition regarding law, particularly human rights. At the first stage, education as combined teaching prepares pupils to respect law by teaching them how to observe rules in games organized during the classes. At the second stage of education (grades IV-VI of primary school), certain elements of legal knowledge are included in the subject history and society. One of the objectives in the tuition of the subject is helping pupils get acquainted with the values which are an important element of individual and public activities in Poland, Europe and throughout the world. The objective is implemented by the curricula contents such as:

- My rights and the rights of others.
- Me and other people, personal freedom and predicting the consequences of one's behaviors, responsibility and duties.
- Civil rights and obligations. Pro-social and asocial attitudes.

1093. Apart from subjects taught, the curriculum base defines educational paths. Including the issues contained in the paths is a task of teachers of various subjects, who included individual elements in their teaching curricula.

1094. Elements of legal knowledge can be found in the educational path "Education for life in the society", in one of the three modules regarding patriotic and civil education. According to the provisions regarding this path, the school set of teaching curricula implemented in the second educational stage must include such issues as:

- An individual and a group. Life in a group (ties, values, roles, decision-taking, conflicts, negotiations)
- Civil rights and obligations
- Values and norms of social life. Categories of common good
- Institutions acting for the benefit of children and family

1095. The curriculum base for junior secondary schools (third educational stage) obliges schools to teach such issues as:

- Help in recognizing one's rights and values
- Fostering sense of responsibility for oneself and others

1096. The tasks are connected with the subject "Social knowledge", the civil education module. The implemented curricula of the subject must include such contents as:

- Civil rights and obligations (in the context of the Constitution of the Republic of Poland)
- The inalienable character of human rights, their catalogue and system of protection

1097. Promotion of human rights is fostered by the following initiatives:

(a) Human rights trainings conducted by the National In-Service Teacher Training Centre of the Ministry of National Education. The trainings are organized for the staff of superintendents' offices, heads of schools, teachers, pedagogy specialists and staff of in-service teacher training centres;

(b) A network of human rights education trainers, i.e. educators conducting training on human rights in all voivodships, was established. The National In-Service Teacher Training Centre organizes meetings of the group, thanks to which experience exchange, joint work on finding innovative solutions and support among the trainers are possible;

(c) Publications of the National In-Service Teacher Training Centre - "Prawa człowieka. Jak o nich uczyć?" [Human Rights. How to teach about them?] contain methodology elements on teaching human rights to adults. Lesson scenarios on human rights were presented for all stages of education. The guide contains information on the history of human rights and serves as a compendium for educators and teachers.

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