

Franet National contribution to the Fundamental Rights Report 2020

Poland

Contractor's name: HELSINKI FOUNDATION FOR HUMAN RIGHTS

Authors' name: Anna Śledzińska-Simon, Daniel Witko, Katarzyna Słubik,
Małgorzata Szuleka, Maciej Kalisz

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Franet country study: policy and legal highlights 2019

Issues in the fundamental rights institutional landscape	Judgements of the CJEU on the Supreme Court. The CJEU ruled that the Polish provisions lowering the retirement age of judges of the Supreme Court , are contrary to EU law and breaches the principle of the irremovability of judges. In November 2019, the CJEU issued a judgement outlining the criteria of assessing the independence of the Supreme Court Disciplinary Chamber and the National Council of Judiciary . These two institutions are a part of systemic changes introduced in judiciary system in last 4 years.
EU Charter of Fundamental Rights	CJEU's decision on retirement age of judges of common courts. On 5 November 2019 the CJEU issued a ruling concerning the lowering of the retirement age of judges of Polish common courts . In its decision, the CJEU found that introducing different retirement age for men (65 years) and women (60 years) was not in compliance with the principle of equal status of men and women.
Equality and non-discrimination	The Constitutional Tribunal's ruling lowering the protection of LGBTI persons. The Constitutional Tribunal ruled that a provision of the Code of Petty Crimes punishing unjustified refusal to deliver publicly available service is incompatible with the principle of the rule of law and declared it unconstitutional.
Racism, xenophobia & Roma integration	CERD recommendations concerning combating racism in Poland. The Committee recommends that Poland should take all necessary measures to firmly combat racist hate speech and incitement to violence, publicly condemn and distance itself from racist hate speech by, among others, politicians and amend article 53 (2) of its Criminal Code, specifically making racist motive of a crime an aggravating circumstance.
Asylum & migration	In 2019, there have been no significant developments improving the protection of refugees and migrants in Poland. According to the Polish Ombudsman, the Border Guard continued its negative practice of pushing back the asylum seekers on the Eastern Border . Furthermore, the funds from the EU's Asylum, Migration and Integration Fund (AMIF) for NGOs were not redistributed fully at the national level, which resulted in the lack of systemic legal assistance to asylum seekers and returnees.
Data protection and digital society	Implementation of the GDPR. So far, there is no information confirmed by the results of research showing how the implementation of the GDPR influenced the work of the national data protection supervisory office. The office's annual report for 2018, published in 2019, shows, however, a slight increase in complaints brought to the office after 25 May 2018.
Rights of the child	Changes in the Criminal Code. In 2019, the act amending the Criminal Code was passed . The new provisions increase criminal sanctions for sexual abuse of a child. In particular, the law provides that for raping a child, offenders will be imprisoned for even 30 years and the most serious pedophilic crimes will never be time-barred. The amendment had been referred to the Constitutional Tribunal by the President and, as of January 2020, did not come into force yet.
Access to justice, including victims of crime	The ministry ceased to finance a helpline for children. The most important change relating to victim support system in 2019 concerned the lack of financing for a helpline dedicated to children and teenagers . Without any comprehensive justification, the Ministry of National Education refused financing for the only phone help service for children and teenagers.
Convention on the Rights of Persons with Disability	Judgement concerning the right to vote of persons with disabilities. The District Court in Nowy Sącz decided that a partially incapacitated person has a right to participate in the EU elections . The court's decision has been executed (the applicant was added to the register of voters).

Chapter 1. Equality and non-discrimination

1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

In the area of equality and non-discrimination there have been no significant legislative changes, except the law on supplementary benefits for persons with disability who are completely unable to live independently. The Act on the supplementary benefit grants the right to a fixed allowance of PLN 500 per month for disabled persons over 18 years of age. It provides however that the total amount of this benefit and other public benefits may not exceed PLN 1.6 thousand.¹

The issue of greatest concern remains the protection of LGBT persons from verbal and physical attacks. First of all, the struggle with the LGBT “ideology” has become a part of the political campaign of the governing party, the Law and Justice (*Prawo i Sprawiedliwość, PIS*), and moral teaching by some high representatives of the Polish Episcopates. Symptomatically, the archbishop of Cracow has called the LGBT community a plague. During the sermon on August 1, 2019 at St. Mary's Basilica in Cracow, delivered as part of the celebration of the 75th anniversary of the outbreak of the Warsaw Uprising, he emphasized that the struggle for Polish independence continues, indicating new threats to a free Poland. Referring to the Communist times, he said that “[t]he red plague no longer walks on our land, but a new, neo-Marxist one appeared, ready to take control of our souls, hearts and minds. Not red, but rainbow.” Later, in an interview, he explained that he did not attempt to incite hatred or violence against gay persons, but was critical of the “LGBT ideology”. The Center for Monitoring Racial and Xenophobic Behaviour notified the prosecutor's office that a crime had been committed in this case. Notably, the archbishop continues his public crusade against the LGBT people. In his recent letters he criticizes municipalities for introducing and financing WHO courses on sexual education in kindergardens and primary schools.²

Second, the participation in legally organized gay prides, as well as live coverage of these events by journalists has become a high-risk activity in some cities. In Białystok the participants of a peaceful march were attacked by counterdemonstrators (“patriots” or football fans) who threw stones, petards, bottles and eggs. The police had to protect the march against the counterdemonstrators with tear gas. Currently, the prosecution's office is carrying out dozens proceedings in cases related to the Gay Pride in Białystok. Notably, one of the parallel marches of supporters of traditional family values was organized by the head of the provincial government who is a member of the ruling Law and Justice party.³ Another incident happened in Lublin where the police stopped a couple carrying a homemade bomb to a counterdemonstration. They were arrested for possessing a dangerous explosive device. Overall, in Lublin, 38 people were detained during the Second Equality March and they may face

¹ Poland, Act on the supplementary benefit for persons with disabilities who are unable to live independently (*Ustawa z dnia 31 lipca 2019 r. o świadczeniu uzupełniającym dla osób niezdolnych do samodzielnej egzystencji*), 31 July 2019

² Poland, Cracow Archdiocese, "Totus Tuus" modlitewny maraton za Kościół i Ojczyznę, available at: <https://diecezja.pl/aktualnosci/totus-tuus-modlitewny-maraton-za-kosciol-i-ojczyzne/>

³ Chrzczonowicz M., Ambroziak An. „Białystok nie dla pedałów”. Marsz Równości przeszedł w kordonie nienawiści, *Oko.press*, available at: <https://oko.press/bialystok-marsz-rownosci-przeszedl-kibole-przeklenstwa-przeplatali-modlitwami/>

charges of active participation in a mob, public provocation to commit a crime, active assault on an officer or violation of an officer's immunity.⁴ A similar incident occurred during the most recent pride in Wrocław.

Third, the organization of gay prides in Polish cities remains a controversial issue and some mayors continue to ban such assemblies. In 2019 such bans were issued in Lublin and Nowy Sącz, but on the appeal courts quashed them as unjustified. In both cases the decision to ban a gay pride was dictated by the need to protect counterdemonstrators and prevent disruption of public order.

In June 2019, the Constitutional Tribunal found a provision of the Petty Offence Act, punishing for an unjustified refusal to deliver publicly available services, as incompatible with the Constitution. The motion for the constitutional review was submitted by the Prosecutor General after two lower courts had found guilty the printer who refused to take the printing order from a foundation supporting LGBT persons. The Tribunal ruled that the challenged provision infringes the principle of the rule of law as it may lead to such interpretations that are incompatible with freedom of conscience.⁵ According to the Ombudsman, the provision declared unconstitutional was in fact implementing the principle of equal treatment. Although it originated from the Communist times, it was in line with the Racial Equality Directive since it prohibited unjustified denials of publicly available services on any ground, including race or ethnicity. In the opinion of the Ombudsman, the Parliament should remedy the gap created by declaring this provision unconstitutional and adopt new laws that would effectively prevent segregation of clients in the market of services on the basis of their personal characteristics such as gender, age, race, nationality, disability or sexual orientation.⁶

Last but not least, the Parliament adopted legislative changes regarding the retirement age of judges of the Supreme Court and the Supreme Administrative Court.⁷ This amendment came as a reaction to the interim order by the Court of Justice of the European Union in the case C-618/19 R *Commission v. Poland*.⁸ The interim order required that the Polish government suspends the application of the provisions of the impugned Act on the Supreme Court with regard to the retirement of judges who reached 65 years of age, reinstates judges who have already retired under the new legislation, and refrains from any action to appoint new judges to vacancies arising from this forceful retirement.⁹ Under the new law the term of office of the Supreme Court and the Supreme Administrative Court judges is considered as uninterrupted. However, the affected judges may remain retired if, within seven days of

⁴ Wilk S., Skąd ładunki wybuchowe na Marszu Równości w Lublinie?, *Polityka*, available at: <https://www.polityka.pl/tygodnikpolityka/spoleczenstwo/1926920.1.skad-ladunki-wybuchowe-na-marszu-rownosci-w-lublinie.read>

⁵ Poland, Constitutional Tribunal, judgment of 26 June 2019, Case no. K 16/17, <http://trybunal.gov.pl/postepowanie-i-orzeczenia/komunikaty-prasowe/komunikaty-po/art/10679-odmowa-swadczenia-uslugi-ze-wzgledu-na-wolnosc-sumienia-i-religii-uslugodawcy/>

⁶ Poland, Ombudsman's Office, Przepis prawa, który zapobiegał dyskryminacji uznany za niekonstytucyjny. Jaka teraz będzie ochrona?, available at: <https://www.rpo.gov.pl/pl/content/tk-uchylil-artykul-chroniacy-przed-dyskryminacja>

⁷ *Gazeta Prawna*.pl, Weszła w życie nowelizacja ustawy o Sądzie Najwyższym, available at: <https://www.gazetaprawna.pl/artykuly/1389870.nowelizacja-ustawy-o-sn-opublikowana-w-dzienniku-ustaw.html>

⁸ Later the CJEU found in this case that Poland breached the principle of effective judicial protection in the field of non-discrimination (protection against discrimination based on age) with regard to the judges of the Supreme Court and the Supreme Administrative Court, <http://curia.europa.eu/juris/liste.jsf?language=EN&num=C-619%20R/18>

⁹ Interim order of the Court of 17 December 2019 in case C-619/18 R, ECLI:EU:C:2018:1021.

the entry into force of the amendment, they declare such wish to the President of the Republic. The Act entered into force on January 1, 2019.¹⁰

2. Research findings, studies or surveys on either experiences of discrimination or rights awareness

No research findings, studies or surveys on experiences of discrimination/rights awareness could have been identified for 2019.

¹⁰ Poland, Act on Supreme Court, (Ustawa z dnia 21 listopada 2018 r. o zmianie ustawy o Sądzie Najwyższym), 21 November 2018

Chapter 2. Racism, xenophobia and related intolerance

1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

There were neither legal nor policy developments concerning application of the Racial Equality Directive. On the contrary, there is a regress in this area. According to the study on the Legal Awareness in the Context of Equal Treatment presented by the Ombudsman on 1 March 2019, the International Day without Discrimination,¹¹ Poles observe an increasing occurrence of various types of discrimination. In particular, the increase concerns discrimination based on race, ethnicity or nationality, disability, and religion. However, the respondents perceive discrimination based on race, ethnicity, sexual orientation, or nationality and gender identity as the most frequent. According to this study, Poles are more willing to accept people from Ukraine, and but they are the least tolerant towards Muslims and people with schizophrenia.¹²

2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia

During the Second Congress of Polish Lawyers, which took place on June 1, 2019 in Poznań, a resolution was adopted, which emphasized that hate speech is one of the most serious threats to the sustainability of civil society and democracy.¹³ During the event, the Social Codification Commission proposed amendments to the Criminal Code regarding counteraction to hate speech. They include increasing the sentence if the offence was motivated by prejudices related to race, skin color, national or ethnic origin or ethnic affiliation, religious affiliation or non-denominational status, belief, political views, gender, sexual orientation, gender identity, age, disability or another comparable basis.¹⁴

In August 2019 the Committee on the Elimination of Racial Discrimination presented its Concluding observations on the combined twenty-second to twenty-fourth periodic reports of Poland. The

¹¹ Poland, Ombudsman's Office, March 2019, information available at: <https://www.rpo.gov.pl/pl/content/miedzynarodowy-dzien-bez-dyskryminacji-nie-jestesmy-dyskryminowani-bo-nie-wiemy-co-to>

¹² Poland, Ombudsman's Office, Świadomość prawna w kontekście równego traktowania, Raport dla Biura Rzecznika Praw Obywatelskich, March 2019; available in Polish at: <https://www.rpo.gov.pl/sites/default/files/Badania%20Kantar%20Public%20dla%20RPO%20o%20postrzeganiu%20dyskryminacji%20przez%20Polakow%20w%202018%20r.pdf>

¹³ Poland, Prawnicy w obronie praworządności, 2 August 2019, available at:

<http://radcaprawny.media/archiwum/samorzad/prawnicy-w-obronie-praworzadnosci/>

¹⁴ Poland, Legal advisor, Prawnicy w obronie praworządności, 2 August 2019, available at:

<http://radcaprawny.media/archiwum/samorzad/prawnicy-w-obronie-praworzadnosci/>

Committee recommends that the Poland i.e. should take all necessary measures to firmly combat racist hate speech and incitement to violence, including on the Internet, and publicly condemn and distance itself from racist hate speech by public figures, including politicians and media officials; intensify its public campaigns to combat hate speech, incitement to hatred and hate crimes, address prejudices and negative sentiments towards national and ethnic minorities, migrants, refugees, and asylum-seekers, and promote tolerance and understanding towards these groups; send strong messages to journalists and broadcasters that they have a responsibility to avoid the use of hate speech and stereotypes in describing minority communities, take action against websites promoting racial hatred and, particularly in the context of election campaigns, closely scrutinize broadcasters with respect to content that incites hatred or strengthens xenophobic attitudes; amend article 53 (2) of its Criminal Code, specifically making racist motive of a crime an aggravating circumstance and allowing for enhanced punishment to combat the occurrence of such acts.¹⁵

It is a continues problem that the political leaders in Poland use the notion of “otherness” with regard to migrants (Muslims, refugees) and the LGBT community to build the sense of national identity. The use of hateful rhetorics targeting these groups is particularly evident during the electoral campaigns. , According to the Centre for the Monitoring of Racist and Xenophobic Behaviour¹⁶, words uttered by the leader of the ruling Law and Justice party (*Prawo i Sprawiedliwość, PiS*) at the party convention amounted to public insulting and threatening of a group of people. while the prosecutor’s office considers such statements leniently, as declarations regarding the program of a political party.^{17 18}

Similar problems occurred last year, when a few days prior to the local elections, exactly on 17 October 2018, the Law and Justice party released a new anti-immigrant campaign advertisement. It depicted what Poland would look like in 2020 if the opposition came to power and pushed a pro-immigrant agenda: the advertisement envisaged violence, rioting on the streets and the total dissolution of Polish society.¹⁹ In reaction to this spot, the Ombudsman requested the District Prosecutor in Warsaw to initiate proceedings in order to determine whether the mentioned commercial aimed to spread hatred or other strong negative emotions towards migrants, refugees, people of Arab origin and Muslims. It specifically inquired whether it contained material amounting to public incitement of hatred based on national, ethnic or religious origin was committed which is a punishable offence.²⁰ According to the law, a request submitted by the Ombudsman should not be subject to verification as part of pre-trial verification activities. Law enforcement agencies receiving such a request from the Ombudsman are obliged to immediately initiate preparatory proceedings in the case of offenses prosecuted *ex officio*²¹. Despite this legal obligation, in December 2018, the prosecutor's office refused to initiate a preparatory proceeding

¹⁵ Poland, Ombudsman’s Office, Rekomendacje Komitetu ONZ ds. Likwidacji Dyskryminacji Rasowej (CERD) po XXII-XXIV sprawozdaniu Polski, 30 August 2019, available at: https://www.rpo.gov.pl/pl/content/rekomendacje-komitetu-onz-ds-likwidacji-dyskryminacji-rasowej-cerd-po-xxii-xxiv-sprawozdaniu-polski#_ftn1

¹⁶ Poland, Centre for the Monitoring of Racist and Xenophobic Behaviour, available at: <https://omzrik.pl/>

¹⁷ Poland, wyborcza.pl. Zarzucili Kaczyńskiemu znieważenie osób LGBT. Według prokuratury promował tradycyjny model rodziny, available at: <http://warszawa.wyborcza.pl/warszawa/7,54420,25261282,zarzucili-kaczynskiemu-zniewazenie-osob-lgbt-wedlug-prokuratury.html>

¹⁸ Poland, Centre for the Monitoring of Racist and Xenophobic Behaviour, information available at official facebook profile: <https://www.facebook.com/osrodek.monitorowania/posts/1048332575341875>

¹⁹ Poland, Law and Justice party (*Prawo i Sprawiedliwość, PiS*) official twitter account, video available at: <https://twitter.com/pisorgpl/status/1052530980190334977>

²⁰ Poland, Ombudsman’s Office, RPO kieruje spot wyborczy PiS do prokuratury. Mógł nawoływać do nienawiści, 24 October 2018, available at: <https://www.rpo.gov.pl/pl/content/rpo-kieruje-spot-wyborczy-pis-do-prokuratury-mogl-nawolywac-do-nienawisci>

²¹ Ibidem

in this case. The Ombudsman appealed to the court against the prosecutors' decision²². On 19 February 2019, the District Court in Warsaw-Mokotów considered the complaint of the Ombudsman as justified and found the decision of the prosecutor's office as premature. The District Court decided that the prosecution should, first of all, look more closely at the advertisement, and assess it, also with the help of experts (linguists and specialists in the social and political sciences), in the light of the electoral campaign in which the spot appeared.²³ As a result in August 2019, the District Prosecutor in Warsaw refused again to initiate preparatory proceeding stating that the action described in the Ombudsman's request did not contain the elements of a criminal act. On 9 September 2019 the Ombudsman disagreed with the prosecutor's position and appealed again to the court against the prosecutors' decision.²⁴

²² Poland, Ombudsman's Office, Prokuratura odmówiła śledztwa ws. spotu PiS. Rzecznik odwołuje się do sądu, 10 December 2018, available at: <https://www.rpo.gov.pl/pl/content/prokuratura-odmowi%C5%82a-sledztwa-ws-spotu-pis-rzecznik-odwo%C5%82uje-si%C4%99-do-sadu>

²³ Poland, Ombudsman's Office, Będzie śledztwo w sprawie antyuchodźczego spotu PiS. Sąd uwzględnił zażalenie RPO, 19 February 2019, available at: <https://www.rpo.gov.pl/pl/content/sad-uznal-zazalenie-rpo-na-odmowe-sledztwa-ws-spotu-pis>

²⁴ Poland, Ombudsman's Office, Zażalenie na postanowienie prokuratury dotyczące umorzenia postępowania prowadzonego w sprawie spotu wyborczego PiS, 10 September 2019, available at: <https://www.rpo.gov.pl/pl/content/zazalenie-na-postanowienie-prokuratury-dot-umorzenia-postepowania-w-sprawie-spotu-pis>

Chapter 3. Roma integration

1. Measures and developments addressing Roma/Travellers segregation

There are no new developments concerning Roma segregation in Poland. Roma communities in Poland by large live in separation, while the anti-Roma attitudes in the Polish society remain strong. According to the opinion polls, over half of the respondents feel aversion towards Roma. However, the attitudes of Poles towards this ethnic group slightly improved over the past two decades.²⁵

In some regions of Poland conflicts between Romani and non-Romani communities are ongoing, while the government funding for Romani integration projects is strongly contested by non-Roma and undermines the grounds for their peaceful co-existence as neighbours. The parliamentary committee for ethnic, religious and national minorities attempted to address this problem and requested the Minister of Internal Affairs to appoint a professional mediator to solve a conflict between Romani and non-Romani communities in the Lesser Poland Voivodeship. In the last couple of years, the reports published by both independent institutions, such as the Ombudsperson, or the media, indicated the tensions between Romani and non-Romani communities in cities such as Limanowa (concerning the condition of social housing for Romani community), Andrychów or Siemianowice Śląskie (attacks on Roma persons).²⁶ Nevertheless, the Ministry of Internal Affairs and Administration rejected this request twice. This reaction revealed that there is a tension between the Ministry of Internal Affairs and the committee on this matter.²⁷

The question of the government policy towards ethnic and national minorities became relevant because a draft of a new Polish migration policy, a product of intergovernmental cooperation, was leaked to the press in June 2019. The document creates an image of Poland as a culturally, ethnically and religiously homogenous country. This vision poses a potential threat to the preservation of cultural identity of Roma communities in Poland in the future.²⁸

2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion

The National Roma integration programme 2014-2020 was implemented throughout 2019. Within the programme the focus is placed on 4 priority areas: housing, healthcare, employment and education. The funds are distributed at the voivodeship level and contribute to the realization of numerous local initiatives, carried out in by/ in cooperation with the Roma community. Nevertheless, little is known of

²⁵ Poland, CBOS Communication, Stosunek do innych narodów, February 2019, available at: https://cbos.pl/SPISKOM.POL/2019/K_017_19.PDF

²⁶ See e.g. Ombudsperson, Działania Rzecznika Praw Obywatelskich na rzecz mniejszości romskiej w województwie małopolskim (2014), available at: <https://www.rpo.gov.pl/sites/default/files/Romowie.pdf> or Danielewicz J., Sąsiedzka wojna romsko-polska w Limanowej, Newsweek, available at: <https://www.newsweek.pl/polska/sasiedzka-wojna-romsko-polska-w-limanowej/fer6hr6>

²⁷ Poland, Minutes of the meeting of the Parliamentary Committee for Ethnic, National and Religious Minorities of 10 September 2019, available at: <http://www.sejm.gov.pl/Sejm8.nsf/biuletyny.xsp?view=2&komisja=MNE>

²⁸ Poland, Intergovernmental Migration Agency, *Polska polityka migracyjna. Projekt z dnia 10 czerwca 2019 r.* (Polish Migration Policy. Draft of 10 June 2019), available at: <https://interwencjaprawna.pl/polska-polityka-migracyjna-projekt-mswia/>

its actual impact, as there is no ongoing evaluation of the programme. In 2017 the Supreme Chamber of Control found out that the realization of the programme in one of the voidships was not effective for the integration of Roma. Instead it primarily served the goal of social aid and worked as a form of material support dedicated to Roma.²⁹ For this reason, the Ministry of Internal Affairs and Administration has launched a call for proposals to commission an evaluation study³⁰ to be finalised by the end of 2019, in order to measure the results and impact of the programme and to provide recommendations for its improvement.

The work of Roma school assistants is continuously funded under the Roma integration programme and praised for its effectiveness³¹. However, according to the Roma community, this professional group needs to be appropriately remunerated and repeatedly trained to achieve the desired impact in education³².

Among the cultural and remembrance projects implemented in the area of Roma inclusion, there were numerous activities addressing and commemorating Romani genocide in World War II. Remembrance ceremonies were organized in KL Auschwitz-Birkenau (with attendance of the Head of the Political Cabinet of the Prime Minister)³³ as well as in the Polin Museum³⁴.

²⁹ Poland, Supreme Chamber of Control (*Najwyższa Izba Kontroli*) NIK o działaniach na rzecz społeczności romskiej w Małopolsce, available: <https://www.nik.gov.pl/aktualnosci/nik-o-dzialaniach-na-rzecz-spolecznosci-romskiej-w-malopolsce.html>

³⁰ Poland, Ministry of Internal Affairs and Administration, Call for proposal of 26 June 2019, Evaluation study of the National Roma Integration Programme 2014-2020, available online: <http://mniejszosci.narodowe.mswia.gov.pl/mne/romowie/ogloszenia/11007.Ogloszenie-Ministra-Spraw-Wewnetrznych-i-Administracji-z-dnia-26-czerwca-2019-r-.html> (access: 25/09/2019)

³¹ Poland, Ministry of Interior and Administration, Szósty raport dotyczący sytuacji mniejszości narodowych i etnicznych oraz języka regionalnego w Rzeczypospolitej Polskiej, draft report under consultation, available at: <https://archiwumbip.mswia.gov.pl/bip/komunikaty/25787.Informacja-o-konsultacjach-publicznych-projektow.html?search=3204217> (access: 25/09/2019)

³² Minutes of the meeting of the Parliamentary Committee for Ethnic, National and Religious Minorities of 15 January 2019, available at: <http://www.sejm.gov.pl/Sejm8.nsf/biuletyny.xsp?view=2&komisja=MNE> (access:25/09/2019)

³³ Poland, Memorial and Museum Auschwitz-Birkenau, Roma and Sinti Genocide Remembrance Day, available at: <http://auschwitz.org/en/museum/news/roma-and-sinti-genocide-remembrance-day,1376.html>

³⁴ Poland, Museum Polin, Spotkanie "Pamięć o Zagładzie - perspektywa młodego pokolenia Romów", available at: <https://www.polin.pl/pl/wydarzenie/spotkanie-pamiec-o-zagladzie-perspektywa-mlodego-pokolenia-romow>

Chapter 4. Asylum, visas, migration, borders and integration

Unaccompanied children reaching the age of majority

Area of support	Description
<p>Residence permit</p> <p><i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i></p>	<p><i>Please explain whether unaccompanied children (non-asylum seekers and asylum seekers) get temporary permits and if they expire when turning 18. Please elaborate on which type of permit is granted when they reach 18 years and under which conditions (e.g. being enrolled in education, or having an employment contract.)</i></p> <p>Unaccompanied children who are asylum-seekers receive the same document as adult asylum-seekers named ‘the Foreigner’s Identity Temporary Certificate’ (Tymczasowe Zaświadczenie Tożsamości Cudoziemca) entitling them to stay on the territory of Poland until the procedure on granting international protection is completed. The document is initially valid for 90 days – 10 days in case of Dublin returnees – then for 6 months and can be prolonged every 6 months by the Head of the Office for Foreigners until the end of the asylum procedure.³⁵ The same legal provisions apply in this regard both to the unaccompanied children, adults and those children who are turning 18.</p> <p>After being granted refugee status or subsidiary protection unaccompanied children receive – again same as adult asylum-seekers - the residence card which confirms their identity and the legality of their stay in Poland. Both forms of protection are granted for an unlimited period of time, however the residence card is valid 3 years if the person was granted refugee status³⁶ or 2 years if you the foreigner was granted subsidiary protection.³⁷ The first card is issued ex officio.³⁸ After the expiration date the residence card is renewed with a new one – valid for the same period of time -</p>

³⁵ Poland, Article 55(1) and (2) and Article 55a(2) [Law of 13 June 2003 on granting protection.](#)

³⁶ Poland, Article 89i(1) [Law of 13 June 2003 on granting protection.](#)

³⁷ Poland, Article 89i(2) [Law of 13 June 2003 on granting protection.](#)

³⁸ Poland, Article 229(2) [Law of 12 December 2013 on foreigners.](#)

on upon person's request.³⁹ The same legal provisions apply in this regard both to the unaccompanied children, adult and those children turning 18.

Unaccompanied children who did not apply for asylum, or after the final negative decision issued in the asylum process, have an opportunity to receive residence permits only based on the general legal provision. Such children may receive humanitarian stay permit or tolerated stay permit as a result of the return procedure⁴⁰ (ex. due to the risk of violation of the rights of the child as defined in the UN Convention on the Rights of the Child; due to the risk of the violation of the family or private life as defined in the the European Convention on Human Rights; due to the unenforceability of return); residence permit for the defined period of time even when they are residing in Poland irregularly⁴¹ (ex. due to the risk of violation of the rights of the child⁴²; due to the risk of the violation of the family or private life⁴³; due to being a victim of human trafficking if they are identified as such victim⁴⁴). Moreover, the Polish law indicates that a foreigner who has been irregularly staying on the territory may apply for the residence permit due to so-called 'other circumstances' within 1 year from the date on which he attained 18 if granting such permit 'is in his important interest'⁴⁵ The national law provides examples of 'other circumstances' (ex. undertaking or continuing education or being a priest) but this is not a closed terms catalog and as a rule, it is directed to those residing regularly.⁴⁶ Those residing irregularly can be granted the residence permit for 'other circumstances' only in some particular situations listed above.⁴⁷ However, the adults staying irregularly cannot apply for the residence permit for 'other circumstances' based on the general provision and open catalog of 'other circumstances'. This legal provision allowing to apply for it when staying irregularly is directed only to young adults reaching 18. The abovementioned provision applies to all foreigner including unaccompanied children.

³⁹ Poland, Article 89i (2a) [Law of 13 June 2003 on granting protection](#).

⁴⁰ Poland, Articles 348-359 [Law of 12 December 2013 on foreigners](#).

⁴¹ Poland, Articles 191 (1) (4) and 178 [Law of 12 December 2013 on foreigners](#).

⁴² Poland, Articles 187 (7) [Law of 12 December 2013 on foreigners](#).

⁴³ Poland, Articles 187 [Law of 12 December 2013 on foreigners](#).

⁴⁴ Poland, Articles 170-180 [Law of 12 December 2013 on foreigners](#).

⁴⁵ Poland, Articles 191 (2) [Law of 12 December 2013 on foreigners](#).

⁴⁶ Poland, Articles 187 (6) [Law of 12 December 2013 on foreigners](#).

⁴⁷ Footnotes number 41-43.

<p>Guardianship (<i>representative under Reception Conditions Directive Article 24.1</i>)</p>	<p><i>Please elaborate on how the role of guardians is affected when the child reaches 18, and of any initiatives to expand the guardian's support, for example transforming the guardian into a 'mentor' supporting the child until a certain age.</i></p> <p>The Polish law provides for the appointment of a legal representative to an unaccompanied child and there are no exceptions in that regard. However, the guardian is only granted to children so after reaching 18 foreigners have to represent themselves in the administrative procedures (including asylum procedure). But it worth pointing out that due to the fact that the NGO workers are appointed as guardians (free of charge due to their willingness)⁴⁸, there is a possibility that unaccompanied child may receive some assistance from his guardian when turning 18 but this can only result from possibilities and goodwill of NGOs.</p>
<p>Accommodation <i>Reception Conditions Directive Article 24.2</i></p>	<p><i>Please explain what children reaching 18 years are entitled to in terms of accommodation, for example extension of foster care programmes until the age of 21, only transfer to an adult accommodation, or other accommodation support.</i></p> <p>In Poland there are no selected specific foster care institutions where unaccompanied foreign children would be sent to, due to that unaccompanied children are placed in various intervention facilities in Poland.⁴⁹ After the court ruling, they can be placed in foster care facilities or foster families. There is no special legal provision which applies to the unaccompanied foreign children who are turning 18 and general provisions apply. The issues related to assistance for children leaving foster care institutions are regulated in the Act on family support and foster care system.⁵⁰ According to them the person leaving foster care after reaching 18 is entitled to receive assistance for continuation of education, for gaining independence and for establishing a household, to receive legal and psychological assistance and to obtain assistance in finding appropriate accommodation (living premises) and employment. The child leaving foster care has to choose the mentor of his self-empowermentat process at least a year prior to reaching the age of 18. Such assistance is provided under the condition that the child will present the individual independence program developed together with the mentor of self-empowermentat at least a month prior to reaching 18. The mentor of his self-empowermentat process supports the child, acts as an advisor and assistant. Such a person should have constant and friendly contact with the child, advise and inform how to arrange or settle basic matters. The mentor cooperates with the child, his</p>

⁴⁸ Poland, Asylum Information Database (AIDA), Country Report: Poland, March 2019, available at: <https://www.asylumineurope.org/reports/country/poland>

⁴⁹ Poland, Asylum Information Database (AIDA), Country Report: Poland, March 2019, available at: <https://www.asylumineurope.org/reports/country/poland>

⁵⁰ Poland, Articles 140-153 [the Act of 9 June 2011 on family support and foster care system](#).

	<p>family, local community, school. From a formal point of view - the mentor is a party of the self-empowerment process and develops, modifies and performs final assessment of it together with the young person. Furthermore, the mentor also provides opinions on applications for various forms of assistance provided by the Poviats Family Support Center⁵¹ which is competent to incur expenses for continuation of education, for gaining independence and for establishing a household. Assistance for continuation of education can be provided monthly until 25 years of age, assistance for gaining independence can be provided in one or in several installments until 26 years of age and assistance for establishing a household can be provided in one installment or in a form of material assistance, also only until 26 years of age.⁵² However, such self-empowerment assistance may be provided only to the foreign children in the asylum process, granted refugee status/subsidiary protection, the EU long-term residence permit. The catalog of eligible foreigners is closed and does not contain undocumented migrants or those in return procedures.⁵³</p>
<p>Return <i>Return Directive, Article 10</i></p>	<p><i>Please explain whether there are any special measures to prepare unaccompanied children for a return procedure and whether young adults receive any form of free assistance during eventual return procedures</i></p> <p>According to Polish law, the decision on return issued to a child can be executed only: (1) if in the country of return, a child has the care of parents, other adults or guardianship institutions in accordance with the standards set out in the United Nations Convention on the Rights of the Child, (2) the return procedure takes place under the protection of the legal representative of the child or the child will be handed over to his legal representative or the representative of the competent authorities in the country of return.⁵⁴ However, there are no special measures to prepare unaccompanied children or young adults for a return procedure. In Poland, support to unaccompanied children returning to their country of origin is provided only by the International Organisation for Migration (IOM) under voluntary return assistance program which provides assistance to vulnerable persons in voluntary returns to their country of origin (unaccompanied children are included in this group). In justified cases vulnerable persons received aid in the form of medical examinations for the purpose of the return journey and medical escort or ordinary escort (e.g. in case of unaccompanied child). Aside from organizing voluntary return IOM also provides support for reintegration in the country of origin in close cooperation with local IOM offices, adjusted to the individual needs of each beneficiary.</p>

⁵¹ Poland, A ‘powiat’ is the second-level unit of local government and administration in Poland, equivalent to a county, district or prefecture in other countries.

⁵² Poland, Articles 140-153 [the Act of 9 June 2011 on family support and foster care system](#).

⁵³ Poland, Articles 5 [the Act of 9 June 2011 on family support and foster care system](#).

⁵⁴ Poland, Article 332 [Law of 12 December 2013 on foreigners](#).

Others	<p><i>e.g. special permissions to stay based on education or employment programme, etc.</i></p> <p>Special permissions (residence permit for the defined period of time as well as humanitarian stay permit and tolerated stay permit) have been already described in the part “Residence permit”.</p>
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Chapter 5. Information society, data protection

1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

In February 2019, the Parliament adopted a package of legislation that adjusted the provisions of over 160 legal acts in compliance with GDPR. The main changes concerned among others the processing of personal data by financial institutions or access of patients to their health and medical records. The law also amended some provisions of the Labour Code concerning excessive monitoring of employees and granting employees the right to refuse to provide information that is not necessary from the point of view of the employment contract. The law also introduced criminal provisions concerning the attempts to force ordering unnecessary service related to implementation of the GDPR. In the light of the new provisions, such an attempts will be treated as a illegal threat and will be punishable.⁵⁵

In April 2019, the Parliament appointed the new President of the Personal Data Protection Office. Two civil society organizations - the Panoptykon Foundation and Helsinki Foundation for Human Rights - monitored the process of appointing the new Chief of Personal Data Protection Office. In their appeal to the Speaker of Sejm, the organizations stated that the process of appointing the new DPA is carried out too quickly and does not provide a possibility for a debate on candidate's competences and his independence. The organizations pointed out at the doubts regarding candidate's professional knowledge and expertise which would make him suitable for this position. Also, his close ties to the governing majority provoked doubts regarding his independence.⁵⁶

In May 2019, the Personal Data Protection Office published guidelines on administrators' duties related to the breaches of data protection. The Office data shows that the administrators notified the Office about the breach of personal data protection 4539 times within one year between 25 May 2018 and 25 May 2019. According to the Office's analysis, the administrators still have problems in assessing the risk for rights and freedoms of persons whose personal data protection was breached or in classifying an incident as a breach described in Article 33 of the GDPR. The published guidelines presents among others the duties which lays with the administrators and data processors, the examples of data protection breaches which has to be notified to the Personal Data Protection Office as well as required information which should be included into the

⁵⁵ Poland, Act amending certain Acts in relation to guaranteeing the implementation of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation (*Ustawa z dnia 21 lutego 2019 r. o zmianie niektórych ustaw w związku z zapewnieniem stosowania rozporządzenia Parlamentu Europejskiego i Rady (UE) 2016/679 z dnia 27 kwietnia 2016 r. w sprawie ochrony osób fizycznych w związku z przetwarzaniem danych osobowych i w sprawie swobodnego przepływu takich danych oraz uchylenia dyrektywy 95/46/WE (ogólne rozporządzenie o ochronie danych)*), 21 February 2019

⁵⁶ Helsinki Foundation for Human Rights, Panoptykon Foundation, Wystąpienie do Marszałka Sejmu w sprawie powołania nowego Prezesa UODO, available at: <http://www.hfhr.pl/wystapienie-do-marszalka-sejmu-w-sprawie-powolania-nowego-prezesa-uodo/>

notification. The guidelines also summaries the information on notification the persons whose personal data protection was breached and the common mistakes usual done in this process.⁵⁷

According to the annual report of the Office of Personal Data Protection, in 2018 the Office received 5565 complaints whereas 4550 of them were submitted to the Office after 25 May 2018. However, in 2018, the Office dealt mainly with the cases in which the proceedings started before 25 May 2018 as their number was very significant (4417 proceedings). According to the information presented in the report, the implementation of GDPR “caused an increase in the number of submitted complaints and created new challenges for the administrators and supervising authority”. As one of these challenges, the report mentions the fact that in many cases the persons whose personal data protection was breached contact the Office immediately without, however, trying to contact the data administrator first. Furthermore, when it comes to the implementation of GDPR, in 2018 the Personal Data Protection Office encourage professional groups to adopt codes of conduct. In this regard, the Office organized two workshops for representatives of different professional groups (including financing, telecommunication or medical university). The Office organized also 23 individual meetings with authors of the codes of conduct. In 2018, three organizations submitted motions for approving their codes of conduct (the Federation of Employees in the Health Sector, Union of Polish Banks and the Polish Hospital Federation).⁵⁸

In October 2019, the Polish Parliament agreed to ratify the Protocol amending the COE Convention for the protection of individuals with regard to automatic processing of personal data.⁵⁹

⁵⁷ Poland, Personal Data Protection Office, Jak administratorzy powinni postępować w przypadku naruszeń ochrony danych, available at: <https://uodo.gov.pl/pl/134/1029>

⁵⁸ Poland, Personal Data Protection Office, Annual report 2018 (*Sprawozdanie z działalności Prezesa Urzędu Ochrony Danych Osobowych w roku 2018*), available at: <https://uodo.gov.pl/pl/437>

⁵⁹ Chart of signatures and ratifications of Treaty 223. Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, available at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/223/signatures?p_auth=be6YpOsq

2. Artificial intelligence and big data

MS	Actor*	Type**	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned?(yes/no)	Reference
PL	State Institution (State Research Institution NASK)	Report	The report is based on quality research on perception of artificial intelligence in society and in economy among Poles. According to the research findings 55% of the Polish internet users "the most adequate definition of the artificial intelligence is that its a technology operating without a human interference". More than a half of the respondents claim that AI has impaction their life, especially in the fields such as searching for information, driving and transportation as well as managing the use of energy. Also, 60% of the respondents are afraid that the development of the AI will	NO	YES – right to privacy	NASK Państwowy Instytut Badawczy, Sztuczna inteligencja w społeczeństwie i gospodarce, available at: https://www.nask.pl/pl/aktualnosci/wydarzenia/wydarzenia-2019/1926.Sztuczna-inteligencja-w-oczach-Polakow-szansa-czy-zagrozenie-Nowy-raport-NASK.html

			cause more threats to the protection of their privacy and 70% of the respondents was of the opinion that AI's development does not entitle private companies to unlimited access to personal data.			
PL	Government (Ministry of Digitalization)	Consultation	The Ministry of Digitalization organized consultations on the policy of AI development in years 2019-2027. The mission of the policy is to support science, research and development of AI in order to enhance innovations and productivity in the economy. The Polish government aims at joining the group of 25% countries developing AI which means that by 2025 Polish companies developing AI has to be 25 times more effective. The policy sets frameworks for supporting the development of the AI which includes areas such as management, data, knowledge and skills, investment and financing and infrastructure. On the basis of the consultation's results, the policies for specific areas (such as e.g. health protection) will be prepared.	YES	YES	Ministry of Digitalization, Konsultacje społeczne projektu „Polityki Rozwoju Sztucznej Inteligencji w Polsce na lata 2019 – 2027” (The policy of AI development in Poland for years 2019-2027), available at: https://www.gov.pl/web/cyfryzacja/konsultacje-spoleczne-projektu-polityki-rozwoju-sztucznej-inteligencji-w-polsce-na-lata-2019--2027

3. Data retention

There were no new developments concerning data retention in 2019.

Chapter 6. Rights of the child

1. Procedural safeguards for children who are suspects in criminal proceedings

Legislative changes	<p>In 2019, the Ministry of Justice presented a draft legislation changing the Act on juvenile proceedings. The draft legislation envisages a deep reform of the current proceedings in the case of juveniles. As in the case of the previous act, the draft is also based on the model of child upbringing and the best interests of the child. The draft legislation introduces the minimum age at which a child is criminally liable demoralization (10 years old). Furthermore, the draft legislation changes the provisions concerning the notification to the court or the police about the circumstances indicating child's demoralization. If there are any signs of demoralisation, the school principal, with the consent of the parents, may take educational measures. Secondly, if, for example, a police investigation reveals that a child has committed an offence, the police can only end the proceedings with a warning. The draft law also contains provisions on legal representation of children in proceedings. According to the draft, in this case the provisions of the Code of Civil Procedure regulating the legal representation should be applicable. This, however, may not be sufficient in practice. According to the Legislation Council of the Council of Ministers the provisions of the Code of Criminal Procedure on access to a defense lawyer should apply in cases involving juveniles.⁶⁰</p> <p>In addition, the draft law lays down the procedure for the arrest of a child. According to the draft, the court should be notified of the detention “as soon as possible” and within 24 hours. However, the same deadline does not apply to the notification of parents. The draft legislation refers also to the administration of the facilities for juveniles and regulates the rights and duties of a child placed in such a facility.</p> <p>The draft legislation is in the consultations phase and has not been presented to the Parliament yet.⁶¹</p> <p>In 2019, the Parliament adopted a package of extensive changes to the Criminal Code.⁶² The changes include among others the increase of criminal sanctions for sexual abuse of a child. . In particular, the new law provides that for raping a child, paedophiles will be imprisoned for even 30 years, the most disturbed perpetrators will be threatened with absolute life imprisonment, and the most serious paedophilic</p>
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⁶⁰ Poland, Legislation Council of the Chancellery of the Prime Minister, Opinia z 30 sierpnia 2019 r. o projekcie ustawy o nieletnich (UD 480) z dnia 8 marca 2019 r., available at: https://radalegislacyjna.gov.pl/dokumenty/opinia-z-30-sierpnia-2019-r-o-projekcie-ustawy-o-nieletnich-ud-480-z-dnia-8-marca-2019-r-#_ftn1

⁶¹ Poland, Draft Act on the juvenile proceedings, available at: <https://legislacja.rcl.gov.pl/docs//2/12321373/12577437/12577438/dokument385846.pdf>

⁶² Poland, Rządowy projekt ustawy o zmianie ustawy - Kodeks karny oraz niektórych innych ustaw, available at: <http://www.sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=3451>

	<p>crimes will never be time-barred. The changes also provide for the abolition of suspended sentences for paedophiles. Moreover, data on the profession of convicted persons will be revealed in the “register of paedophiles”. The amendment leaves the limit of criminal protection against paedophile acts at the level of 15 years. The amendment also provides for a new flexible penalty system.</p> <p>These changes were adopted in reaction to public release of a film on paedophilia in the Polish clergy.⁶³ According to the Ombudsman and some experts, the legislative procedure used to adopt the amendments was in breach of the Constitution, while many provisions violate international standards on merits.⁶⁴ Before signing it, the President decided to direct the law to the Constitutional Tribunal. The law has not come into force yet.</p>
Policy developments	There were no significant policy developments concerning the rights of children who are suspects in criminal proceedings.
Other measures or initiatives	In 2019, the Ombudsman's Office together with the National Bar Association, National Association of Solicitors, the Council of Europe, ODIHR and Association for the Prevention of Torture launched a campaign “The state without torture”. The campaign's main aim was to raise the social awareness of forms of torture and who may become a victim of torture. Within the campaign, Ombudsman's office carried out a training titled “Torture, inhuman and degrading treatment in national and international law. Prevention of torture” for the representatives of the staff of the juvenile correction facilities. ⁶⁵

2. Legal and policy measures or initiatives developed about child internet safety

In 2019, the Ministry of Digitalization and the Office of the Ombudsman organized a round table dedicated to the problem of harmful content published on-line. The problem attracted public attention after several media reports on the live streaming of harmful content which gained increasing popularity among children. According to the Empowering Children Foundation's report, 48% of children in age of 13-15 years old heard about the harmful content but did not watch it, whereas 37% of the respondents heard about such content and watched some of it. Upon the initiative of the Ombudsman's Office, stakeholders such as the Child's Rights Ombudsman, Minister of Digitalization and NGOs signed a declaration on combating the harmful online content and

⁶³ Sobczak K., Sejm przyjął poprawki Senatu - zmiany w prawie karnym mogą wejść w życie, Prawo.pl, available at: <https://www.prawo.pl/prawnicy-sady/nowelizacja-kodeksu-karnego-sejm-przyjal-poprawki-senatu,431055.html>

⁶⁴ Poland, Ombudsman's Office, Zmiany w prawie karnym. Opinie ekspertów, available at: <https://www.rpo.gov.pl/pl/content/zmiany-w-prawie-karnym-2019-opinie-ekspertow-i-RPO>

⁶⁵ Poland, Ombudsman's Office, Kampania "Państwo bez tortur": Prawa osób nieletnich pozbawionych wolności. Szkolenie przeprowadzone przez przedstawiciela Krajowego Mechanizmu Prewencji Tortur, available at: <https://www.rpo.gov.pl/pl/content/prawa-osob-nieletnich-pozbawionych-wolnosc-szkolenie-KMPT>

listing the potential actions to be taken in this field. Among the suggested actions are collecting information on government's actions undertaken towards limiting the availability and presence of harmful content online, preparing a strategy for children's safety online and developing mechanisms improving blocking harmful content online.⁶⁶ In June 2019, the Minister of Digitalization announced that he would travel to each voivodeship in the country to discuss the problem of exposing children to harmful content online.⁶⁷

In October 2019, the National Broadcasting Council launched public consultations concerning the implementation of the Directive of audiovisual services 2018/1808 of 14 November 2018. Within the consultations, the Council prepared two questionnaires including questions on protection of audiovisual recipients of content, media education and codes of conduct. The consultations are addressed to all stakeholders and last until end of November 2019.⁶⁸

⁶⁶ Poland, Empowering Children Foundation (Fundacja Dajemy Dzieciom Siłę), Patotreści w internecie. Raport o problemie, available at: <https://fdds.pl/wp-content/uploads/2019/08/fdds-raport-patotresc-www.pdf>

⁶⁷ Poland, Ministry of Digitalization, Edukacja przede wszystkim, czyli jak walczyć ze zjawiskiem patostreamów?, available at: <https://www.gov.pl/web/cyfryzacja/edukacja-przede-wszystkim-czyli-jak-walczyc-ze-zjawiskiem-patostreamow>

⁶⁸ Poland, National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji), KRRiT ogłasza publiczne konsultacje w sprawie nowelizacji dyrektywy o audiowizualnych usługach medialnych, available at: <http://www.krrit.gov.pl/regulacje-prawne/konsultacje-krrit/news,2873,krrit-oglasza-publiczne-konsultacje-w-sprawie-nowelizacji-dyrektywy-o-audiowizualnych-uslugach.html>

Chapter 7. Access to justice including crime victims

1. Victims' Rights Directive

Amendments to the Code of Criminal Procedure

A massive amendment to the Code of Criminal Procedure was adopted in July 2019 and came into force on 5 October 2019.⁶⁹ The new law changed numerous provisions of the Code, including those pertaining to the situation of crime victims. The latter are elaborated on below.

In cases arising from criminal offences prosecuted on motion (where proceedings shall be instituted ex officio at the moment of submitting the motion by the victim), in the court proceedings, the motion can be withdrawn, with the consent of the court, before the commencement of judicial examination within the first main trial. The amendment modifies this rule, first of all, by prolonging the time for withdrawal to the closure of judicial examination. Secondly, in cases where the indictment was brought by a public prosecutor, it requires for the withdrawal to take effect that the prosecutor, present at the hearing or session, does not object to it. In the Helsinki Foundation for Human Rights' (HFHR) opinion, this change is not necessary from the perspective of the victim's rights as it is sufficient that only the court should assess whether i.e. the victim's decision to withdraw the motion was taken at will.⁷⁰

The amendment also changes the procedure of assuming the role of subsidiary prosecutor by the injured party. According to the previous procedure, if the body conducting the investigation issues a decision on discontinuance of investigation or on refusal to institute it, the victim appeals against it to the court, the court revokes the decision and the body, still not finding grounds to bring the indictment, issues the second decision to the abovementioned effect, the victim may bring a subsidiary indictment. After the amendment came into force, in order to exercise the right to become a subsidiary prosecutor, the victim will have to appeal the second prosecutorial decision to the prosecutor of a higher level. This solution will lengthen the injured party's effort to indict the perpetrator and as such should be assessed negatively.

The amendment extends the catalogue of details that the record of an action shall not include (those data should be contained in an annex to the record, which shall be stored in an address annex to the case files for the information of the authority conducting the proceedings). Apart from the place of residence and the place of work of the injured person, there are also the telephone number, the fax number and the e-mail address of the victim.

⁶⁹ Poland, [The Act amending the Code of criminal procedure and certain other acts](#) (*Ustawa o zmianie ustawy – Kodeks postępowania karnego oraz niektórych innych ustaw*), 19 July 2019.

⁷⁰ Poland, Helsinki Foundation for Human Rights (2019), [Opinia do projektu ustawy o zmianie ustawy – Kodeks postępowania karnego i niektórych innych ustaw](#).

The injured who as at the moment of questioning as a witness is under 15 years of age shall be questioned by court promptly but not later than within 14 days since obtaining the parties' motion for such questioning. In cases related to certain sexual offences, including rape, court will be able to question the victim as a witness, regardless of their age, only when their testimony could be of particular importance for the resolution of the case, and only once, unless significant circumstances are disclosed and there is a need of a repeated questioning to clarify them. The same 14-day term for questioning will apply to those cases. A statutory representative or an adult appointed by the victim will have a right to be present at the questioning.

The catalogue of means by which the victim is informed on the conclusion of the proceedings has been broadened by fax and e-mail. Moreover, the advice of the injured party's rights will have to be delivered to the victim, even if the authority decides not to question them.

According to the amendment, it will be possible to withdraw from questioning the victim in the capacity of a witness unless this action is necessary to make findings of fact. The injured will have a right to demand to be questioned, except for the situation when it would lead to the lengthiness of the proceedings. In the HFHR's opinion, the provision should guarantee that the injured should always be questioned on demand so that the rights to be heard and to provide evidence, enshrined in the Victims' Rights Directive, are ensured.⁷¹

A copy of the injunctive judgment should now be served on the victim. The injured party will be advised that in order to effectively appeal against such judgement they are supposed to add a statement that they wish to act in the capacity of a subsidiary prosecutor.

The Justice Fund. Questionable practice of spending

The public Justice Fund, administered by the Minister of Justice, has been functioning since 2012 (under other name) and financing the activities of NGOs and other bodies, related with helping crime victims and witnesses, as well as post-penitentiary help. Its 2019 budget was 115.000.000 zlotys (approx. EUR 28.000.000).⁷²

A dramatic change to the functioning of the Fund occurred in 2017 through amendments to the Criminal Executive Code⁷³ and the regulation of the Minister of Justice⁷⁴. The amendments, first, extended the catalogue of entities that were eligible for subsidies by adding certain public bodies (e.g. courts, prosecution offices, the Police). Second, the functioning of the Fund should now serve the aim of "combating crime", which is a broad and imprecise term.

⁷¹ Poland, Helsinki Foundation for Human Rights (2019), [Opinia do projektu ustawy o zmianie ustawy – Kodeks postępowania karnego i niektórych innych ustaw](#).

⁷² Poland, Ministry of Justice, [Program Pomocy Osobom Pokrzywdzonym Przesłpstwem na lata 2019-2021](#).

⁷³ Poland, [The Act amending the Law on common courts and certain other acts](#) (Ustawa o zmianie ustawy – Prawo o ustroju sądów powszechnych oraz niektórych innych ustaw), 12 July 2017, Article 3.

⁷⁴ Poland, [Rozporządzenie Ministra Sprawiedliwości w sprawie Funduszu Pomocy Pokrzywdzonym oraz Pomocy Postpenitencjarnej – Funduszu Sprawiedliwości](#), 13 September 2017.

The practice of allocating the resources of the Fund on purposes other than helping crime victims has been raising questions for almost two years. It was raised that resources from the Fund were either granted to organisations of catholic profile on a large scale, or to foundations and associations linked to the governing party, especially the Minister of Justice (e.g. spent on political events).

In 2019, the Supreme Chamber of Control, the top audit body set up for scrutinising the expenses of public institutions in Poland, published its annual report, which covered among others the Justice Fund. The post-inspection report revealed the scale of questionable spending. It indicated that e.g. 24 million zlotys were spent, through a subsidy for an organisation, on commissioning reflective jackets with the Fund's logo that were supposed to be used in a campaign promoting safety in the streets at night. Out of almost 40.000.000 zlotys granted to various NGOs, more than 33.000.000 (which gives 86% of total sum of scrutinised expenses) have been spent, in the Chamber's opinion, "unreasonably or wastefully".⁷⁵

The 2019 report indicated also that extending the catalogue of activities financed by the Fund in 2017 has led to the marginalisation of its fundamental task – helping crime victims. Instead of that, the Fund concentrated on unjustified spending on purposes such as e.g. modernising sports centres or organising conferences on social, religious and philo-sophical issues. It was also stressed that, when granting resources to NGOs, the Fund did not verify their experience. As a consequence, millions were allocated to entities prepared inadequately for functioning.⁷⁶

2. Violence against women

Poland still has not implemented an effective protection system to address violence against women. It is estimated that the scale of such violence in Poland is significant – a 2014 research shows that 19% of women in Poland have experienced physical or sexual assault from their ex-partner or another person.⁷⁷

Polish criminal law, to begin with, lacks a specific type of crime of domestic or gender related violence. The existing provision of Article 207 of the Criminal Code provides only for a crime of physical or mental maltreatment of an immediate family member or another person being in a

⁷⁵ Poland, Supreme Chamber of Control (*Najwyższa Izba Kontroli*), [Analiza wykonania budżetu państwa i założeń polityki pieniężnej w 2018 r.](#)

⁷⁶ Poland, Supreme Chamber of Control (*Najwyższa Izba Kontroli*), [Analiza wykonania budżetu państwa i założeń polityki pieniężnej w 2018 r.](#)

⁷⁷ FRA (European Union Agency for Fundamental Rights) (2015), [Violence against women: an EU-wide survey. Main results](#), Publications Office of the European Union, Luxembourg.

permanent or temporary relation of dependence to the perpetrator. A perpetrator of this crime is subject to deprivation of liberty for between 3 months to 5 years.⁷⁸

Moreover, on 31 December 2018, Polish Ministry of Family, Labour and Social Policy proposed an amendment to the Act on combating domestic violence of 29 July 2005.⁷⁹ The amendment included several controversial changes that in general weakened the protection of victims of domestic violence – the vast majority of whom are women. In particular, it altered the definition of domestic abuse by stating that it should relate only to recurring acts of violence, and made the continuation of a special procedure of reporting a violation dependent on the victim's consent. After a wave of criticism from, among others, the opposition and civil society, Polish prime minister informed, on 2 January 2019, that the government would withdraw from the project.

In July 2019 a problem concerning data protection in the context of domestic violence was noticed by the President of the Personal Data Protection Office. In a letter to the Minister of Family, Labour and Social Policy, the President indicated that, according to the existing domestic regulations, it is not clear what documents gathered during the so called “Blue Card procedure” (a procedure related to reporting domestic violence) can be accessed by the victims and perpetrators of the crime.⁸⁰ The President suggested that the act should be amended so its provisions are more precise, concerning in particular the catalogue of exemptions of access, and stressing the need of ensuring compliance with the General Data Protection Regulation. The Minister replied that an adequate amendment was going to be considered (however, it has not been adopted as for the moment of writing).⁸¹

In June 2019 the Ministry of Justice announced a draft amendment to several acts, including the Code of civil procedure and the Act on combating domestic violence.⁸² The main objective of this complex solution was to strengthen the protection of victims of domestic violence by isolating the perpetrators from the victims. To obtain this objective, the act would entitle the Police to assess the actual threat posed by the perpetrator and to issue an order to leave the premises unconditionally if certain danger occurs, regardless of the lack of any other place to go (in such case, the officer should inform the person on available shelters). Police officers could also issue restraining orders with regard to the perpetrators of domestic violence and check if they abide by such restrictions. Also, the courts' orders to leave the premises, issued upon a free-of-charge motion, would be immediately enforceable. The proposed amendment has not been adopted as of yet.

Several issues can be raised concerning administration of justice in domestic and gender related violence cases. First, it should be noted that a relatively small amount of cases concludes with

⁷⁸ Poland, [Criminal Code](#) (Kodeks karny), 6 June 1997, Article 207.

⁷⁹ Poland, [The draft Act amending the Criminal Code and certain other acts](#) (*Projekt ustawy o zmianie ustawy – Kodeks karny oraz niektórych innych ustaw*), 8 February 2018, Article 3.

⁸⁰ Poland, President of the Personal Data Protection Office (Prezes Urzędu Ochrony Danych Osobowych), [A letter to the Minister of Family, Labour and Social Policy concerning the Blue Card procedure](#).

⁸¹ Poland, The Minister of Family, Labour and Social Policy, [A response to the letter of the President of the Personal Data Protection Office](#).

⁸² Poland, The Minister of Justice, [A draft Act amending the Code of civil procedure and certain other acts](#) (*Projekt ustawy o zmianie ustawy – Kodeks postępowania cywilnego oraz niektórych innych ustaw*), 27 June 2019.

conviction of the perpetrators for the penalty of deprivation of liberty without the conditional suspension of its enforcement (only 2.406 cases out of total 10.031 convictions for the crime of cruelty to a family member in 2017).⁸³ Secondly, total number of penal measures of prohibition from approaching to certain individuals imposed on perpetrators in such cases is rather insignificant, too (in 2017 courts imposed 2.528 such measures).⁸⁴ Furthermore, the existing mechanisms for isolating perpetrators from victims – either by preventive measures taken in criminal proceedings, or by orders to leave the premises issued in civil proceedings, does not prove to be effective.

Poland also lacks an efficacious system of support for victims of domestic abuse. The Ministry of Family, Labour and Social Policy estimates that even 75% of such persons did not apply for any kind of help.⁸⁵ To make the matters worse, since 2016 the Ministry of Justice has been persistently refusing to continue the subsidy for certain NGOs that deal with women's rights, making the protection of victims even weaker.⁸⁶

⁸³ Poland, The Ministry of Justice, [Judicial Statistics. Final adjudication of adults 2013-2017 \(III ed.\)](#), Warsaw 2019, p. 45.

⁸⁴ Poland, The Ministry of Family, Labour and Social Policy, [Report on the implementation of the National Programme for Combating Domestic Violence 2014-2020 \(2017\)](#), p. 20.

⁸⁵ Miedzik, M. (2014), [Badania porównawcze oraz diagnoza skali występowania przemocy w rodzinie wśród osób dorosłych i dzieci, z podziałem na poszczególne formy przemocy wraz z opisem charakterystyki ofiar przemocy i sprawców](#).

⁸⁶ Poland, The Commissioner for Human Rights, [An address to the Minister of Justice regarding the refusal to subsidy the Centre for Women's Rights, the Lubuskie Centre for Women's Rights BABA and the Nobody's Children Foundation](#), 11 June 2016.

Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

1. CRPD policy & legal developments

In 2019, there were no significant legal developments concerning the rights of persons with disabilities. The adopted in 2019 policies concerning the situation of persons with disabilities primarily focused on their functioning in the society, access to labour market and accessibility.

In 2019, the Ministry of Family, Labour and Social Policy launched a program “The assistant of a person with disabilities”. The first edition of the program is designed for one year (until 31 December 2020). The program main aim is to provide to persons with disabilities with an assistant who would help them in the daily life activities. The program is addressed to persons with significant or mild disability. The assistants will be persons with certified skills and knowledge on needs of persons with disabilities. The access to the aid of an assistant will be free of charge.⁸⁷

The Ministry of Family, Labour and Social Policy also announced the main points of the program “For Life” which is designed to support families of persons with disabilities. According to the Minister of Family, Labour and Social Policy the program for years 2017-2021 will include the priority for developing the protected apartments which are adjusted to the needs of persons with disabilities. In years 2017-2018, 80 apartments were constructed within the frames of the program “For Life”.⁸⁸ At the same time, the government is working on the strategy on deinstitutionalization of the care of persons with disabilities. According to the information provided to the Ombudsman, the strategy should be ready by 2020.⁸⁹

In 2019, the Accessibility Council started its works. The Council was established by the Minister of Investigations and Development as a consultative body.⁹⁰ In 2019, the Council has had two sessions. The first meeting of the Council was dedicated to discussing the progress in works on the draft legislation on Act on accessibility. The second session was dedicated to progress in the implementation of the program "Accessibility Plus", draft proposal to changes in the regulation of the Ministry of Infrastructure concerning the accessibility of buildings and Accessibility standards for health care institutions.⁹¹

⁸⁷ Poland, Ministry of Family, Labour and Social Policy, Co powinieneś wiedzieć o „Asystencie osobistym osoby niepełnosprawnej”?, available at: <https://www.gov.pl/web/rodzina/co-powinienes-wiedziec-o-asystencie-osobistym-osoby-niepelnosprawnej>

⁸⁸ Poland, Ministry of Family, Labour and Social Policy, Wspierać samodzielność i pomagać, available at: <https://www.gov.pl/web/rodzina/wspierac-samodzielnosc-i-pomagac>

⁸⁹ Poland, Ombudsman Office, Jak wyglądają prace nad deinstytucjonalizacją opieki nad osobami z niepełnosprawnością?, available at: <https://www.rpo.gov.pl/pl/content/jak-wygl1%C4%85daj%C4%85-prace-nad-deinstytucjonalizacj%C4%85-opieki-nad-osobami-z-niepe%C5%82nosprawno%C5%9Bci%C4%85>

⁹⁰ Poland, Governmental Plenipotentiary for Persons with Disabilities, Rada Dostępności zainaugurowała swoją działalność, available at: <http://www.niepelnosprawni.gov.pl/art.888,rada-dostepnosci-zainaugurowala-swoja-dzialalnosc>

⁹¹ Poland, Rada Dostępności, available at: <https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/fundusze-europejskie-bez-barier/dostepnosc-plus/rada-dostepnosci/>

In the beginning of 2019, the Ministry of Family, Labour and Social Policy informed the Ombudsman that the draft project of the "Strategy for persons with disabilities for years 2018-2030" will be sent to consultations in February/March 2019. The adoption of such a strategy was one of the recommendations presented by the Committee for Persons with Disabilities to Polish government in 2018. However, there is no available data whether the consultations on the strategy were in fact organised in 2019.⁹²

When it comes to improving the accessibility, the Polish Ministry of Investment and Development starts its works on implementation of the European Accessibility Act. In October 2019, the Ministry plans to start the process of formal consultations with different stakeholders (including state institutions and social partners).⁹³

In 2019, there were no legal changes concerning the incapacitation. Despite numerous calls from the Ombudsman or civil society organizations, the Ministry of Justice still has not prepared a draft legislation abolishing the institution of full incapacitation.⁹⁴

2. CRPD monitoring at national level

Table: Structures set up for the implementation and monitoring of the CRPD

EUMS	Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)	Coordination mechanism – Article 33 (1)	Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)
PL	Ministry of Family, Labour and Social Policy (<i>Ministerstwo Rodziny, Pracy i Polityki Społecznej</i>)	Ministry of Family, Labour and Social Policy (<i>Ministerstwo Rodziny, Pracy i Polityki Społecznej</i>) and the Team for the implementation of the CRPD provisions (chaired by the Government Plenipotentiary for Persons with Disabilities (<i>Pełnomocnik Rządu do Spraw Osób Niepełnosprawnych</i>))	Commissioner for human rights (<i>Rzecznik Praw Obywatelskich</i>)

⁹² Poland, MRPiPS: *wkrótce konsultacje nad Strategią na rzecz osób niepełnosprawnych na lata 2018-2030*, Ombudsman Office, available at: <https://www.rpo.gov.pl/pl/content/mrpips-wkrotce-konsultacje-nad-strategia-na-rzecz-os%C3%B3b-niepelnosprawnych>

⁹³ Poland, Ombudsman Office, RPO pyta o plany wdrożenia Europejskiego Aktu o Dostępności, available at: <https://www.rpo.gov.pl/pl/content/rpo-pyta-o-plany-wdrozenia-europejskiego-aktu-o-dostepnosci>

⁹⁴ Poland, Ombudsman Office, Ministerstwo Sprawiedliwości nadal analizuje, jak zmienić instytucję ubezwłasnowolnienia, available at: <https://www.rpo.gov.pl/pl/content/ms-nadal-analizuje-jak-zmienic-instytucje-ubezwlasnowolnienia>

Annex 1 – Promising Practices

Thematic area	EQUALITY AND NON-DISCRIMINATION Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.
Title (original language)	Projekt „Równe miejsca – warszawski system standaryzacji miejsc wolnych od dyskryminacji”
Title (EN)	The project „Equal place - Warsaw system of standardization of places free from discrimination“
Organisation (original language)	Polskie Towarzystwo Prawa Antydyskryminacyjnego
Organisation (EN)	Polish Society of Anti-Discrimination Law
Government / Civil society	Civil society
Funding body	N/A
Reference (incl. url, where available)	http://www.ptpa.org.pl/projekty/rowne-miejsce-warszawski-system-standaryzacji-miejsc-wolnych-od-dyskryminacji/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	20 December 2018 – 20 December 2020
Type of initiative	Trainings and branding / marketing
Main target group	Private business sector
Indicate level of implementation: Local/Regional/National	Local
Brief description (max. 1000 chars)	This is a project aimed at counteracting unequal treatment in access to goods and services by raising awareness and knowledge of Warsaw entrepreneurs about the mechanisms of discrimination and the provisions of anti-discrimination law.
Highlight any element of the actions that is transferable (max. 500 chars)	The project offers free trainings on equal treatment addressed to entrepreneurs in Warsaw providing paid services. The certification of private business as an “equal space” could be carried out in other parts of Poland or big cities.
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	It is to be considered as a key element of corporate social responsibility – positive business brand.
Give reasons why you consider the practice as having concrete measurable impact	It is likely to increase the overall position of a business entity in the market.
Give reasons why you consider the practice as transferrable to other	The standardization of “equal spaces” for business entities providing goods and services could be easily transferred to other Member States.

settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Not applicable.
Explain, if applicable, how the practice provides for review and assessment.	The review and assessment is included in the standardization process. It could be further required that this process is renewed periodically.

Thematic area	RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	Warsztaty – „Przestępstwa motywowane nienawiścią” w ramach „Planu działań Policji na lata 2018-2021 w zakresie przeciwdziałania propagowania faszyzmu i innych ustrojów totalitarnych oraz przestępstw nawoływania do nienawiści na tle różnic narodowościowych, etnicznych, rasowych, wyznaniowych albo ze względu na bezwyznaniowość”
Title (EN)	Workshops ‚Hate crimes’ as part of the ‚Police Action Plan for 2018-2021 in the field of counteracting the promotion of fascism and other totalitarian regimes and hate crimes based on national, ethnic, racial, religious denominations or because of non-denominationalism’.
Organisation (original language)	Warsztaty - Komenda Wojewódzka Policji w Gdańsku; „Plan działań Policji...” – Komenda Główna Policji
Organisation (EN)	Provincial Police Headquarters in Gdańsk; ‚Police Action Plan...’ – Police Headquarters
Government / Civil society	Government
Funding body	Police
Reference (incl. url, where available)	Poland, Policja Pomorska, 26 September 2019, available at: http://www.pomorska.policja.gov.pl/pom/informacje/wiadomosci/84612,WA-RSZZTATY-ZAPOBIEGANIE-I-ZWALCZANIE-PRZESTEPSTW-Z-NIENAWISCI.html
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2018-2021
Type of initiative	Educational Workshop; National Action Plan
Main target group	Police officers
Indicate level of implementation: Local/Regional/National	Local/National (local workshop but as part of the national plan).
Brief description (max. 1000 chars)	

	The participants of the workshop ‚Hate crime‘ were representatives of the City Police and Powiat Police Headquarters who on daily basis deal with issues of social prevention. During the workshops, participants had the opportunity to learn about the subject of discrimination in terms of self-perception and group identity. Moreover, prejudice and stereotypes that may be the cause of hate crimes were discussed. Finally, as part of the ‚It’s a pretty serious matter, right‘ exercise, participants discussed the meaning of discriminatory comments, including how they perceive them and how such comments affect them. ‚Police Action Plan...‘ it is a document approved by the Commander-in-Chief of the Police Headquarters on 29 June 2018. It contains the open catalog of Police tasks in the field of preventing hate crimes, indicates examples of activities in this field, as well as cooperation partners in this area. As responsible for the implementation of tasks in this area, the document indicates the preventive coordinators for social prevention with the active support of plenipotentiaries of Provincial Commanders of the Police.
Highlight any element of the actions that is transferable (max. 500 chars)	The idea of workshops directed to the police officers who in their daily work deal with issues of social prevention is transferable. As a result of the ‚Police Action Plan...‘ the similar actions, including workshops have been already organized in other parts of Poland. ^{95 96 97}
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	‚Police Action Plan...‘ it is a long term (2018-2021) activity which gives the possibility to implement it widely and organize similar workshops almost anywhere in Poland.
Give reasons why you consider the practice as having concrete measurable impact	The number of participating Police officers, as well as partners in actions and workshops, can be measured easily.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Such practice, due to the wide possibilities to implement ‘Police Action Plan...’ locally, can be transferrable anywhere: including large Police Station and Police station in rural areas.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review	Based on the information available, the workshops organized locally as a result of the ‘Police Action Plan...’ were organized by the local experts, including Police officers but also other experts such as local NGOs. ⁹⁸ More data not available.

⁹⁵ Poland, Policja, Komenda Miejska Policji w Żorach, Realizowany projekt w ramach "Planu działań Policji na lata 2018-2021 w zakresie przeciwdziałania propagowaniu faszyzmu i innych ustrojów totalitarnych oraz przestępstwom nawoływania do nienawiści na tle różnic narodowościowych, etnicznych, rasowych, wyznaniowych albo ze względu na wyznaniowość", 27 March 2019, available at: <http://bip.zory.kmp.policja.gov.pl/031/programy-prewencyjne/30096.Realizowany-projekt-w-ramach-quotPlanu-dzialan-Policji-na-lata-2018-2021-w-zakre.html>

⁹⁶ Poland, Policja, Komenda Główna, Seminarium Szkoleniowe w Sułkowicach, 10 May 2019, available at: <http://policja.pl/pol/aktualnosci/173340.Seminarium-szkoleniowe-w-Sulkowicach.html>

⁹⁷ Poland, Policja, Komenda Powiatowa w Kościanie, W trosce o właściwe postawy społeczne, available at: <http://www.koscian.policja.gov.pl/w11/prewencja/prewencja-informuje/202208.W-trosce-o-wlasciwe-postawy-spoeczne.html>

⁹⁸ Poland, Policja, Komenda Miejska Policji w Żorach, Realizowany projekt w ramach "Planu działań Policji na lata 2018-2021 w zakresie przeciwdziałania propagowaniu faszyzmu i innych ustrojów totalitarnych oraz przestępstwom nawoływania do nienawiści na tle różnic narodowościowych, etnicznych, rasowych, wyznaniowych albo ze względu na wyznaniowość", 27 March 2019, available at: <http://bip.zory.kmp.policja.gov.pl/031/programy-prewencyjne/30096.Realizowany-projekt-w-ramach-quotPlanu-dzialan-Policji-na-lata-2018-2021-w-zakre.html>

assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	More data not available.

Thematic area	ROMA INTEGRATION Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.
Title (original language)	Romowie. Przewodnik dla Policji
Title (EN)	Roma. Handbook for the Police.
Organisation (original language)	POLIN Muzeum Historii Żydów Polskich, Fundacja W Stronę Dialogu (ex Fundacja Dialog Pheniben)
Organisation (EN)	POLIN Museum of the History of Polish Jews, Towards Dialogue Foundation (ex -Dialog Pheniben Foundation)
Government / Civil society	Civil society (see above) in cooperation with the Police Headquarters
Funding body	EVZ Foundation
Reference (incl. url, where available)	http://isp.policja.pl/isp/prawa-czlowieka-w-poli/publikacje/13941,Materialy-edukacyjne-o-tematyce-romskiej-i-zydowskiej.html
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Start: February 2019
Type of initiative	Dissemination of information, sensitisation
Main target group	Polish Police
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	A brochure disseminated within the Police and used in the process of training aims to sensitise policeman and raise their awareness of Roma culture, history and lifestyle. Besides sensitising, it provides practical guidance on how to carry out interventions within the Roma community to ensure their rights as well as customs are protected. The brochure was developed by the POLIN museum in cooperation with the Towards Dialogue Foundation and officially recommended by the Police Headquarters. It has been disseminated among Police stations throughout Poland and used as a training material in the programme of training of policemen.
Highlight any element of the actions that is transferable (max. 500 chars)	Training and sensitising materials for the Police developed in the cooperation with the Roma organisation and disseminated with full support of the Police Headquarters
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	The materials can be used repeatedly for further training of the newly recruited policemen. The materials are published online.

Give reasons why you consider the practice as having concrete measurable impact	Number of policemen whose knowledge of Roma culture as raised. Number of Roma victims/witnesses turning to the local police (for intervention, to report a crime etc.) as a result of improved relationships between Roma community and the local Police.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The practice can be transferred easily to other settings and Member States provided it involves local Roma community and local Police.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The practice involves beneficiaries at the stage of design, planning and implementation of the practice (involvement of the Towards Dialogue Foundation as a partner throughout the project)
Explain, if applicable, how the practice provides for review and assessment.	Not applicable

Thematic area	Asylum, visas, migration borders and integration Please provide a promising practice on the support provided to unaccompanied children when reaching majority.
Title or short description of promising practice in original language and in English	“Piecza zastępcza ponad granicami” (“Fostering Across Borders – FAB”)
Organisation (Government / Civil society) in charge of promising practise (original language/English)	Międzynarodowa Organizacja do Spraw Migracji oraz Stowarzyszenie Interwencji Prawnej (International Organization for Migration (IGO) and Association for Legal Intervention (NGO)) Intergovernmental and Non-Governmental – Civil Society
Funding body	The European Commission (Rights, Equality and Citizenship Programme of the European Union, 2014-2020) and led by IOM
Reference (incl. url, where available)	In Poland: Association for Legal Intervention, website: https://interwencjaprawna.pl/projekty/fostering-across-borders/ and https://interwencjaprawna.pl/final-projektu-fostering-across-borders/ ; IOM Poland, website: https://poland.iom.int/news/iom-wspiera-rodzinn%C4%85-piecz%C4%99-zast%C4%99pcz%C4%85-dla-dzieci-cudzoziemskich-bez-opieki In the other EU Member States: Minor-Ndako and Mentor-Escale (Belgium), Croix-Rouge Luxembourgeoise (Luxembourg), Stowarzyszenie Interwencji Prawnej (Poland), Coram BAAF and Coram Children’s Legal Centre (UK)
Indicate the start date of the promising practice	January 2018 – November 2019

and the finishing date if it has ceased to exist	
Main target group	Foster care institutions - family-based carers for unaccompanied migrant children (UMC)
Brief description (around 1000 characters)	<p>FAB sought to strengthen the capacity of the family-based care systems that support Unaccompanied Migrant Children (UMC) arriving into Poland and the EU. To that effect, FAB engaged UMC through focus group discussions, as well as stakeholders and professionals working in the national context, gathering their perspectives on training gaps and needs. The result is a holistic foster carer training program adapted to the local context and needs of each country, targeted at professionals and other care providers. FAB's activities:</p> <ul style="list-style-type: none"> - Map the existing training gaps and needs for professionals and family-based carers, at the national level; - Develop and deliver training for professionals and foster carers to enhance their ability to care for unaccompanied migrant children, based on a Training-of-Trainers approach; - Produce a foster carer training program, adapted to each country context; - Support the recruitment and retention of family-based carers for unaccompanied migrant children through information sessions, foster carer forums and the development of awareness-raising materials; - Consult with children and young people to reflect children's views of family-based care in all the FAB materials (child-centered approach).
Indicate level of implementation: Local/Regional/National	National + other EU Member States
Indicate success factors – why has the practice effectively promoted integration?	<p>The FAB's overall objective, to contribute towards improving and expanding the quality of family-based care for UMC, was achieved through a two-pronged approach, or two specific objectives: enhancing key stakeholders' awareness and knowledge of the needs of UMC and increasing the availability of training on the needs of UMC. The program was piloted across four countries in 2019, reaching 173 professionals who increased their knowledge about the needs of UMC and family-based care for them which favorous and strengthen their integration. Foster care, or family-based care, is widely regarded as the best form of care for children and only fewer children go missing from foster care when compared to reception centers and institutions.</p>
If the initial funding of the initiative ended, how has the initiative been continued/followed-up?	<p>FAB was funded by the Rights, Equality and Citizenship Programme of the European Union (2014-2020) and led by IOM. It ran from January 2018 to September 2019. IOM staff in the UK, Belgium, Luxembourg, and Poland implemented the project in partnership with local partners. According to the official information the program was only piloted across four countries in 2019, reaching 173 professionals, so the continuation is possible.</p>
Explain, if applicable, how the practice is being reviewed and assessed.	Information is not available.
Does the initiative apply to both asylum seekers and protection status	Y, it applies to all the UMC.

holders – and/or support the transition from one to the other?	
Does the initiative specifically support persons in need of international protection as they turn 18? If so, which type of support is provided?	N, it was not specified.

Thematic area	INFORMATION SOCIETY, DATA PROTECTION
	Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter
Title (original language)	RODO dla pacjenta
Title (EN)	GDPR for the patient
Organisation (original language)	DZP i Młodzi Menadżerowie Medycyny
Organisation (EN)	DZP legal firm and Young Medical Managers
Government / Civil society	Buisness
Funding body	No information available
Reference (incl. url, where available)	http://rododlapacjenta.pl/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	There is no information when the campaign started, however it will last at least until the end of 2019,
Type of initiative	Social campaign
Main target group	Patients
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The campaign's main goal is to raise awareness among patients about their rights in the field of the personal data protection. Within the campaign, the experts prepared educational materials and advice for patients who may seek for more information concerning data protection in the health care system.
Highlight any element of the actions that is transferable (max. 500 chars)	Both the format of the campaign and the topics could be implemented in other countries
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	Within the campaign, the experts gathered in one database all relevant information concerning the personal data protection in the health care system. Even without secure funding, these materials can remain useful and available for the patients in the future.
Give reasons why you consider the practice as having concrete measurable impact	This is the first database of information concerning data protection in the health care system available online.
Give reasons why you consider the practice as transferrable to other	The format of the practice (i.e. preparing the database) is not very logistically demanding and the topics addressed by this campaign may be adjusted to the national contexts.

settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

RIGHTS OF THE CHILD	
Thematic area	Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter.
Title (original language)	Poradnia Dziecko w Sieci
Title (EN)	Service for children on-line
Organisation (original language)	Fundacja Dajemy Dzieciom Siłę
Organisation (EN)	Empowering Children Foundation
Government / Civil society	Civil society
Funding body	Civil society
Reference (incl. url, where available)	https://fdds.pl/jak-bezpieczne-sa-dzieci-w-internecie-po-wakacjach-jak-przygotowac-je-do-korzystania-z-sieci-w-szkolnej-rzeczywistosci-poradnia-dziecko-w-sieci-zaprasza/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	No information available
Type of initiative	Providing aid to parents and children
Main target group	Parents
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Empowering Children Foundation runs a program "Service for children on-line" which provides aid and consultation on save using the internet to parents and children. Within the program, the experts provides information on potential threats in using the internet by children (e.g harmful content or children pornography). The aid is provided either through the consultations in person or via info line.
Highlight any element of the actions that is transferable (max. 500 chars)	Both the method of work (consultation or providing information via telephone consultations) as well as the educational materials can be considered as transefrable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This initiative is a part of a broader and well developed system of aid provided to children and their parents run by the Empowering Children Foundation. Given the stability and the expertise of the organization, it can be assumed that this activity is not ad hoc and will be strategically developed.

Give reasons why you consider the practice as having concrete measurable impact	This info line is one of a very few resources of concrete and reliable information for parents and children when it comes to child's using the internet.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The method of work (providing education materials and aid via consultations) can be considered as an element which could be transferred to other Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/A
Explain, if applicable, how the practice provides for review and assessment.	N/A

Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter
Title (original language)	Łańcuch pomocy dla ofiar przemocy (część programu „Warszawa dla kobiet“)
Title (EN)	Chain of help for victims of violence (part of programme „Warsaw for women“)
Organisation (original language)	Urząd Miasta Stołecznego Warszawy
Organisation (EN)	Capital City Hall of Warsaw
Government / Civil society	Local government
Funding body	Co-funded by the Capital City of Warsaw
Reference (incl. url, where available)	https://www.um.warszawa.pl/aktualnosci/warszawa-dla-kobiet-0
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The start dates of particular practices vary, yet they all started or lasted in 2019.
Type of initiative	A complex support programme for the victims of violence, in particular women
Main target group	Women, crime victims, to some extent children
Indicate level of implementation: Local/Regional/National	Local (Warsaw area)
Brief description (max. 1000 chars)	The programme related to victims of violence includes: <ul style="list-style-type: none"> • Trainings aimed at raising awareness and enhancing competencies of employees of kindergartens and nurseries regarding recognition of symptoms of violence against children, prevention of that type of violence and helping its victims; • Raising social awareness of domestic abuse. Four social campaigns co-funded by the City of Warsaw are in progress,

	<p>whose objective is to improve the local residents' knowledge of domestic abuse, its types, results, as well as the possibilities and venues where the victims can obtain help in Warsaw area. The campaigns also aim at raising social acceptance of reporting cases of domestic violence and promoting social attitudes involving support for the victims. The total budget of these campaigns in 2019 was 246.000 zlotys (approx. EUR 61.000);</p> <ul style="list-style-type: none"> • Providing highly-specialised, differentiated help for female victims of violence, adjusted to their needs. In 2019 the City of Warsaw implemented several co-funded actions aiming at ensuring complex and interdisciplinary specialist help for persons and families affected by violence, as well as enhancing the accessibility and variety of the offered help. They include informative and consultative actions, intervention operations and support actions (either individual or in groups), in particular psychological, pedagogical, legal or social – through, for instance, providing advice and consultation or organising social and parental skills master-classes, as well as workshops on psychoeducation. The total budget of these actions in 2019 was 3.500.000 zlotys (approx. EUR 875.000), with a perspective to extend it by additional 300.000 zlotys. • Enhancing the efficacy of the Blue Card procedure (the procedure related to reporting domestic violence). The objective was to enhance competencies of professionals with regard to diagnosing and helping persons and families affected by domestic violence. The actions included individual and group expert consultations, discussion groups, coaching, supervision master-classes and other forms of educational activities. The budget in 2019 was 144.000 zlotys (approx. EUR 36.000).
Highlight any element of the actions that is transferable (max. 500 chars)	Building and enhancing the system of specialised and differentiated help, tailored to the very needs of the female victims of domestic abuse who apply for it.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The practice is included in a broader strategy of the municipal authorities to make the city more "women-friendly". Moreover, two consultative bodies were created to shape and look after the activities aiming at providing help for victims of violence. In addition to that, the practice gets significant financial support.
Give reasons why you consider the practice as having concrete measurable impact	Given the long-lasting reluctance of the government at the central level to support financially certain NGOs providing help for women affected by domestic violence, it is crucial that the local government, as having a more complete picture of social needs, takes over its tasks.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The practice is universally applicable, both in other settings and/or Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The described series of practices are parts of the "Warsaw for women" programme, which provides for the appointment of two social, consultative bodies: the President's of Warsaw Plenipotentiary for Women and the Warsaw Council of Women. The two bodies formed in May 2019 are supposed to be crucial stakeholders with regard to shaping the city's policy concerning, among others, help for victims of domestic violence. All members of these bodies are women.
Explain, if applicable, how the practice	N/A

provides for review and assessment.	
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Thematic area	Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
Title (original language)	Dostępny bankomat
Title (EN)	Accessible ATM
Organisation (original language)	Związek Banków Polskich we współpracy z Fundacją Widzialni
Organisation (EN)	Polish Association of Banks in cooperation with Visibility Foundation
Government / Civil society	Buisness
Funding body	Co financing by the Polish National Bank
Reference (incl. url, where available)	http://www.dostepnybankomat.pl/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2018
Type of initiative	Improving accessibility to financial services for persons with disabilities
Main target group	Persons with disabilities
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The Association of Polish Banks in cooperation with banks and the Visibility Foundation carries out a project "Accessible ATM". Within the project, a special website was created to collect information on localization of ATM adjusted to needs of persons with disabilities (e.g. ATM with signs in Braille). The project aims at combating the social and digital exclusion of persons with disabilities by eliminating the barriers in access to finance services.
Highlight any element of the actions that is transferable (max. 500 chars)	The database of information on accessible ATM can be considered as a transferable element of this practice.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The database is updated by the new information on the ATM accessible for persons with disabilities is available online, hence the access to is not in any way limited.
Give reasons why you consider the practice as having concrete measurable impact	This is the first comprehensive database of information enhancing the access of persons with disabilities to financial services.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The database is a relatively simple tool which could be easily transferred and adjusted in other Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning,	N/A

evaluation, review assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	N/A

Annex 2 – Case law

Thematic area	EQUALITY AND NON-DISCRIMINATION Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report
Decision date	25 April 2019
Reference details	Judgement of the Regional Court for Warszawa-Praga of 25 April 2019, reference no: VII Pa 20/19
Key facts of the case (max. 500 chars)	The case concerns direct discrimination on the ground of disability in employment based on the employment contract concluded for a definite period. The defendant in the case was an employer who, despite previous arrangements, did not extend the employment contract, the employee after presenting a certificate of disability and admitted that he is suffering from multiple sclerosis.
Main reasoning/argumentation (max. 500 chars)	In its justification, the Court emphasized that the employer did not fulfil the obligation to prove objective criteria followed when deciding not to extend the contract.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Court emphasized that the employer is not obliged to extend the contract for a definite period of time, but when deciding not to extend it, he cannot ground its decision on the discriminatory criteria.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Court awarded PLN 38,000 in damages for discrimination on the ground disability.
Key quotation in original language and translated into English with reference details (max. 500 chars)	N/A

Thematic area	RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.
Decision date	26 June 2019
Reference details	K 16/17 ⁹⁹
Key facts of the case (max. 500 chars)	In 2015, a Polish printer declined to use his business to endorse something which was not in line with his conscience and his faith. An LGBT organization had asked him to print a roll-up banner for an event and he declined the request. A.J. was convicted of refusing to

⁹⁹ Poland, Constitutional Tribunal, Odmowa świadczenia usługi ze względu na wolność sumienia i religii usługodawcy, ref. K 16/17, 26 June 2019, available at: <http://trybunal.gov.pl/postepowanie-i-orzeczenia/komunikaty-prasowe/komunikaty-przed/art/10668-odmowa-swadczenia-uslugi-ze-wzgledu-na-wolnosc-sumienia-i-religii-uslugodawcy/>

	<p>provide a service of printing to an LGBT NGO without a justifiable reason in 2017. However the Minister of Justice and Prosecutor General referred the case to the Supreme Court, which upheld the ruling. The judges of the Supreme Court found the printer guilty of illegally refusing services without a ‚justified cause‘ and imposed a fine. The Supreme Court determined that religious convictions did not constitute a ‚justified cause‘.</p> <p>As a result the Prosecutor General referred the case to the Constitutional Tribunal which ruled that the printer who refused to print a roll-up banner for an LGBT NGO due to his religious beliefs should not have been convicted because workers have a right to act according to their conscience. The Constitutional Tribunal found the Article 138 of the Petty Offence Act, punishing for unjustified refusal to perform the service, as incompatible with the Constitution.</p>
Main reasoning/argumentation (max. 500 chars)	<p>The Tribunal stated, that the term “without justified cause” cannot be clearly defined, therefore, penalizing the refusal to provide services without a justified cause constitutes an interference with the freedoms of the service provider, in particular, contractual freedom, the right to express one’s own opinions or to act in accordance with one’s own conscience. The reporting Judge added that fighting against discrimination cannot be done at the price of these freedoms.¹⁰⁰ Consequently, the Tribunal decided that Article 138 of the Petty Offence Act is unconstitutional.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>According to the Ombudsman who took part in this process before the Constitutional Tribunal, the Article 138 of the Petty Offence Act which became unconstitutional prevented discrimination for any reason and now the parliament should shape the law system in such a way as to effectively prevent the segregation of clients in the services market due to their personal characteristics, such as gender, age, race, nationality, disability or sexual orientation. This article implemented the Racial Equality Directive, by transposing the principle of equal treatment between persons irrespective of racial or ethnic origin. Many EU Member States provide for criminal sanctions for violating the prohibition of discrimination in access to services and not only a fine, but up to 6 months imprisonment. The Ombudsman also pointed to well-established case-law of national courts and the ECtHR, indicating that not every act motivated or inspired by religion or beliefs is protected by law.¹⁰¹</p>
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The Constitutional Tribunal ruled that the legal provision - Article 138 of the Petty Offence Act - the printer was convicted under is unconstitutional, because the punishment for refusing to provide services on the grounds of beliefs interfered with the service providers’ rights to act according to their conscience.</p>
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>"Penalizacja odmowy świadczenia usług umyślenie bez uzasadnionej przyczyny stanowi ingerencję w wolność podmiotu świadczącego usługi, w szczególności w prawo do decydowania o zawarciu umowy, prawa do wyrażania</p>

¹⁰⁰ Poland, Prawo.pl, TK: Drukarz mógł odmówić usługi fundacji LGBT, 26 June 2019, available at: <https://www.prawo.pl/prawo/odmowa-uslugi-dla-fundacji-lgbt-wyrok-tk-ws-drukarza-z-lodzi,435686.html>

¹⁰¹ Poland, Ombudsman (Rzecznik Praw Obywatelskich, RPO), Przepis prawa, który zapobiegał dyskryminacji uznany za niekonstytucyjny. Jaka teraz będzie ochrona?, 29 June 2019, available at: <https://www.rpo.gov.pl/pl/content/tk-uchylil-artykul-chroniacy-przed-dyskryminacja>

	<p>własnych opinii, czy postępowania zgodnie z własnym sumieniem".¹⁰²</p> <p>,Criminalizing the refusal to provide services, without intentional reason, interferes with the freedom of the service provider, in particular the right to decide on the conclusion of the contract, the right to express one's opinions or to act in accordance with one's conscience'.</p> <p>„Artykuł 138 ustawy Kodeks wykroczeń, w części zawierającej słowa "albo umyślnie bez uzasadnionej przyczyny odmawia świadczenia, do którego jest obowiązany", jest niezgodny z Artykułem 2 Konstytucji Rzeczypospolitej Polskiej.“¹⁰³</p> <p>,Article 138 of the Petty Offence Act, in the part containing the words ,or intentionally refuses to perform the obligation to which he is obliged to do', is inconsistent with Article 2 of the Constitution of the Republic of Poland.'</p>
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Thematic area	<p>ROMA INTEGRATION</p> <p>Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.</p>
Decision date	19th of May 2019
Reference details	Judgement of the District Court of Nowy Sącz of 19 May 2019, reference no: III Ca 450/18; available at: https://www.saos.org.pl/judgments/383232
Key facts of the case (max. 500 chars)	The Limanowa municipality, has bought a building in the town of Czchow with the aim to accommodate Roma families, who were at the time living in substandard living conditions in communal building of Limanowa. The families and the municipality have signed a binding contract, at a notary public, in which Roma families committed to vacate the communal building of Limanowa and move to Czchow. The contract could be enforced with the assistance of a baillif, should need be. The building in Limanowa was about to be demolished, as the municipality deemed it too costly to renovate.
Main reasoning/argumentation (max. 500 chars)	The II instance court (District Court in Nowy Sącz) ruled that the enforcement of the contract (i.e. eviction) would violate the constitutional proportionality rule by interfering with Roma families' private life and their right to choose a place of their residence. Roma families were forced by the municipality into signing a contract with the aim to bypass provisions obliging the city to provide alternative accommodation within the Limanowa territory (and not in Czchow) and also it was misleading towards the Roma, who were not informed about their right to demand such an alternative accommodation.

¹⁰² Poland, Prawo.pl, TK: Drukarz mógł odmówić usługi fundacji LGBT, 26 June 2019, available at: <https://www.prawo.pl/prawo/odmowa-uslugi-dla-fundacji-lgbt-wyrok-tk-ws-drukarza-z-lodzi,435686.html>

¹⁰³ Poland, Constitutional Tribunal, Odmowa świadczenia usługi ze względu na wolność sumienia i religii usługodawcy, ref. K 16/17, 26 June 2019, available at: <http://trybunal.gov.pl/postepowanie-i-orzeczenia/komunikaty-prasowe/komunikaty-przed/art/10668-odmowa-swadczenia-uslugi-ze-wzgledu-na-wolnosc-sumienia-i-religii-uslugodawcy/>

Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The misuse for Roma integration funds to solve housing problems of a Roma community Roma families` lack of legal knowledge abused by the municipality
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The municipality cannot bypass provisions which are set to protect occupants of communal buildings, by forcing them to sign contracts on the basis of which the said occupants commit to move to a building outside of the territory of the municipality. Governmental funding for Roma integration cannot be used to move Roma out of the territory of municipality which uses the funds. Lack of legal knowledge of a Roma contracting party can be a ground for withdrawing a declaration of will, if abused by the other contracting party.
Key quotation in original language and translated into English with reference details (max. 500 chars)	”(...) wyegzekwowanie zobowiązań zawartych w stanowiących podstawę egzekucji aktach notarialnych jest równoznaczne z ingerencją władz samorządowych w swobodę wyboru miejsca zamieszkania, a swoboda ta podobnie jak sama możliwość skoncentrowania w danym miejscu swojej aktywności życiowej stanowi element prawa do życia prywatnego, chronionego zarówno art. 47 Konstytucji jak i art. 8 Konwencji.” ”(...) enforcing obligations concluded in the aforementioned contracts, on which eviction would be based, is equal to municipal authorities` infringing one`s freedom to choose a place of residence, as well as to focus life activity in a place of choice, which are elements of one`s right to private life, protected by article 47 of Constitution as well as article 8 of the Convention” Judgement of the District Court in Nowy Sącz of 14 May 2019, III Ca 450/18; https://www.saos.org.pl/judgments/383232

Thematic area	INFORMATION SOCIETY, DATA PROTECTION Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter
Decision date	28 June 2019
Reference details	Judgement of the Supreme Administrative Court of 28 June 2019, reference no: I OSK 2063/17, available at: http://orzeczenia.nsa.gov.pl/doc/1031195436
Key facts of the case (max. 500 chars)	The Supreme Administrative Court verified an appeal from the Voivodeship Administrative Court in Warsaw. The voivodeship court adjudicated in the case concerning the resolution of Warsaw City Council which set a legal basis for providing cars' registration plates while paying the fee for the parking in the city. According to the applicant, M.S., such a requirement provided an unjustified integration in the right of privacy as car's registration plate constitute a personal data. The Voivodeship Court decided that the number of registration plate can be used to identify a person hence it should be treated as a personal data and decided that the provisions of the City Council's resolution are not in compliance with the Constitution hence they should be declared void. The City Council appealed against this decision to the Supreme Administrative Court.
Main reasoning/argumentation (max. 500 chars)	The Supreme Administrative Court revised the judgement of the Voivodeship Administrative Court and dismissed the case. According to the Supreme Administrative Court in the courts' jurisprudence there are two ways of interpreting the number license plate as personal data. On one hand, the registration plate is used primarily to identify a car and a car can be used by several persons. Hence, in such a case, it is not easy to link a car to a specific person. On the other hand, however, in some cases the

	administrative courts decided that the number of the registration plate can be used as an identification of a person. In the opinion of the Supreme Court, the first way of interpretation is correct - in the opinion of the Court, only the information which could be linked to a specific person without a need of excessive efforts can be treated as personal data.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Supreme Administrative Court decided that the number of the registration plate is not a personal data.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	According to an NGO, this decision may have a detrimental impact on standards of data protection. In the light of this decision, municipal offices can collect information on personal data of citizens without, however, a concrete legal basis. Furthermore, this decision may be also used by business entities whose business model is based on using personal data. In the opinion of the NGO, the Supreme Administrative Court's decision may not be in compliance with GDPR and may be a beginning of long legal disputes in which business entities will use this decision. ¹⁰⁴
Key quotation in original language and translated into English with reference details (max. 500 chars)	"Zauważyć należy, że numer rejestracyjny ponieważ jest umieszczony na samochodzie, za zgodą właściciela pojazdu, sam w sobie jest ogólnie dostępny dla bliżej nieokreślonej liczby osób. Jednak nie oznacza to, że można go w sposób prosty powiązać z konkretną osobą. Wskazać bowiem należy, że często z tego samego pojazdu korzystają różne osoby. Powyższe niezbitnie wskazuje, że nie jest możliwe, w sposób prosty i łatwy, powiązać numer rejestracyjny pojazdu z konkretną osobą – właściciela (lub posiadacza) pojazdu" "It should be noted that the registration plate is put on a car upon the consent of the car's owner and as such is not in general available for undefined number of people. It does not mean, however, that it cannot be easily linked to a specific person. It should be pointed out that often the same car is used by several persons. This, undoubtedly shows that it is not possible to easily and simply attached a registration plate to a concrete person - the car owner".

Thematic area	RIGHTS OF THE CHILD Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.
Decision date	4 June 2019
Reference details	III SA/Kr 233/19, http://www.orzeczenia-nsa.pl/wyrok/iii-sa-kr-233-19/akty_stanu_cywilnego_akta/3642bf.html
Key facts of the case (max. 500 chars)	In June 2018, the Provincial Administrative Court in Kraków has decided the case involving the transcription of a foreign birth certificate in which two women are listed as parents. The court ruled that the Head of a Register Office correctly implemented the decision of the Supreme Administrative Court by registering the birth certificate in the Polish civil registry records. The case originated in 2015 when child's mother filed a motion to the Head of a Register Office to transcribe the birth certificate of her child born in the UK.

¹⁰⁴ Panoptikon Foundation, Niebezpieczny wyrok NSA w sprawie tablic rejestracyjnych, available at: <https://panoptikon.org/wiadomosc/niebezpieczny-wyrok-nsa-w-sprawie-tablic-rejestracyjnych>

	<p>The original birth certificate indicates the applicant as a mother and her partner, a women, in the section "parent". In the beginning the Head of the Register Office refused to transcribe the act, however in 2018 the Supreme Administrative Court ruled that there were no reasons to refuse the full transcription of the act (the Court found that the refusal to transcribe the birth certificate would violate child's rights⁰. On the basis of this judgement, the Head of Register Office transcribed the birth certificate, however in January 2019 a prosecutor with the Circuit Prosecutor's Office in Kraków challenges the transcription in a complaint submitted to the Provincial Administrative Court in Kraków. The Provincial Administrative Court in Kraków dismissed prosecutor's complaint in June 2019.</p>
<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>The Court decided that the main problem in this case concerns the protection of child's best interest and rights. Without the transcription of the birth certificate, the child would not acquire the Polish citizenship and would not be entitled to any rights derived from the citizenship. In the opinion of the Court, the duty to transcribe the birth certificate is a part of a broader system of protection child's rights set by the Polish Constitution, the UN Convention on Child's Rights or the European Convention of Human Rights.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>Yet again, the administrative court dealt with the case of transcription of a foreign birth certificate indicating partners of the same sex as child's parents. The Court decided that the lack of the full implementation of the certificate would constitute child's rights violation.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The transcription of a birth certificate was fully implemented.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>To właśnie małoletni jest tutaj podmiotem praw i obowiązków. Kwestia rodziców dziecka nie ma żadnego znaczenia, o ile pochodzenie polskie dziecka nie jest kwestionowane, co w przedmiotowej sprawie jest niesporne [...] W ocenie Sądu [...] właśnie niewpisanie dziecka do polskich ksiąg stanu cywilnego i niedokonanie transkrypcji aktu urodzenia naruszyłoby podstawowy porządek prawny i dorowadziłoby do sytuacji, w której obywatel polski nie mógłby otrzymać dokumentów potwierdzających jego tożsamość [...] To skarżący występuje przeciwko prawom dziecka, a to jest oczywiście niezgodne z porządkiem prawnym panującym w Rzeczypospolitej Polskiej, gdyż jak wskazano wyżej art. 72 ust. 1 Konstytucji RP Rzeczpospolita Polska zapewnia ochronę praw dziecka. Zdaniem Sądu odmowa transkrypcji zagranicznego aktu urodzenia byłaby bezprawnym ograniczeniem praw A. Z. ze względu na okoliczności, na które nie miał żadnego wpływu.</p> <p>It is the minor who is the subject of rights and obligations in this case. The matter of his parents is irrelevant unless the Polish origin of a child is not questionable, which is not an issue in this case [...] In the opinion of the Court, lack of including the child into the Polish civil register and lack of the transcript of the birth certificate would have violated the legal order and would have led to a situation in which the Polish citizen would not obtain documents confirming his identity. It is the complaint [the prosecutor - ed.] who is acting against child's rights, and which is obviously violating the legal order</p>

	of the Republic of Poland since Article 72 point 1 of the Polish Constitution guarantees protection of child's rights. In opinion of the court, the lack of transcript of the foreign birth certificate would be illegal limitation of A.Z. rights on the basis of grounds which were beyond his control.
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Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter..
Decision date	12 June 2019
Reference details	Judgement of the Supreme Court of 12 June 2019, III KK 185/18, http://www.sn.pl/sites/orzecznictwo/Orzeczenia3/III%20KK%20185-18.pdf
Key facts of the case (max. 500 chars)	On 18 May 2017, D. M. was convicted by District Court in K. of burglary in conjunction with theft. The judgement has been delivered as a result of the defendant's guilty plea and became final on 26 May 2017. None of the parties have appealed against the ruling through ordinary appeal measures. However, a cassation appeal against the final judgement was filed, to the detriment of the defendant, by the Prosecutor General. He indicated, among others, that the district court had failed to notify the injured party of the date of the session in respect of the defendant's guilty plea, which constituted a breach of procedural law. The Prosecutor General requested that the judgement be repealed and referred to the district court for re-examination.
Main reasoning/argumentation (max. 500 chars)	In the opinion of the Supreme Court, the cassation appeal of the Prosecutor General was justified and there was a need to set aside the judgement and refer it to the district court for re-examination. The Supreme Court accepted the argument relating to the violation of procedural law concerning the lack of notification of the date of the session. The victim was not able, in particular, to express her potential objection to the penalty agreed on between the prosecutor and the defendant. This flagrant breach of the injured party's rights, ignored completely by the first instance court, sufficed itself to repeal the decision (it was not necessary to examine other arguments, regarding substantial law).
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	According to the Supreme Court, a failure to notify the injured party of the date of the session in respect of guilty plea constitutes a gross violation of the procedural law.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	Having accepted the cassation appeal, the Supreme Court repealed the judgement of the district court and referred the case to the first instance court for re-examination.
Key quotation in original language and translated into English with reference details (max. 500 chars)	„Pokrzywdzona przestępstwem J. L. nie została powiadomiona o terminie posiedzenia, na którym wydano zaskarżony kasacją wyrok, nie знаła uzgodnionego z oskarżonym wniosku o wydanie tego wyroku i orzeczenie kary roku i 6 miesięcy ograniczenia wolności i pozbawiona została tym samym prawa do udziału w posiedzeniu, wypowiedzenia się co do tego wniosku, w tym ewentualnego wyrażenia sprzeciwu.” “J. L., the victim, has not been notified of the date of the session, during which the appealed judgement was delivered, has not known the prosecutor's motion (agreed with the defendant) for imposition of a penalty of limitation of freedom for a year and a half and, thus, has been

	deprived of the possibility to participate in the session and to express her opinion on this motion, including the possible objection to it.”
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Thematic area	Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
Decision date	19 April 2019
Reference details	I Ns 376/19
Key facts of the case (max. 500 chars)	A partially incapacitated person wanted to participate in the European Parliament elections scheduled for 26 May 2019. This was not possible because he considered a partially incapacitated person under Polish law and, according to the provisions of the Electoral Code, such persons do not have electoral rights and are not included in the voters register. The man first submitted an official objection to an error in the voters register to the mayor of Nowy Sącz, demanding his name to be added to the register. As the mayor refused to admit his objection, an applicant filed a complaint to the court.
Main reasoning/argumentation (max. 500 chars)	In his submissions, the complainant stressed that Polish law was incompatible with international and EU law. In the opinion of applicant's lawyers the elections to the European Parliament must be universal and the EU law prohibits any discrimination against persons with disabilities.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The court noted that a disability cannot limit the exercise of electoral rights and found that the mechanism of automatic disenfranchisement was flawed. Exclusion from participation in elections should be preceded by an individual assessment of the situation of the person concerned. The court also emphasised that the Polish legislation is inconsistent: the law allows incapacitated persons to join political parties but forbids them to vote for their leaders. At the same time, the court stated that the current design of the measure of legal incapacitation does not match the realities of the present time.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	On the basis of this judgement, the decision of the city mayor was void and the applicant could participate in the EU elections.
Key quotation in original language and translated into English with reference details (max. 500 chars)	„Konstytucja RP nie reguluje materii czynnego i biernego prawa wyborczego do Parlamentu Europejskiego i nie wprowadza żadnych ograniczeń w zakresie prawa do udziału w tych wyborach osób ubezwłasnowolnionych częściowo. Z uwagi, więc na zasadę powszechności tych wyborów sformułowaną w art. 14 Traktatu o Unii Europejskiej (DZ.U. z 2004r. Nr 90 poz. 864/30 ze zm.), każdy obywatel polski, który jest jednocześnie obywatelem UE ma czynne prawo wyborcze w wyborach do Parlamentu Europejskiego” “The Constitution of the Republic of Poland does not refer to the right to vote or be elected in the elections to the European Parliament and does not provide any restrictions for partially incapacitated persons to participate in these elections. Given the principle of universal elections to the Parliament provided by Article 1 of the Treaty, every citizen of Poland, who is also an EU citizen, has a right to vote in the elections to the European Parliament.”

