

**NON-GOVERNMENTAL ORGANISATIONS' REPORT**

**ON THE APPLICATION OF THE UNITED NATIONS**

**CONVENTION ON THE RIGHTS OF THE CHILD**

**POLAND**

**Warsaw, 30 October 2014**

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## Introduction

This alternative report has been developed by a group of Polish non-governmental organisations. It provides information on Poland's non-compliance with certain provisions of the Convention on the Rights of the Child. The alternative report refers directly to the Concluding Observations by the Committee on the Rights of the Child, issued and presented to Poland in 2002, and to the Polish government's report on the implementation of the Convention on the Rights of the Child, submitted to the Committee in 2012. Notwithstanding the precisely defined reporting period, i.e. from 1999 to 2010, this report addresses issues related to non-observance of children's rights by 2014 (or by its submission).

The report notes that many of the recommendations issued by the Committee on the Rights of the Child in 2002 have not been implemented yet. Moreover, it emphasizes the lack of some important elements which are crucial for pursuing an effective policy for children, such as: a mechanism to coordinate actions for children, systematic monitoring of the implementation of the Convention on the Rights of the Child, a separate budget for children, and an efficient, coherent and comprehensive system for collecting data on all aspects of children's lives.

The report does not address all issues related to Poland's non-compliance with the Convention on the Rights of the Child, but focuses on the ones which are the most significant for children's wellbeing and fall within the scope of activities of the organisations being the co-authors of this report. The document has been developed by the leading Polish organisations dealing with the issues addressed by the Committee in its Concluding Observations of 2002. The work was coordinated by the Polish National Committee for UNICEF.

The following organisations took part in the development of the report:

- ATD Fourth World
- Association for Legal Intervention
- Centre for Citizenship Education
- Comenius Foundation for Child Development
- Dialog-Pheniben Foundation
- Helsinki Foundation for Human Rights
- La Strada - Foundation against Trafficking and Slavery
- Nobody's Children Foundation
- Polish Committee of EAPN
- Polish Foster Care Coalition
- Polish National Committee for UNICEF
- SOS Children's Villages Poland

Warsaw, October 2014

## **General Measures of Implementation (Articles 4, 42 and 44 para. 6 of the Convention)**

### **Legislation**

#### **CRC/C/15/add.194 – point 12**

In the past few years Poland has witnessed very positive changes in the realization of children's rights. What should be emphasized is a far-reaching legislative evolution which has provided the basis for stronger protection of children in criminal procedures. The desirable changes include regulating the issue of interviewing children in child-friendly settings and improving the protection of child victims of sexual offences. While appreciating the positive developments, it should be emphasized that there is still a strong need for effective implementation of the new laws. This is why it is so important to undertake promotion efforts, as well as develop and deliver training programmes focusing on the numerous legal changes.

This report identifies the issues that should become subject of legislative work and non-legislative activities in the near future.

#### **Legal representation of children in criminal procedures**

There is still a need to regulate the issue of legal representation of minors in criminal procedures. According to the Supreme Court's decision of 30 September 2010<sup>1</sup>, the child's parent may not represent the rights of the child as the injured party in criminal proceedings, acting as the child's statutory representative, if the other parent is the defendant in the case. In such cases the child should be represented by a legal guardian appointed by the family court.

In 2012 the Nobody's Children Foundation conducted a case-file study of criminal cases, in which child victims were interviewed<sup>2</sup>. The results show that in most cases children are still represented by their parents, even when there is a conflict of interests.

When one of the child victim's parents is the suspect/defendant in the case, the judicial body applies to the family court for appointing a guardian ad litem for the child. According to the binding law, the guardian ad litem should be appointed from among the child's relatives or other significant adults. If no such persons are available, the family court should turn to a competent social services unit or civil society organization eligible to provide care for the child. In practice, however, the guardian ad litem role is usually performed by professional probation officers, court registry employees, social workers, and, in some cases, attorneys, legal counsels or representatives of NGOs. Such practices are inconsistent with the binding law.

Moreover, persons appointed as guardians ad litem do not have adequate training or legal knowledge. A guardian ad litem who has no specialized knowledge, including good understanding of the criminal procedure, is unable to ensure due representation of the child in such proceedings.

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<sup>1</sup> I KZP 10/10

<sup>2</sup> Udział małoletnich w postępowaniu karnym z art. 207- Raport z badań aktowych, FDN, 2013.

## **Recommendations**

- 1) It is necessary to regulate the issue of due representation of children in criminal procedures in the Polish Code of Criminal Procedure.**
- 2) Adequate preparation and training of candidates for guardians ad litem.**

## **Interviewing child witnesses**

One serious and persisting problem related to interviewing child witnesses in criminal procedures involves the direct application of provisions concerning the obligation to inform the witness on their right to refuse to testify or the right to refuse to answer a question<sup>3</sup>. Young children do not understand this legal formula. When the judge attempts to explain it to the child, they often perceive the situation as threatening, which may make it impossible to obtain testimony from the child (and their testimony is of utmost importance for the proceedings). Older children are also likely to misinterpret this instruction. They often presume that if they are allowed to refuse to testify, their testimony must be unnecessary, because everything has already been determined. As a result, many criminal cases end up being dismissed.

Despite very positive legislative changes related to child-friendly interviewing of children in criminal procedures, it should be emphasized that such protection is still not provided for children in disciplinary proceedings when a teacher is the alleged perpetrator<sup>4</sup>. As a result, it may happen that a child involved in a child-friendly interview procedure in a criminal case, at the same time is exposed to being interviewed in the immediate presence of the perpetrator in disciplinary proceedings.

## **Recommendations**

- 1) It is necessary to develop standards of interviewing children – a „child interview protocol” that will include the required changes.**
- 2) Obligatory training on how to interview children for those who interview children.**
- 3) Changing the legal formula on the right to refuse to testify or to answer a question, allowing for the child’s age.**
- 4) Amending the Ordinance of the Minister of National Education on Disciplinary Committees by introducing a provision that a child victim or witness shall be interviewed according to the Code of Criminal Procedure.**

## **Participation of court-appointed experts in criminal and family proceedings**

It is necessary to change the regulations on court-appointed experts. Their participation in criminal and family proceedings is extremely important. They should have adequate education, experience, and specialized training in working with children. However, the bill on court-appointed experts is still to be passed by the Polish Parliament (the Council of Experts of the Nobody’s Children Foundation has worked out comments to the bill guidelines<sup>5</sup>), and the existing legislation does not establish any

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<sup>3</sup> Articles 182 and 183 of the Code of Criminal Procedure (k.p.k).

<sup>4</sup> Ordinance of the Minister of National Education of 22 January 1998 on Disciplinary Committees for Teachers and Disciplinary Proceedings (Dz.U. [Journal of Laws] 1998.15.64, as amended).

<sup>5</sup> Council of Experts of the Nobody’s Children Foundation, session of 26 March 2014, source: the Council’s Report.

special requirements for psychology experts who participate in child interviews or give their opinions in cases involving children.

Moreover, the lists of court-appointed experts kept by Regional Courts do not identify experts specialized in cases involving children. As a result, any psychologist may be appointed (on an ad hoc basis) as an expert in a case involving a child victim or witness. The participation of a specialized court-appointed expert in criminal proceedings involving children is often decisive in the case (especially when the child victim is interviewed only once throughout the procedure).

One non-legislative issue is a very small number of education and training centres for court-appointed experts, which is especially true for psychology experts. Within its research programme, the Nobody's Children Foundation turned to leading Polish universities and two ministries, asking them if they offered any education programmes in this field. Data collected by the Foundation suggest that just a few high-education institutions in Poland offer such programmes of study<sup>6</sup>.

### **Recommendations**

- 1) Passing the bill on court-appointed experts, defining both their required skills and qualifications, and the vetting procedures. The new legislation should also take into account the specific nature of the criminal process in cases involving children;**
- 2) Offering education and training programmes for candidates for court-appointed experts.**

### **Lengthy court proceedings**

Another serious problem is lengthy judicial proceedings in Poland<sup>7</sup>. It is also true for family and criminal courts. As a result, children involved in such procedures are often exposed to chronic stress related to the lack of decision in matters important for the child. A long-term delay in decision-making essential for the child's future may have a significant impact on their entire life. It may also lead to secondary victimization.

### **Recommendation**

**Introducing special solutions to give priority to cases involving children, in both family and criminal courts.**

### **Child victims of human trafficking**

Professionals who encounter cases of human trafficking in their daily work (the police, border guards, judges, and psychologists) have insufficient knowledge about this problem. The definition of human trafficking is misinterpreted, which is often the reason why child victims are not identified.

Family courts which decide on placing child victims of human trafficking in foster care often make

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<sup>6</sup> Letters from UMCS (Maria Curie-Skłodowska University), Społeczna Akademia Nauk (University of Social Sciences), UAM (Adam Mickiewicz University), and Uniwersytet Opolski (University of Opole); a letter from the Ministry of National Education.

<sup>7</sup> Efektywność polskiego sądownictwa w świetle badań międzynarodowych i krajowych, Helsińska Fundacja Praw Człowieka (Helsinki Foundation for Human Rights), 2010.

such decisions without determining which form of protection would be the best for the child's wellbeing<sup>8</sup>.

Despite their special situation, there are no procedures of admitting child victims of trafficking to care institutions. There is also no adequate training in this area.

### **Recommendations**

- 1) Improving professionals' knowledge about child trafficking.**
- 2) Implementing special procedures of admitting child victims of trafficking to care institutions and providing adequate training in this area.**

### **Child begging**

There are no systematic efforts targeted at children engaged in begging, whose living conditions are often dramatically poor. No mechanisms have been worked out to enable effective, practical help. The policy toward street begging is not consistent; there is a shortage of efforts and clear interpretations of relevant legal regulations. There are unresolved issues related to the interpretation of the rights of the child, for example: What to do if a child lives in their birth family and is well treated there, but has no access to education and their living conditions do not enable safe and healthy development? Should the child remain in the family or rather be placed in an institution to have equal opportunities? When considering such dilemmas with respect for cultural differences, it is often difficult to decide what would be in the best interest of the particular child. There is no uniform policy in this area.

### **Recommendation**

**Implementing systemic solutions to combat child begging.**

### **Coordination**

#### **CRC/C/15/add.194 – point 14**

In the reporting period, the Ministry of National Education (formerly the Ministry of Education and Sport) did not really coordinate a broadly understood policy on children, limiting its activity to the education policy. The government report mentions the Interdepartmental Working Group for the Realization of the Rights of the Child in Poland (without providing any details on the frequency of the group's meetings or the scope and subject of its work). Even if the group did organize some meetings, they were limited to exchanging information at low levels of decision-making and did not have any influence on the activities undertaken by each ministry. The National Action Plan for Children for 2004–2012 was not really implemented by individual ministries.

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<sup>8</sup> A minor female citizen of Bulgaria was handed over by her family to a non-related Bulgarian citizen residing in Poland. The court made the right decision to place the child in a care institution in Bulgaria; it should be noted, however, that within the Polish territory the child's safety was not properly protected and her contact with a potential offender was allowed.

In January 2014 the Ministry of Labour and Social Policy assumed responsibility for the realization of the rights of the child, taking it over from the Ministry of National Education. However, no interdepartmental team was formed and no other coordination mechanism was created. No national strategy or action plan for children was developed. Matters related to children are dispersed among numerous strategic documents and each ministry runs its own activities resulting from its internal planning. When combined with insufficient monitoring of efforts for children's wellbeing and of the implementation of the Convention, this gives cause for concern.

### **Recommendations**

- 1) Creating a mechanism for coordinating the policy on children. Establishing a new structure or delegating the powers to an existing structure. Defining the scope of activity, competence, and budget of the new body, which will be responsible both for coordinating efforts for children and for monitoring their effects.**
- 2) Developing a strategy for children with measurable goals and a monitoring system.**

### **Independent monitoring**

#### **CRC/C/15/add.194 – point 16**

Despite the 2002 recommendations by the Committee on the Rights of the Child, no comprehensive system for monitoring and self-evaluation of the implementation of the Convention was established, either at the national or local level. Even if individual ministries conduct an evaluation of their own programmes, such evaluations do not fulfil the monitoring function.

The Supreme Audit Office (NIK, previously translated as Supreme Chamber of Control) is an inspection body responsible for assessing the functioning of individual offices and government institutions, but not the system as a whole. As an example, the inspection of the education system for children with special needs, which is mentioned in the government report, was actually limited to a small number of inspected units, rather than the whole system. The Supreme Audit Office is not a monitoring body of the implementation of the Convention on the Rights of the Child.

### **Recommendation**

**Developing and implementing a system for monitoring and self-evaluation of the implementation of the Convention on the Rights of the Child.**



## Allocation of resources

### **CRC/C/15/add.194 – point 18**

According to the government report, there is no system for identifying funds allocated for children by individual ministries (except for targeted child-focused programmes), even though, following the example of other countries, it would be possible to draw up and review a dedicated children's budget. Consequently, no data are available that could be used to evaluate the levels of spending in relation to the achieved results, and how they change over time.

#### **Recommendation**

**Developing a system for monitoring and analysing the expenditures for children by individual ministries and government institutions, which would make it possible to estimate the overall government spending on children and to evaluate the effectiveness of these expenditures and how they change over time.**

## Data collection

### **CRC/C/15/add.194 – point 20**

#### **The system for data collection**

The 2002 recommendations by the Committee on the Rights of the Child concerning data collection and the calculation of relevant indicators are still not fully implemented. A reply received by the Nobody's Children Foundation shows that the Statistics Department of the Ministry of Justice focuses on collecting data on criminal offenders, including juvenile offenders<sup>9</sup>. No data are available, however, on the age and gender of child victims (persons under 18).

Poland had not managed to expand its data collection system to include all areas covered by the Convention, with a special emphasis on all aspects of the juvenile justice system and assistance provided to child victims of sexual abuse. Creating such a system would require gathering data on a variety of victim groups, including the most vulnerable ones, such as children with disabilities, neglected or maltreated children, children representing minority ethnic groups, refugee children, children in conflict with the law, etc. The need for collecting this kind of data has been confirmed by research conducted by the Nobody's Children Foundation<sup>10</sup>.

It should be noted that there is still no data available on the age of children interviewed in legal procedures. Furthermore, the Statistics Department does not collect important data on the participation on minors in civil proceedings<sup>11</sup>.

#### **Recommendation**

**Collecting all data as recommended by the Committee on the Rights of the Child.**

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<sup>9</sup> A reply to the Foundation's request for public information from the Ministry of Justice, the Department of Strategy and Deregulation, of 14 July 2014.

<sup>10</sup> Prostitution-related crimes and child trafficking in Poland: Report from a case-file study, FDN (Nobody's Children Foundation) 2012.

<sup>11</sup> Children's hearings according to Article 2161 sections 1 & 2, and Article 576, section 2 of the Code of Civil Procedure).

### **Scarce data on children, especially young children under 5**

Apart from data on the education system, there is almost no research in Poland focusing on children as an independent unit analysis or (all the more) the main unit of analysis. Data on children are generally collected and analysed from the perspective of the family, rather than the child and their wellbeing. For example, when describing children's living conditions, we should not focus on the average income per household member, but on how this income translates into the availability or unavailability of goods and services needed by children.

The situation of children under 5 is even more complicated since this age group falls outside the public systems of mandatory care or protection. Young children are not subject to compulsory schooling, so they are not automatically included in any institutional assessment (diagnostic) or support programmes.

### **Recommendations**

- 1) Developing a system for monitoring children in Poland.**
- 2) Developing adequate methodologies and allowing for the specific nature of monitoring the situation of young children. Working out a definition of the young child's wellbeing, its indicators and methods of data collection. This would make it possible to monitor the "soft" aspects of children's wellbeing, such as access to education, social interactions or the opportunity to grow up in a favourable physical and social environment.**

### **Cooperation with civil society**

#### **CRC/C/15/add.194 – point 22**

Non-governmental organizations are involved in the policy development processes at various stages. In particular, they take part in consulting strategic documents, actions plans, and specific projects. However, ministries often set very tight deadlines for NGOs to prepare and submit their comments without providing any feedback about whether and to what extent these comments have been taken into account, which may suggest that NGOs are invited to participate in the process just to comply with the public consultation requirement rather than to draw on their experience.

The programme of cooperating with non-governmental organizations, which was developed by the Ministry of Labour and Social Policy and came into force on 3 October 2014, is insufficient and limited to only one government department.

### **Recommendations**

- 1) Conducting consultations in a way that allow NGOs to express their opinions about the consulted matters.**
- 2) Publicising information on which of the comments (if any) have been accepted and taken into account.**

## **Dissemination**

### **CRC/C/15/add.194 – point 24**

No systematic education or training is conducted on the principles and provisions of the Convention on the Rights of the Child. Knowledge of the Convention is incomplete, especially among some of the groups mentioned in the Committee's recommendations, such as Members of Parliament. Training is provided on an ad hoc basis.

### **Recommendation**

**Conducting systematic education on the rights of the child.**

## General Principles (Articles 2, 3, 6, and 12 of the Convention)

### Respect for the views of the child

#### **CRC/C/15/add.194 – point 31**

Respect for the views of the child and, in particular, listening to the child's voice in all matters that affect them, is still not a standard practice for public institutions in Poland.

Polish legislation has adopted some legal measures to facilitate the implementation of the principle of respecting the child's views and ensuring their participation in all matters that affect them. Most importantly, the procedure of child hearing has been introduced to the Code of Civil Procedure, to be applied in proceedings concerning both property and non-property rights. The new provisions identify three conditions that have to be met simultaneously for the court to hear the child. The child has to demonstrate adequate levels of cognitive development, health, and maturity. When considering the child's views, the court should also take into account the circumstances of the case and whether the child's wishes are reasonable.

These terms and provisions are too general. Judges adjudicating such cases find it difficult to interpret them correctly. It is particularly difficult to determine the lower age limit for a child to be heard.<sup>12</sup> As a result, the institution of child hearing is either not applied at all or, if applied, it uses a less ambiguous legal instrument of child interview in criminal procedures, which is not an appropriate solution.

Furthermore, it should be noted that education institutions in Poland, including the National School of Judiciary and Public Prosecution (KSSP), do not offer training on children's involvement in civil proceedings<sup>13</sup>. The examples of training provided in the government report in response to recommendation CRC/C/15/Add.194 – point 35 (points 250-252), are limited to training and seminars on the broadly understood protection of minors in criminal procedures (such as protecting children from violence in the family, interviewing children in child-friendly interview rooms, or helping child victims of sexual abuse).

#### **Recommendations**

- 1) Obliging all public institutions to respect the child's views.**
- 2) Developing and implementing standards of hearing children in court procedures.**
- 3) Promoting the institution of child hearing among judges.**
- 4) Obliging the Family Diagnostic and Consulting Centres responsible for giving opinions in guardianship cases to take the child's views into account in matters that affect the child.**
- 5) Developing and implementing training programmes for family court judges focusing (among another topics) on how to hear children to make them feel secure and give them a sense of privacy.**

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<sup>12</sup> Council of Experts of the Nobody's Children Foundation, session of 24 April 2014, source: the Council's reports.

<sup>13</sup> A reply to the Foundation's request for public information from KSSP, 17 July 2014.

## Civil Rights and Freedoms

### (Articles 7, 8, 13-17, and 37 letter a) of the Convention)

#### Freedom of conscience and religion

CRC/C/15/add.194 – point 33

##### **Free choice between ethics classes and religion classes in public schools**

The recommendation by the Committee of the Rights of the Child to ensure a free choice between attending religion and ethics classes was only recently implemented by a 2014 ordinance of the Minister of National Education, amending the 1992 ordinance “on the conditions and organization of teaching religion and ethics classes in public schools and kindergartens”.

The amendment has obliged public schools, beginning in the academic year 2014-2015, to offer ethics classes and waived the previously required minimum number of three students declaring their wish to attend such classes. According to the amended regulation, ethics classes must be offered even if just one student has declared their wish to take part. Poland was obliged to amend the law by the ruling of the European Court of Human Rights in Strasbourg (Grzelak vs. Poland). The amendment will also guarantee religion classes for students representing minority churches or religious associations. If the number of students willing to attend religion or ethics classes is lower than 7, the school does not have to conduct such classes on its own; instead, they may be provided in an inter-school group.

Also, since 1 September 2014 the wish to attend religion classes must be expressed in the form of a written statement by the student’s parents (or by the student himself, depending on the age) to prevent the inappropriate practice of interpreting the lack of such statement as “tacit consent”. Moreover, the school is obliged to enable all interested students to attend both religion and ethics classes.

In Polish schools there are still cases of church institutions or environments exerting pressure on teaching and education outside religion classes.

#### **Recommendations**

- 1) Monitoring the implementation of the ordinance on the conditions and organisation of religion classes in public schools and kindergartens.**
- 2) Guaranteeing the constitutional freedom of conscience and religion in public education institutions.**

#### **„Windows of life” (baby hatches)**

Support for pregnant women is still insufficient, which is one of the reasons why baby hatches (known as “windows of life”), where babies can be left unannounced, continue to exist and new ones are being created.

## **Recommendation**

**It is necessary to engage in efforts to develop prevention approaches, create systemic programmes and solutions, and promote the existing good practices (applied by NGOs) to reduce the problem of newborn babies being abandoned.**

## **III-treatment and violence**

### **CRC/C/15/add.194 – point 35**

In the past few years the situation in the area of preventing and counteracting child abuse has improved significantly, especially in terms of legislation. In 2010 an amendment to the Act on Combating Domestic Violence came into force, regulating several fundamental matters. Most importantly, it has placed a ban of beating children, introduced multidisciplinary teams and working groups, and defined procedures for responding to cases of family violence.

The implementation of the Blue Card procedure when the victim of domestic violence is a child has exposed the problem of the lack of appropriate representation for the child during the procedure. According to the Ordinance of the Council of Ministers of 13 September 2011 on the Blue Card procedure and specimen Blue Card forms, a child cannot be a participant in the procedure. Consequently, children are usually represented by those who are suspected of using violence.

Moreover, the practice of the Nobody's Children Foundation in child abuse cases points to the lack of specialized child protection services that could respond when a child's wellbeing is threatened and undertake action whenever a child is a victim of violence or abuse.

Reporting a crime, representing a child in criminal procedures, carrying out the Blue Card procedure, resolving parent-child issues in family court proceedings – all these situations require a person/institution representing the child in an objective, professional way and making sure that the child's rights are fully respected. These should be done by services dedicated exclusively to children, as the current legislative solutions, i.e., distributing the task of protecting children's rights among the existing institutions (probation service, social services, etc.), do not ensure appropriate implementation of the rights of the child.

Finally, it should be noted that the available training offer does not include training focusing exclusively on violence against children – its legal and psychological aspects, etc.

## **Recommendations**

- 1) Establishing the Child Protection Services.**
- 2) Expanding the training offer to include central programmes focusing on violence against children.**

## Family Environment and Alternative Care

(Articles 5; 18 para. 1-2; 9-11; 19-21; 25; 27 para. 4; and 39 of the Convention)

### Alternative care systems

#### **CRC/C/15/add.194 – point 37**

Poland has developed its foster care system since 1999. In 2004 a new Social Assistance Act came into force (Journal of Laws 2004, No. 64, item 593), locating foster care within the government department of labour and social policy (instead of education). Another development was the Act on Family Support and Foster Care System of 9 June 2011, which defined the organization of foster care in Poland<sup>14</sup>; the new Act came into force on 1 January 2012. Foster care is divided into institutional care and family-type care (including kinship foster families). In 2013 the number of children in care was nearly 79,000 and remained at a similar level as in the preceding year<sup>15</sup>. Despite the declared deinstitutionalization of care, 23% of children in foster care live in institutions<sup>16</sup>. The development of family-type foster care is too slow (a 0.4% growth compared to 2012) to meet the actual needs.

#### **Family-type foster care for children with special needs**

The current Act provides for forming professional emergency foster families and professional specialized foster families to provide care for children with special developmental or health needs. In 2013, however, specialized foster families constituted only 0.6% of the total number of foster families<sup>17</sup>.

No aggregate national data are available on foster parent turnover (the number of foster families that have been formed and dissolved) and no analyses are provided of the reasons why some foster families exit the system.

#### **Recommendations**

- 1) Intensifying efforts, including national activities, to recruit candidates to work as foster families. Effective support for the existing family-type forms of foster care. Preventing foster parents' outflow from the system.**
- 2) Collecting data enabling in-depth analyses of the causing factors, rather than just quantitative information about the number of foster families in Poland as of specific dates.**
- 3) Developing family-type foster care – specialized professional foster families.**

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<sup>14</sup> Dz. U. (Journal of Laws) 2011, No. 149, item 887.

<sup>15</sup> Notice by the Council of Ministers on the implementation in 2013 of the Act of 9 June 2011 on Family Support and Foster Care System (Dz. U. 2013, item 135, as amended); Notice by the Council of Ministers on the implementation in 2012 of the Act of 9 June 2011 on Family Support and the System of Foster Care (Dz. U. 2013, item 135, as amended).

<sup>16</sup> Family-type care institutions are not included in the statistics.

<sup>17</sup> From: Notice by the Council of Ministers on the implementation in 2013 of the Act of 9 June 2011 on Family Support and Foster Care System (Dz. U. 2013, item 135, as amended). The figure has remained at the same level since 2010. From: Report by the Ministry of Labour and Social Policy for Jan-Dec 2010.

### **Children in institutional foster care, including children with special needs**

Family-type foster care should always be the first choice when placing a child in care. In particular, children under 10 should not be placed in institutions<sup>18</sup>. At the same time, the Act provides for the establishment of intervention pre-adoption facilities<sup>19</sup> for infants younger 12 months of age. According to the Act, such an institution may provide care for up to 20 children, which means that the UN recommendations on alternative care environment for children under 3, presented in the “Guidelines for the Alternative Care of Children”, have not been implemented.

The Act puts a ban on placing children under 7 in institutions, beginning from 1 January 2015 (from 1 January 2020 the ban will apply to children under 10). At the same time, it emphasizes the principle of placing siblings together, which means that if just one of the children is older than the age limit, than the decision makers will be allowed to place the whole sibling group in an institution.

Within institutional foster care, the Act has introduced regional care and treatment facilities for children in care who have special health needs. The maximum number of children in such an institution is 45. Such a high number has been justified by the cost of care per one child. As a result, large institutions are being established because they are more cost-effective. These institutions are only available to sick children in foster care, which may lead to double stigmatization of its residents: first, because they live in a large institution for sick children; second, because the institution is only available to one category of sick children – those who are deprived of parental care.

### **Recommendations**

- 1) Adopting regulations that will prevent children under 7 (under 10, ultimately) from being placed in institutions, while respecting the principle of placing siblings together.**
- 2) Intervention pre-adoption facilities for children with special needs should be replaced by specialized professional foster families. The existing mechanisms of providing financial support for specialized foster families are not being implemented.**

### **Barriers to the development of family-type foster care**

Data gathered by the Polish Foster Care Coalition, SOS Children’s Villages Poland and Association for Legal Intervention suggest that despite the declared superiority of family-type foster care over institutional care, district governors (starostowie) responsible for the development of foster care often do not seem to adhere to this principle. Care institutions (known as “children’s homes”) are workplaces. Their liquidation would result in layoffs, which would adversely affect the level of political support for the district governor. As a result, the provisions about the development of family-type foster care at the district level are not being implemented at all or their implementation is just illusory, without analysing the local needs and developing needs-based plans for forming foster families. There are also no deinstitutionalization plans and many districts continue to develop the system of institutional care. This leads to insufficient spending on foster parenting and to withholding

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<sup>18</sup>The provisions of the Act determine that from 1 January 2020 children under 10 shall not be placed in institutional forms of foster care (except for family-type care institutions). The same principle will apply to children under 7 beginning from 1 January 2015.

<sup>19</sup> Article 93, point 1 of the Act; Dz.U. 2011 No. 149 item 887.



optional financial support (despite the possibilities provided for in the Act), which in turn results in the declining number of people willing to perform the role of foster parents.

Another challenge in the development of the family-type foster care system is to maintain balance between supporting family-type foster care and monitoring and control. The Act provides mechanisms that enable district governors to perform the task effectively. However, information collected by the Foster Care Coalition, SOS Children's Villages Poland and the Association for Legal Intervention shows that in many districts the task of supporting and developing family-type foster care is largely neglected; the authorities' activity is limited to monitoring and control, often with disrespect for the foster family's right to privacy. The Association for Legal Intervention has received disturbing reports about foster care coordinators interfering in foster families' private lives and performing tasks which are in fact a responsibility of court-appointed probation officers. Such actions pose an obstacle to effective recruitment of candidates for foster parents and to successful deinstitutionalization of foster care.

### **Recommendations**

- 1) Preparing plans for developing family-type foster care based on previous analyses of the community's actual needs; developing family-type forms of foster care according to the identified needs. Providing sufficient funds in the district budget for the implementation of the plans.**
- 2) Introducing a special regulation to make it clear that foster care coordinators are obliged to respect foster families' privacy when performing their duties.**

### **Mandatory informing**

Another disturbing problem is the lack of knowledge about the rights of foster parents and persons running family-type care, especially their rights to benefits, allowances, and recreation subsidies for children. Low legal awareness among persons providing family-type foster care may have negative consequences for children in care, which the State – being responsible for protecting the rights and freedoms of the child – should not allow to happen.

### **Recommendation**

**Introducing a statutory obligation for foster care organizers to inform individuals who work as foster parents or run family-type forms of foster care about their rights guaranteed by the Act.**

### **Leaving care**

The Act ensures support for young people who are leaving care, including "the provision of adequate living conditions". The obligation to help young people find adequate housing, such as transitional flats, is a dead letter at the national level, because communes do not develop their housing resources and the existing resources are insufficient. After ageing out of care, many young people return to their birth families. When flats are offered to care leavers, they are usually located in low-standard buildings (which often require complete renovation), with troubled or marginalized families in the neighbourhood. There are also communes in Poland that do not have any council flats to offer.

Contrary to Article 19 of the Convention on the Rights of Persons with Disabilities, ratified by Poland in 2012, there are still no efforts to provide protected, supervised flats for persons with disabilities, including disabled young people who are leaving foster care. The only available offer is institutional care provided by Residential Nursing Homes. This is where many young people with disabilities end up after ageing out of either institutional or family-type care.

### **Recommendations**

- 1) Developing and implementing a national programme for facilitating the process of leaving care for young people with disabilities, including the provision of a sufficient number of supervised/protected flats as an alternative to the existing system of institutional forms, such as Residential Nursing Homes.**
- 2) Developing and implementing a national social housing programme, allowing for the needs of young people who are leaving care.**
- 3) Increasing the number of protected/supervised flats, including flats for care leavers (according to the actual demand).**

### **Teacher training**

The teacher training system devotes too little attention to the specific nature of working with children in foster care. Placing a child in alternative care (removing them from their family environment, lack of contact with their closest family and siblings) is always related to the experience of great distress and trauma, regardless of the level of dysfunction in the child's family of origin. The child's natural response in such a situation may be to become detached and withdrawn or just the opposite – to demonstrate rebellion and behavior problems. This makes the child unable to conform to school norms and rules. Teachers' insufficient knowledge and skills in dealing with such severely traumatised children hinder the child's integration into the new environment. Moreover, teachers too rarely cooperate with the child's foster environment and even if they do, this cooperation is often limited to gathering information about the difficulties manifested by the child.

### **Recommendation**

**Modifying the teacher training system to include information about the specific nature of working with children in foster care in the content (and practice) of teacher education.**

## Basic Health and Welfare

(Articles 6; 18 para. 3; 23; 24; 26; 27 para. 1 - 3 of the Convention)

### Basic Health

**CRC/C/15/add.194 – point 39**

#### **Breastfeeding**

Majority of initiatives described in the governmental report aimed at promoting breastfeeding among mothers, including Baby Friendly Hospital Program as well as the activities of the Committee for Breastfeeding Promotion (Komitet Upowszechniania Karmienia Piersią) are NGO activities which are not supported financially by the Government and therefore have a much narrower reach than otherwise would be possible. Monitoring of breastfeeding in Poland is almost non-existent and does not allow for obtaining meaningful data. There is also a lack of an informational campaign conducted by the Government, which would counterbalance all commercial campaigns promoting breast-milk substitutes, aimed at incentivizing women to the use of the healthiest nutrition for children which is their own milk.

#### **Recommendations**

- 1) Monitoring of breastfeeding in Poland.**
- 2) Promoting and supporting initiatives aimed at breastfeeding.**
- 3) Conducting educational campaigns showing the benefits of breast feeding both for the child and for the mother.**

#### **The Public Health Act**

Aspects of public health in Poland are regulated by multiple legal acts, both statutory and executive regulations. There is no uniform legislative framework to regulate public health matters. Furthermore, the existing system for population health monitoring, including the health status of children, is not adequately established within the legal framework, which hinders its implementation and, consequently, poses an obstacle to developing an effective public health policy. The problem is even more visible when it comes to health policies targeted at children and adolescents. To date plans to prepare a new public health bill have ended in failure.

#### **Recommendation**

**A public health bill needs to be prepared as soon as possible. The new law should set the principles of operation for the public health system and ensure that paediatric care has its due place within the system. Additionally, it should define ways of identifying and preventing major public health risks, including specific goals and efforts for prevention, health promotion, and health education.**

## **Primary health care**

The main issues related to primary health care involve its quality and its uneven availability. Primary care physicians have a limited diagnostic competence; as a result, when severe conditions are suspected (e.g., oncological or cardiovascular diseases), they cannot refer the patient directly to diagnostic tests that would confirm or dispel their suspicions. Instead, they have to refer the child to a medical specialist (secondary care doctor), and notoriously long waiting lists (in many cases patients have to wait for several months) pose a serious obstacle to making an accurate and timely diagnosis and to starting treatment.

The number of paediatricians, in both inpatient and outpatient care, is too low and is expected to further decrease in the years to come. There is the problem of insufficient generation replacement, despite efforts undertaken by the Ministry of Health. In Poland the paediatrician-to-population ratio (the average number of general paediatricians per 1000 children) is 1 to 1000; in some provinces, however, the availability of paediatricians is much lower, which does not guarantee equal access to health care for all children.

## **Recommendations**

- 1) Strengthening primary health care.**
- 2) Shifting priorities towards outpatient care and prevention.**
- 3) Expanding the competence of primary care physicians and liberating the diagnostic and treatment procedures to enable family physicians and paediatricians to refer their patients to computed tomography or other specialized diagnostic tests to facilitate early diagnosis.**

## **Tendencies in children's development**

### **Survival of low and very low birth weight infants**

In recent years the survival rates of infants with low and very low birth weight have grown significantly thanks to the latest developments in medical science. This will result in a larger number of chronically ill children in the future, for which the health care system is not prepared.

### **Increased body weight and poorer physical fitness**

Poland has the highest increase in the proportion of overweight children among all EU countries. In the past decade the percentage has doubled to reach over 15% in the 11-15 age group. It is still significantly lower than in the US, however the growth dynamics is alarming. This results from low physical activity, poor eating habits, and deteriorating physical fitness. It will certainly translate into specific health problems of children and young people in the future.

### **Postural defects and spine problems**

Routine health checks and screening tests suggest that almost 75% of children over 4 have postural defects. Access to specialized services (orthopaedic and postural defects clinics, rehabilitation) is very limited. Such services are only found in large cities, which automatically prevents children in small towns and rural areas from using them when needed. Long (several-month) waiting lists are an additional obstacle.

### **Dental caries**

Tooth decay is the most common health issue among children and adolescents. It is absent in only 14% of 6-year-olds and 4% of 18-year-olds. Such high prevalence of the condition among

children and young people results from insufficient preventive dental care, high cost of treatment, and low public awareness of oral hygiene.

#### **Recommendations**

- 1) It is necessary to accommodate the growing number of children with chronic diseases and to prepare the health care system for this growth to ensure full access to medical services for all children.**
- 2) Introducing appropriate and effective health education, targeted both at children and at their parents, focusing on healthy eating habits and the health benefits of physical activity.**
- 3) Ensuring good access to specialized medical services, including rehabilitation, for all children and young people, especially in small towns and rural areas.**
- 4) Ensuring effective and generally available preventive dental care.**

#### **Deficiency of child health care**

One of the approaches to financing health care is a system based on the valuation of specific medical services and procedures by health care units. For the system to work efficiently, the valuation of medical procedures needs to be consistent with their actual cost. Unfortunately, paediatric procedures are inherently more expensive than adult procedures (by about 25-30%), which has not been taken into account in their valuation. The resulting permanent underestimation of these procedures disturbs the work of hospital paediatric units, specialized hospitals and paediatricians, which in turn translates into children's limited access to health care.

#### **Recommendation**

**Improving the valuation of paediatric procedures to reflect their real cost.**

#### **Vaccinations**

High rates of preventive vaccinations (over 90%) are certainly one of the strengths of the children's health care system in Poland. However, this is only true for basic or standard immunization. When it comes to supplementary immunization, the situation is much worse, with very low levels of vaccination coverage (5-10%). What makes the situation even worse is a strong anti-vaccination movement. What is more, the Polish mandatory vaccine schedule does not include all the vaccinations that have become standard in other EU countries, such as the pneumococcal vaccine.

#### **Recommendations**

- 1) Modifying the mandatory vaccine schedule**
- 2) Conducting an awareness raising campaign to improve parents' understanding of the importance of vaccinations for their children's health.**

#### **Mental health**

According to WHO, up to 50% of mental health problems begin in adolescence. Consequently, WHO considers the protection of children's and adolescents' mental health as a priority in public health protection. In Poland knowledge about children's and adolescents' mental health is highly

fragmented. There are no methodologically correct, comprehensive studies into this age group's mental health. The Polish care system for children with mental health problems is characterized by uneven distribution of institutions offering help for children and young people (some provinces do not have psychiatric wards), a strong focus on hospital (inpatient) care and relatively poor development of community services, such as outpatient clinics and outpatient (day-care) psychiatric units, which have been proven to be the most effective. The shortage of child and adolescent psychiatrists places Poland far behind most European countries in terms of the ratio of psychiatrists to the child population.

### **Recommendations**

- 1) Providing more funding for the child and adolescent mental health care system and raising the number of child psychiatrists.**
- 2) Changing the system of educating child psychiatrists to increase the number of specialists in this field.**
- 3) Expanding the system of community treatment.**

### **Standard of Living**

In the recommendations issued by the Committee on the Rights of the Child in 2002, ensuring adequate living standards for children was not directly linked to reducing poverty and social exclusion among children. However, given the great importance of the problem in Poland, it cannot be ignored in this alternative report.

Since the late 1990s and the early 2000s the situation of children in Poland has significantly improved. However, it has become much better mainly in families with higher socioeconomic status and more resources. Even if most children are better off than their peers 10 or 15 years ago, to assess the change reliably, we need to compare the situation of poor and very poor children over time. The fact that the majority of children are better off today is not the whole story. What is equally important is how the situation of the most disadvantaged group has changed. Therefore, information about child poverty is among the key data that should be taken into consideration when evaluating the enforcement of children's rights in Poland.

### **Lack of monitoring of poverty among children based on public statistics**

Effective decision making to improve the enforcement of children's rights through reducing poverty requires an adequate quantity and quality of data. In Poland systematic research has been conducted on household budgets and (after Poland's accession to the EU) income and living conditions. However, the presentation of findings from these studies with reference to children is definitely insufficient. The family-focused approach is predominant and the family is commonly equated with the economic concept of the household. What is missing is a detailed presentation of indicators and in-depth analyses focusing on children. The annual publication by the Main Statistical Office (GUS) on poverty in Poland contains just one paragraph devoted exclusively to children. It acknowledges that children are the group running the highest risk of poverty. Nevertheless, the number of indicators presented by age is minimal (the poverty rate, based on three thresholds, for the 0-17 age group). As

a result, children and their specific needs are largely overlooked in the statistics of poverty, which makes it impossible to monitor the problem in Poland.

### **Recommendation**

**The quality of information on poverty among children published by the Main Statistical Office should be improved. More specifically, poverty should be presented in absolute and relative values by children's main characteristics: age, gender, place of living, family type, and disability. It is also important that the statistics should show to what extent child and family benefits contribute to reducing poverty incidence and depth among children.**

### **Children as the group at the highest risk of poverty**

Scarce official data suggest that children are affected by poverty more than any other age group. This is true both for relative poverty, and for extreme poverty. The poverty rate in the 0-17 age group is higher than in the 18-64 and 65+ groups. Between 2011 and 2013 it was 23-22% for relative poverty, and 10% for extreme poverty. In the other age groups the figures were 16% (18-64) and 10-11% (65+) for relative poverty, and 6-7% and 4% (respectively) for extreme poverty (GUS).<sup>20</sup>

In absolute values, in recent years there have been over 1.5 million children living in relative poverty; the figure has been slowly declining. What is alarming, however, is the increasing number of children living in extreme poverty: from 583,000 in 2010 to 710,000 in 2013 (own estimates).

When it comes to the risk of relative poverty in different age groups of children, it was the highest among children of 12-17. In the past couple of years the relative poverty rate in this group was 25-27% (Eurostat), while in the two younger age groups it was 20-23% (0-5) and 21-22% (6-11).<sup>21</sup>

### **Recommendation**

**Reducing relative and, more importantly, extreme poverty should be the government's priority. It should be reflected by a commitment to reduce child poverty indicators by 2020. In the National Reform Programme and the National Programme for Preventing Poverty and Social Exclusion, the goal of reducing the number of persons at risk of poverty or exclusion by 1.5 million should be complemented with specific goals related to child poverty: reducing the number of children affected by relative poverty from 1.5 million in 2013 to 750 thousand in 2020, and reducing the number of children living in extreme poverty from 710 thousand in 2013 to 355 thousand in 2020.**

### **Children in large families and single-parent families and children with disabilities**

The official data on poverty suggest that large families (families with 3 and especially 4+ children) run a higher poverty risk than other types of families. In the past years the relative poverty rate among large families (couples with 4+ children) was 47%, and the extreme poverty rate was 24-22%. For

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<sup>20</sup> Central Statistical Office of Poland, *Social Surveys and Living Conditions Department, Economic poverty in Poland. The signaling information*, Warsaw 2013.

<sup>21</sup> Eurostat, [http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database)

families with one child the figures were 7-8% and 2%, respectively, and for couples with two children: 14-12% and 4-5%.<sup>22</sup>

In large families (couples with 3 or more children) the estimated number of relatively poor children was 599 thousand, and the estimated number of children living in extreme poverty was 272 thousand (2011).

For single-parent families the risk of poverty is higher than for couples with one or two children, but lower than among large families. In recent years the relative poverty rate in this group was 18-20%, and the extreme poverty rate was 7-8%. The estimated numbers of poor children living in such families were approximately 288 thousand for relative poverty and 131 thousand for extreme poverty (2011).

Information about poverty among children with disabilities (in 2011 there were about 333 thousand persons in age group 0-24 with legally confirmed or biological/subjectively reported disability) can only be derived from data on poverty in the families where these children live (the Main Statistical Office does not keep separate statistics for children). In 2008 the relative poverty rate for all persons living in such families was 23.2% and the extreme poverty rate was 7.5%; in 2013 the figures reached 25.8% and 11% respectively. These figures reflect a clear growth tendency, with the rates being significantly higher than in households without disabled persons.

#### **Too low and poorly structured social expenditures; too low family allowances with supplements**

In comparison to other countries at a similar level of economic development, social expenditures for family benefits and services are very low in Poland. In 2009 they amounted to 1.1% of GDP, while in the Czech Republic it was 1.8%, in Slovakia – 2%, and in Hungary – 3.6%. The differences become even larger when we compare the share of social expenditures on families in general government spending. In Poland it was 2.4%, in the Czech Republic – 4.1%, in Slovakia – 4.9%, and in Hungary – 7% (OECD).<sup>23</sup> More specifically, in Poland the share of expenditures on family benefits in overall government spending was 1.7%, and the share of expenditures on family services was 0.7%. The expenditure structure was reverse in the Czech Republic: 2.8% and 3.9%, respectively, whereas in Slovakia and Hungary it was similar to the Polish pattern.

Family benefits in Poland include mainly family allowances and their supplements. To become eligible for family benefits, the family has to meet the income criterion. Currently, the monthly limit is 129 EUR or 149 EUR<sup>24</sup> (for children with disabilities), which is only slightly more than the subsistence minimum. The first amount is only 15% higher and the second one – 33% higher than the average family subsistence minimum. Both amounts are below the average family living minimum, i.e., the minimum income ensuring not only physical subsistence, but also some basic needs related to participating in the society. The limits were not updated between 2006 and 2012, so their real value actually decreased. It was one of the reasons why the number of children eligible for family allowances dropped significantly.

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<sup>22</sup> Central Statistical Office of Poland, *op.cit.*, Warsaw 2013

<sup>23</sup> OECD, <http://stats.oecd.org>

<sup>24</sup> Converted from PLN at the average NBP exchange rate of 7 Oct 2014 (4.1829).



Given the minimum subsistence standard, the allowances for younger children (0–5), which amounted to 18 EUR monthly, and those for older children, 25 EUR<sup>25</sup>, covered only 19% of the overall cost of supporting a child at the subsistence level for younger children and 20% for the older group. Against the living minimum criterion, the percentages were 9% and 10%, respectively.

The situation of children with disabilities is not much better. If we presume that the needs of children with disabilities (those who do not require constant care) are 16% higher than the needs of healthy children (which is the percentage by which the income limit is higher for families with disabled children), then the allowances constitute 29% (for younger children) and 30% (for older children) of children's subsistence minimum or 14% and 16% (respectively) of their living minimum.

Children living in large families are eligible for a special supplement to the family allowance. The supplement, however, has not been updated since 2006, so its real value has dropped significantly. The Large Family Card introduced by the state government in 2014 (whereby public or private sector partners offer voluntary discounts to families with 3 or more children) should not be the only response to large families' poverty. Higher tax deductions for parents with children and reducing the benefit withdrawal rate for family allowances after the family exceeds the income limit (announced for 2014) are also insufficient.

#### **Recommendations**

- 1) The income thresholds determining the eligibility for family allowances should be systematically raised to make such support available to more and more families (ultimately, only wealthy families should be excluded from the system). Family allowances should be systematically updated to reach the level of at least 50% of children's subsistence minimum, allowing for the increased needs of children with disabilities.**
- 2) The family allowance supplement for children living in large families should be increased. This change should not only make up for the drop in the supplement's real value, but also ensure that large families are more effectively protected from the increased risk of poverty.**
- 3) The measures of the minimum living standard, i.e., the subsistence minimum and the living minimum, should allow for the needs of children with disabilities: those who do not require constant care or supervision and those who are dependent on such help (helpless children).**
- 4) The family allowance supplement for children with disabilities should be raised. This change should not only make up for the drop in the supplement's real value, but also ensure that children with disabilities are more effectively protected from the increased risk of poverty. The same applies to the helplessness allowance.**
- 5) The announced changes in tax deductions (refunds for poorer families with children) and gradual (rather than cliff-edge or threshold-based) withdrawal of family benefits should be effectively implemented.**

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<sup>25</sup> Converted from PLN at the average NBP exchange rate of 7 Oct 2014 (4.1829).

## Education (Articles 28, 29 and 31 of the Convention)

CRC/C/15/add.194 – point 45

### **Ineffective efforts to provide equal educational opportunities**

Since 2000 Poland has made strenuous effort to provide equal educational opportunities for children living in rural areas and disadvantaged environments. Numerous systemic, regional, and local programmes have been carried out, backed by EU funding.

Despite the effort made by the government and NGOs, Poland is still far from effective equalisation of educational opportunities. Nearly 45% of children in Poland live in rural areas, and another dozen or so percent – in small towns<sup>26</sup>. A significant drop in the number of children, resulting from the ongoing demographic crisis, has the strongest impact on schools in rural areas, threatening the survival of many schools and posing a threat to the quality of education.

Evidence for the ineffectiveness of programmes designed to equalise opportunities is irrefutable. Access to early education is much worse in rural areas than in urban regions. In the academic year 2013-2014 the difference in access to preschool education among children aged 3–5 was almost 20% to rural children's disadvantage.

Children from rural areas and disadvantaged environments have lower academic achievement than children in urban areas. In all three national academic aptitude tests rural areas and small towns score lower than urban areas. In the 2014 Sixth-Grader Test the average score of children in rural areas was 21.7 points, while in cities with more than 100,000 inhabitants it was 24.7 points; in the Lower Secondary School Examination the figures were 24.7 and 27 (respectively) for the arts, 22.9 and 25.3 points for maths and science, and 25 and 32 points for English as a foreign language. For many years there have been significant disparities in the percentage of students who pass the secondary school graduation exam (*Matura*). In 2009 the figures were 81% for cities and 65% for rural areas.

Limited access to education and traditionally lower educational aspirations result in a relatively lower proportion of university students from rural areas. A report by the Warsaw University's Centre for Research Policy and Higher Education shows that only 23% of university/college students in Poland lived in rural regions before starting their university or college education (this is more than 10% less than might be expected based on demographic data).

As a result, young people from rural areas have significantly poorer professional opportunities. The rate of employment is strongly correlated with the level of education (the unemployment rate is 10% for people with college or university education, 14% for secondary school graduates, and 28% among those with lower levels of education). The value of college/university education in terms of future income and job opportunities is exceptionally high in Poland (there are only 4 EU countries where it is higher).

### **Recommendation**

**Implementing an effective system for providing equal educational opportunities for children in rural areas and disadvantaged environments at all levels of education; monitoring and evaluating its effects.**

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<sup>26</sup> Dzieci w Polsce. Dane, liczby, statystki. UNICEF, 2012.

### **Public expenditure on education: too low and unevenly distributed**

The total public expenditure on educational institutions in 2007 amounted to 5.7% of GDP and was close to the OECD average. However, the real value on educational expenditure per student is only half of the OECD average (more specifically, it is 86% of the OECD average at the preschool level and about 40% at the secondary school level) (Raport o stanie edukacji [Report on Education], IBE, 2011).

What is more, this relatively low public expenditure is unevenly distributed. The education subsidy per student is the same all over Poland, but wealthier counties provide additional funding for their schools, increasing school budgets by 20%, on average. Investing in the education of “our children” through funding extracurricular classes, modern equipment, etc., has become a popular catchphrase, while poorer counties are often unable to spend the whole education subsidy on their schools.

### **Recommendation**

**Implementing an additional mechanism of raising the education expenditure per student in poorer counties.**

### **Access to early education**

In recent years the availability of preschool education in Poland has significantly improved. In the academic year 2005-2006 41% of children in the 3-5 age group attended preschool education institutions, including 58.4% in urban areas and 19.1% in rural areas. In the academic year 2013-2014 the figures are 74.1%, 81.8%, and 63.3% respectively. Such rapid growth has been achieved by introducing mandatory preschool education for 5-year-old children in 2012, by providing designated subsidies for local governments, and by introducing diversified forms of preschool education.

However, about 50% of three- and four-year-olds still do not have access to preschool education. The experience of the past few years shows that local authorities recognise the importance of early care and education. However, with their current levels of debt, counties are not able to provide funds ensuring preschool education for children in the 3-5 age group or guarantee that nursery schools (day care centres for children under 3) are available to all interested parents.

### **Recommendation**

**Introducing state subsidies for local governments to fund care and education services for children under 5 and to provide access to early education for all children.**

### **Financial support for children**

Financial support for children living in low-income families is an important form of the equalisation of opportunities.

In a report published in 2011, the Supreme Audit Office (NIK) expressed its positive assessment of the financial support programme, noting, however, that the use of government funds is not as effective as it should be. For example, in 2010 16% of the funds were returned to the state budget, including 38% from the School Starter Kit programme (in 2013 the figure reached 45%). Insufficient use of the School Starter Kit results from poor support for families applying for help, highly formalised procedures, and the applied principle of expenditure reimbursement: Parents have to incur the expenses first to be eligible for reimbursement (the money is returned based on valid proof of purchase), whereas the more serious financial problems experienced by the family, the more difficult it is for them to spend several hundred zlotys on school textbooks. If parents do not have enough money to pay for them, they are not eligible for reimbursement.

The School Starter Kit is slowly dying out. A new system of funding is being introduced: textbooks are to become the property of the school, so it is the school, rather than parents, who is going to buy them (designated subsidies from the state budget will be granted to school governing authorities). The new system has already been introduced (in 2014-2015) in P1 – the first year of primary school – and is going to be continued in P2 and P3. Schools have been supplied with *Nasz elementarz* (Our ABC) – a primer published by the Ministry of National Education. They are also provided with funds for purchasing workbooks and materials for teaching English (unfortunately with some delay).

A system, in which textbooks are purchased by the school and, consequently, parents do not have to pay for them, should help to equalise educational opportunities, but the process requires careful monitoring. Also, Polish teachers need to work out effective ways of lending textbooks to their pupils. So far too much importance has been attached to preventing the books from getting worn (as they are supposed to be used for three consecutive years).

Support for children living in poor families may be insufficient to increase educational opportunities, because it is generally provided in the form of cash allowances, so it actually becomes social assistance rather than education support. These funds are often spent on the family's basic welfare needs rather than in accordance with their statutory purpose.

#### **Recommendations**

- 1) Creating a system that will guarantee effective use of financial resources allocated for the equalisation of educational opportunities: better identification of students' needs, less formalised procedures of requesting and obtaining support, and supporting schools and teachers in the provision of individualised assistance (to meet each child's specific needs).**
- 2) Ensuring cooperation between public and private support programmes, e.g., by promoting stronger engagement of local authorities, schools, and teachers in informing children and their families about available grants and in helping them to apply for such grants.**
- 3) Monitoring the implementation of the new principles of funding school textbooks and evaluating their impact on the quality of education (including the quality of teaching using the new primer published by the Ministry of National Education)**

#### **Access to computers and the internet**

The government's efforts to provide equal opportunities by investing in computers and internet access in schools should be recognised and appreciated. Official data show that 96% of schools in urban areas and 94% in rural areas have access to the internet (2012). These statistics, however, do not reflect the quality of computer hardware or, what is often more important, the speed of internet connections.

#### **Low digital skills**

Despite the increasingly widespread access to new technologies and high rates of computer and internet use in Poland, Polish children and young people score surprisingly low in e-competence tests. In the PISA tests our 15-year-olds are among the world leaders in traditional paper-and-pencil tasks, whereas in tasks requiring the use of new technologies they score well below the OECD average.

New technologies can be used either in ways that bring educational and social benefits, or to the detriment of their users. Children in Poland rarely use the internet for critical information seeking, problem solving or thinking, and the school does not try to correct this. Moreover, children from poorer backgrounds (in material and cultural terms) spend more time playing computer games, are more likely to become addicted, and are less able to protect their privacy online.

### **Free online textbooks**

E-textbooks developed within the government “Digital School” programme may contribute to the equalisation of educational opportunities. E-textbooks remove the financial barrier related to the purchase of traditional books, but they will not be successful in equalising opportunities unless all children have easy access to high-speed internet.

### **Digital Poland – without children?**

Poland is about to start the implementation of “Digital Poland 2014-2020” – a major government programme worth several billion zlotys (2.25 billion EUR), intended to ensure broadband internet access, effective e-services, and an improvement in digital competence. Unfortunately, the programme will not include schools or children. If this is not corrected, children may only benefit from the programme indirectly (e.g., faster connections), but a great chance to improve their educational and life opportunities will be wasted. Incorporating education into “Digital Poland” could produce synergy and break the conventional department-centred thinking where each ministry acts separately, within its own “territory”.

### **Recommendations**

- 1) **Including the possibility to co-finance the purchase of mobile devices and internet access in financial support programmes for children in rural areas and disadvantaged environments.**
- 2) **Developing an effective system for making computers and the internet available to children in schools, public libraries and other local institutions, so that all children have free access to them.**
- 3) **Effective programmes to promote the use of information and communication technologies in education and the development of passions and knowledge, rather than only for entertainment and social interaction.**
- 4) **Developing government-funded programmes for creating open educational resources, i.e., openly licensed materials for students and teachers.**
- 5) **Cooperation among the Ministry of Administration and Digitalisation, the Ministry of National Education, and the Ministry of Infrastructure and Development, to make new technologies more available to children living in small towns, rural areas, and disadvantaged environments, including the creation of local centres of digital activity in close cooperation with education institutions.**
- 6) **Improving digital skills among teachers of all school subjects, at all levels of education.**

### **Low level of education in vocational schools**

Basic vocational schools, which are more likely to be chosen by children in rural areas and those from deprived backgrounds, still fail to provide their students with skills required by today’s labour market, and the low quality of general education offered by these schools hinders further education at all life stages (see studies by OECD).

### **Recommendation**

**Urgent modernisation of vocational training to prevent it from creating a mechanism of reproducing and increasing social inequalities.**

### **Selected achievements and problems**

#### **Success in PISA**

It is worth emphasizing the achievements of the Polish school. For a few years Poland has ranked high in prestigious education rankings (the 2014 Pearson’s ranking listed Poland among the 10 best education systems in the world). In the past 12 years the quality of

education, measured by the results of the international PISA tests, has significantly improved: Polish 15-year-olds have moved up from below the OECD average to become one of the leaders in all three areas of competence: reading, mathematics, and science.

#### **Test-oriented teaching**

With the implementation of standardised national school tests, students' scores have become the main evaluation criterion of individual progress and the basic criterion for evaluating schools. This, in turn, has made education more superficial, limiting its positive impact on students' intellectual development. Children do not conduct experiments or ask questions and they rarely work on project-based tasks. Nearly half of junior secondary school students have never done an experiment during biology lessons (the figure was 43% for chemistry and 33% for physics). Eighty percent of maths teachers use teaching methods they do not really consider effective. The Polish school is test-oriented, instead of helping children to learn through discovering.

#### **Insufficient support for children with special educational needs.**

Children with special educational needs are students with various types of disability, emotional, social and behavioural disorders, and other learning difficulties. Public schools, especially in rural areas and small towns, are not prepared to work with such children and the existing solutions often do not work in practice, which may sometimes lead to further exclusion (e.g., through unjustified referrals to special schools).

### **Recommendations**

- 1) Easing the pressure to achieve good results in standardised external tests, decreasing their importance, and eliminating the mechanisms of selection (e.g., preventing the division of students into "better" and "worse" classes at all levels of education and stopping the practice of admitting students from outside the school catchment area at the lower secondary level).**
- 2) Preparing schools and training teachers on how to work with children with special educational needs.**
- 3) Monitoring the educational paths, achievements and life careers of children in the above mentioned group.**

### **Uninvolved school**

#### **Low participation**

Children in Poland reproduce the pattern typical for the society as a whole: low social involvement, reluctance to engage in self-help activities, volunteer work, or the activities of associations and other organisations.

The area of active citizenship is also characterised by disparities between children in rural areas and small towns and children living in cities. Community involvement is similar in both groups (13% in urban areas and 16% in rural areas), but membership in organisations in rural areas is about half of the figure for urban areas (15% in urban areas and 8% in rural areas). This is not because rural children are less willing to participate, but because of the shortage of local institutions (*Młodzież na wsi*, PAFW 2013).

School does not teach engagement or joint decision making. Instead, it reproduces low social capital, reinforces the attitude of distrust toward others, and strengthens the feeling of having no influence on the school life. An external evaluation study (*Jakość edukacji*, Wyd. UJ 2014) shows that only 6% of students feel they can propose their ideas concerning the decor of their classrooms or the school, and only 4% believe they have some influence on their school's rules or grading system. Research shows a fundamental disparity between the school manager's and teachers' perceptions of student participation and students' daily experience.

### **Children's rights at school.**

It should be also noted that the knowledge of children's and students' rights is still insufficient – both among adults and among students themselves – despite efforts by various institutions, including the Children's Ombudsman. Children's rights are treated as an "addition" to school education, rather than the key principle organising the whole school's work.

### **Recommendations**

- 1) Increasing the importance of citizenship education in the work of schools and teachers; systemic support for efforts promoting student participation and the democratic school culture.**
- 2) Implementing the Social Capital Formation Strategy with respect to children and adults. The strategy was developed in 2009 by several government departments and NGOs, but no action plan was formulated and it is uncertain whether the strategy is going to be implemented.**
- 3) Modifying the core curriculum for schools and kindergartens to make sure pupils, students, teachers and parents know the rights of the child and can use the mechanisms of their protection.**
- 4) Training teachers on children's rights and human rights in general; promoting the model of school that not only teaches about these rights, but also respects them in its daily work and shows children how they can act in defence of their own rights and the rights of others.**

## **Early care and education**

### **Integration of the systems of early care and education**

Fully integrated early care and education services – generally available and provided by highly qualified personnel – are essential for reducing poverty among children and for the development of healthy social bonds. They are characterised by the lack of division into services for children under 3 and services for children between the age of 3 and the compulsory school age.

In Poland there is a clear distinction between education (the domain of the Ministry of National Education) and care (the domain of the Ministry of Labour and Social Policy). This distinction is reflected at the local level, preventing counties from pooling financial resources and implementing the care and education policy in the most effective way. When the funds allocated for early care and education are as limited as they are in Poland, the possibility to pool resources becomes crucial.

### **Recommendation**

**It is necessary to integrate the systems of early childhood care and education, which implies the need to work out the principles of cooperation between the Ministry of National Education and the Ministry of Labour and Social Policy in this area.**

### **New core curriculum**

#### **Early education**

New core curriculums should encompass all stages of early childhood care and education (day care centres, kindergarten, and P1–P3 or years 1-3 of primary school). They should be developed through close cooperation between professionals, local authorities, and parents,

to guarantee a high quality of early care and education. The core curriculum should provide guidelines on how to facilitate young children's transition from the family environment to nursery school, from nursery school to kindergarten, and from kindergarten to primary school. Good adaptation to new environments is essential for children's academic success. It is also very important to engage parents in genuine cooperation with care and education institutions and to ensure children's participation.

#### **Core curriculum for preschool education**

Within the Polish core curriculum framework and the preschool education curricula reviewed by the Comenius Foundation for Child Development, contents concerning social participation and skills related to living in a democratic society are covered only marginally. The core curriculum for preschool education does not promote the use of any participation-based or democratic methods and does not include the task of helping children to understand their own rights.

Research shows that teachers treat the preschool core curriculum as a relatively rigid set of guidelines. They rarely consult children about any aspects of the kindergarten life, and they are even less likely to do so with regard to the curriculum.

An analysis of selected core curriculums and good practices in other culture areas shows that it is possible to introduce democratic values and participation methods into early education. To be successful, however, it requires appropriate training of teachers and continuous communication with parents and children. As a document guiding all education activities in kindergartens, the core curriculum could provide the methodological framework for such communication.

#### **Recommendations**

- 1) It is necessary to create a new core curriculum for early education.**
- 2) It is necessary to introduce changes in the preschool core curriculum to oblige teachers to apply the Convention on the Rights of the Child in their daily teaching work.**

#### **Alternative forms of preschool education**

A new Act on Providing Care for Children under 3 came into force in 2011. The new legislation diversified the forms of day care for the youngest children and added the educational function to the obvious care function of day care centres. Moreover, it made it possible for day care institutions to admit children up to the age of 4 (if there are not enough places in kindergartens). One of the new forms is children's clubs which can work up to 5 hours a day and provide care for 15 children at the age of 12 months or older. Communes that do not have enough resources to provide preschool education for 3- and 4-year-olds may use this form of care to prepare these children for kindergarten.

The introduction of the alternative forms of preschool education to the Education Act was preceded by a national pilot project, which was a notable exception in the Polish educational policy. The evaluation of the project confirmed that the new form of preschool education was unquestionably useful. A preschool revolution in rural areas seemed to be just one step away.

However, both the first ordinance concerning the new legislation and all the subsequent ones imposed organisational requirements not much lower than those applying to kindergartens. Consequently, the new forms of preschool education have become increasingly similar to traditional kindergartens. As a result, at the beginning of 2010 those alternative forms constituted less than 5% of all institutions of preschool education.



**Recommendation**

**Increasing the flexibility of „alternative forms of preschool education“. This requires significant changes in relevant ordinances, in particular: decreasing the number of children in a group (it shouldn't be higher than 15); waiving the medical record books for parent volunteers; simplifying the building and sanitary/epidemiological regulations; providing additional training for teachers (especially on working with mixed age groups, cooperating with parents, and the equalisation of educational opportunities).**

**Removing barriers to the development of services for young children**

Too restrictive sanitary/epidemiological and building regulations hinder the diversification of care and education services for young children, both in the day care (nursery) area and in preschool education. Local sanitary and epidemiological stations (SANEPID) are “a state within a state” – each local station interprets the law in a different way. Some requirements (e.g., the height of furniture for children, the distance between cots, or the ceiling height) are not reasonably justified, and yet pose a significant obstacle to the development of services for young children.

**Recommendation**

**Amending sanitary/epidemiological, building, fire and other regulations to adapt them to the development of alternative care and educational services.**

## Special Protection Measures (Articles 22, 38, 39, 40, 37 letters b) - d), 32-36 of the Convention)

### Refugee children and unaccompanied minors seeking asylum

#### **CRC/C/15/add.194 – point 47**

In the reporting period Poland only managed to implement recommendation 47 b) of the Committee by ceasing the practice of placing unaccompanied minors in juvenile shelters until the end of the refugee status determination procedure.

#### **Unaccompanied minors in the refugee status determination procedure**

In 2012 193 unaccompanied minors were in foster care in Poland<sup>27</sup>. Nearly 25% of them applied for the refugee status and were involved in a special procedure applied in situations when the applicant is an unaccompanied minor. According to the Act on Protecting Aliens within the Territory of Poland<sup>28</sup>, in such cases the authority accepting the refugee application should request the guardianship court to appoint a legal guardian to represent the minor in the refugee status determination procedure, and to place the minor in a care institution. Until the guardianship court's ruling, the child is placed in a professional foster family performing the role of an emergency shelter or in an intervention care institution. In practice, however, finding a professional foster family for an alien child is extremely difficult and most unaccompanied minors are placed in emergency shelters in this initial period (up to 3 months). They are placed there together with child victims of domestic violence, alcohol-related problems, and parental inefficiency; many of these children show serious emotional disorders. Although since a law amendment of 2003<sup>29</sup> unaccompanied minors have no longer been placed in juvenile shelters, staying in an emergency shelter is also likely to be a traumatic experience for them.

According to the Polish law, there is no automatic obligation to appoint a legal guardian for an unaccompanied minor in the refugee status determination procedure, who would be responsible for promoting the best interest of the child. The institution of "de facto caregiver", which is mentioned in the government report, was cancelled in 2008<sup>30</sup>. After accepting a report from a competent authority, the court appoints a guardian whose task is limited to representing the child in the refugee status determination procedure. In the absence of statutory requirements concerning their skills and qualifications, court-appointed guardians are often random persons who do not have adequate knowledge of the law or the refugee procedure. Moreover, the guardian cannot represent the child in any proceedings other than the procedure they have been appointed for. Thus, if any

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<sup>27</sup> Source: Ministry of Labour and Social Policy.

<sup>28</sup> Act of 13 June 2003 on Protecting Aliens within the Territory of Poland (Dz.U. [Journal of Laws] 2012.680, consolidated text).

<sup>29</sup> Enforcement of the above mentioned Act.

<sup>30</sup> An act amending the Act on Protecting Aliens within the Territory of Poland and some other laws (Dz.U.2008.70.416).

other decision needs to be made on behalf of the child to protect the child's best interests, each time it has to be made by the Family and Guardianship court. It should be also stressed that the guardian is appointed only after the child files the application for the refugee status. Thus, these regulations are not applicable when the minor satisfies the criteria for receiving international protection, but has not applied for it due to their young age and lack of knowledge.

### **Recommendation**

**Introducing the institution of legal guardian for unaccompanied minors, who would be responsible for protecting the child's best interest and ensuring that the child's views are taken into account, and would be entitled to represent the child in all administrative procedures. To this end, it is necessary to amend the Act on Protecting Aliens within the Territory of Poland and, if necessary, the Family and Guardianship Code.**

### **Placing unaccompanied minors in guarded detention centres**

Another serious problem is detention of unaccompanied children and several related issues, such as the adverse effects of isolation on children's development and their access to education in detention centres. Although unaccompanied minors who have applied for international protection are not placed in guarded centres for aliens, a large number of alien children continue to stay in such centres, often for the maximum acceptable time. These are children seeking international protection who have been placed in the centre together with their families and unaccompanied minors who have not applied for the refugee status<sup>31</sup>. According to the Act on Protecting Aliens within the Territory of Poland (Article 87), a person seeking the refugee status may be placed in a guarded detention centre if (among other situations) it is necessary to determine their identity, to prevent any kind of malpractice or abuse in the refugee status determination procedure, to prevent any threat to other persons' safety, health, life or property, to protect the defences or security of the State, or to protect public order and security. Moreover, it is a common practice to place foreigners in detention centres if they have attempted to cross the border illegally (trying to get through to Western Europe after applying for international protection in Poland). Children of parents or caregivers who meet the criteria for detention in a guarded centre, are placed there together with their parents/caregivers, with no regard for their best interest, the effects of detention on their development or their access to education. In 2013 minors constituted 25% of all the aliens placed in such centres<sup>32</sup>.

Non-governmental organizations are unanimous in their opposition to placing children in this kind of detention centres, emphasizing that living in a guarded centre is never consistent with the principle

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<sup>31</sup> From 1 May 2014 unaccompanied minors seeking international protection may be placed in guarded centres for foreigners only if they are over 15.

<sup>32</sup> Source: Border Guards.

of protecting the child's wellbeing and has negative effects on the child's mental/emotional state and development<sup>33</sup>. In such centres children have no access to psychological help and no contact with the external world or with their peers. The most serious problem, however, is limited access to school education. Despite legal changes that were initiated in 2013 and 2014 to enable detained minors to fulfil the schooling obligation, it is still not fully implemented<sup>34</sup>.

#### **Recommendation**

**Amending the Aliens Act<sup>35</sup> by adding provisions that would explicitly outlaw placing persons under 18 in guarded detention centres for aliens.**

#### **Access to public health care**

Another persisting problem is the unavailability of public health care services to alien minors and women during pregnancy, delivery, and confinement, when they do not have public health insurance in Poland. At the same time, only selected alien groups are permitted by the law to participate in the public health insurance system (relevant legal regulations determine who may be granted the insured status). The system does not include children under the compulsory school age and pregnant women (as well as women during delivery and confinement) who do not have a residence permit in Poland or who do not meet the criteria for obtaining the insured status despite their lawful resident status. This group's vulnerability would justify granting its members access to free of charge health care services.

#### **Recommendation**

**Amending the Act on Health Care Services Financed from Public Funds<sup>36</sup> by adding provisions that would grant alien minors and women during pregnancy, delivery, and confinement access to free of charge health care, regardless of their residence status.**

#### **Access to social welfare and family benefits**

Only selected groups of aliens are eligible for social welfare benefits and family benefits in Poland. These include refugees, persons who have been granted the subsidiary protection status, aliens holding the permanent residence permit, etc. This group does not include foreign nationals who have been granted the residence permit on humanitarian grounds, i.e., when it is impossible to

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<sup>33</sup>For more information on conditions in guarded detention centres see reports: *Migration is not a crime. Report on the monitoring of guarded centres for foreigners*, W. Klaus and K. Rusiłowicz, Warsaw 2013, <http://interwencjaprawna.pl/wp-content/uploads/migration-is-not-a-crime.pdf> and *Wciąż za kratami Raport z monitoringu strzeżonych ośrodków dla cudzoziemców przeprowadzonego przez Helsińską Fundację Praw Człowieka i Stowarzyszenie Interwencji Prawnej*, J. Białas and W. Klaus, Warsaw 2014. <http://interwencjaprawna.pl/wp-content/uploads/wciaz-za-kratami.pdf>

<sup>34</sup> *Wciąż za kratami*, p. 38-39

<sup>35</sup> Aliens Act of 12 Dec 2013 (Dz.U. 2013.1650).

<sup>36</sup> Act of 27 Dec 2004 on Health Care Services Financed from Public Funds (Dz. U. 2008,1641027, consolidated text).

oblige them to return to their home country, because their rights to life, liberty and personal security would be threatened upon return, or they might be subject to tortures or inhuman or humiliating treatment or punishment, or if obliging them to return would violate their right to family or private life, or if it would violate the rights of a child. In other words, these are persons who cannot return to their home country for reasons beyond their control, and who have been permitted to stay in Poland for indefinite time. When their financial situation is very poor, these aliens are only eligible for very limited social assistance in the form of shelter, food, basic clothing, and designated benefits. They are not eligible for integration support, which is only provided for individuals who have been granted the refugee status or subsidiary protection status. What seems to be the most painful for alien minors who have been granted the residence permit on humanitarian grounds, is their lack of access to family benefits, which serve the purpose of covering a part of the child's everyday living costs. The lack of financial support has the strongest negative effect on children living in single-parent and large families, in which parents are not able to provide adequate conditions for their children's development or even to satisfy their basic needs.

#### **Recommendation**

**Amending the Social Services Act<sup>37</sup> and the Act on Family Benefits<sup>38</sup> to make family benefits and social welfare benefits/services available to foreign nationals who have been granted a residence permit on humanitarian grounds on the same terms as to internationally protected persons.**

### **Sexual Exploitation and Trafficking**

#### **CRC/C/15/add.194 – point 49**

Undoubtedly, in recent years major positive changes have been made in the Polish legislation in the area of legal protection of minors from commercial sexual exploitation. One example is the expansion of such protection in child pornography cases<sup>39</sup> to include all children under 18. There are concerns, however, about whether the amended legislation will be properly applied by law enforcement agencies. A case-file study conducted by the Nobody's Children Foundation (NCF) shows that in criminal proceedings the burden of blame is still quite likely to be placed on the teenagers<sup>40</sup>.

#### **Recommendation**

**Organising and conducting training for judges who adjudicate criminal cases related to commercial sexual exploitation of children.**

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<sup>37</sup> Social Services Act of 12 March 2004 (Dz. U. 2013.182, consolidated text).

<sup>38</sup> Act of 28 Nov 2003 on Family Benefits (Dz. U. 2013.1456, consolidated text).

<sup>39</sup> Article 202 of the Penal Code.

<sup>40</sup> Komercyjne Wykorzystywanie seksualne dzieci i młodzieży. Postawy wobec problemu- Raport z badań. Fundacja Dzieci Niczyje 2011, FDN.

It is necessary to engage more public and private entities (e.g., organisations working in the tourism industry) in efforts against commercial sexual exploitation of children in tourism. It is also necessary to take a closer look at sex tourism in Poland, e.g., by conducting research into the problem. One of the first such efforts is the NCF's campaign "Don't Look Away!", which has led to creating a special website to facilitate the reporting of child exploitation efforts. The topic of child sexual exploitation should also be included in the curriculums of secondary schools and colleges/universities offering tourism-related programmes to make prospective tourism professionals more sensitive to the problem.

### **Recommendation**

**Incorporating the topic of child sexual exploitation into the curriculums of secondary schools and colleges/universities offering tourism-related programmes.**

Unquestionably, the support system for child victims of human trafficking should be developed and improved. There are still no separate systems for adults and for children in Poland. Despite the Committee's recommendation, Poland has not yet developed a National Action Plan Against Commercial Sexual Exploitation of Children. Some provisions concerning this problem may be found in the National Action Plan against Trafficking in Human Beings for 2013-2015, including the following guidelines:

- Developing standards for institutions that provide shelter and care for child victims of human trafficking (point 71);
- Developing an algorithm for responding to suspected incidents of human trafficking where the victim is a minor (point 72);
- Implementing a support and protection programme for child victims of human trafficking (point 73).

Given the fact that these guidelines are to be implemented by 2015, there is an urgent need to improve the efficiency of the implementation activities and their evaluation.

The topic of human trafficking is not yet included in official educational curriculums. School lessons on trafficking, if any, are usually conducted on an ad hoc basis. Thus, it is necessary to initiate larger-scale prevention activities in educational institutions.

A minor EU citizen identified as a victim of human trafficking in Poland and living in his family cannot count on any support from the social services system. EU citizens are not eligible for help referred to in Articles 5 and 7 of the Social Services Act. They can be only provided with intervention assistance, which leads to problems with the long-term satisfaction of their basic needs.

Persons under 18 who engage in prostitution do not have access to specialized help. Although they are not legally punished, they are usually regarded as depraved and placed in youth education centres. As a result, they are not provided with adequate treatment or counselling focused on their sexual experiences.

Projects carried out by the La Strada Foundation focus on providing crisis intervention for persons having the victim of trafficking status. Projects aimed at rehabilitation and social reintegration are usually implemented at the local level and as such are unable to reach all those who need such help.

### **Recommendations**

- 1) Developing and implementing a National Action Plan Against Commercial Sexual Exploitation of Children.**
- 2) Including the topic of human trafficking in school curriculums.**
- 3) Amending the Social Services Act which, in its current form, prevents the provision of adequate help for EU citizens being victims of human trafficking.**

### **Juvenile Justice**

#### **CRC/C/14/Add. 194 – point 51**

The Committee on the Rights of the Child recommended that the State party ensured full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Guidelines for the Prevention of Juvenile Delinquency. It also recommended Poland to enforce the regulations allowing a maximum stay of three months in juvenile shelters and to use deprivation of liberty only as a measure of last resort and protect the rights of children deprived of their liberty.

#### **Length of stay in juvenile shelters**

With regard to the length of stay in juvenile shelters, it should be noted that Polish legislation concerning juvenile proceedings does not set the maximum detention period in a juvenile shelter. According to article 27, para. 3 of the Juvenile Justice Act (JJA), detention of a minor in a juvenile shelter before referring the case for trial may not exceed 3 months. This period may be extended by another 3 months due to special circumstances of the case. Article 27, para. 6 sets a principle that the overall length of stay in a juvenile shelter until a ruling is made by the court of first instance, may not be longer than one year. However, this principle is also undermined: According to Article 27, para. 7, the period defined in paragraph 6 may be extended for definite time, if necessary.

Monitoring studies conducted by the Helsinki Foundation for Human Rights (HFPC) show that the average length of stay in juvenile shelters is longer than 3 months. In one of the shelters it is 5 months (for nearly 80% of the detained minors), with the longest stay being about 2 years.

In 2013 the Children's Ombudsman turned to the Minister of Justice to resolve this issue. It has also been examined by the European Court of Human Rights (ECHR). In January 2013 ECHR communicated the *Grabowski vs. Poland* (complaint no. 57722/12) to the Polish government.

#### **Recommendation**

**A minor's stay in a juvenile shelter should not exceed 3 months.**

### **Procedural guarantees**

The latest act amending the Juvenile Justice Act came into force on 2 January 2014. The fundamental change introduced by the new legislation concerns the model of juvenile proceedings and, in principle, involves its unification. The new act has waived the two stages of proceedings: the explanatory and fact-finding (examination) stages, as well as the two forms of fact-finding proceedings: tutorial and education proceedings and correctional proceedings. They have been substituted by uniform juvenile proceedings conducted by the family court with the application – as a matter of principle – of the provisions of the Code of Civil Procedure, applicable in guardianship cases (Article 20, para. 1 of the Juvenile Justice Act). At the same, provisions of the Code of Criminal Procedure shall be applied, as appropriate, with regard to: (1) collecting and preserving evidence, including the collection of evidence by the police; (2) the appointment of the defence counsel and their further actions; (3) handling the exhibits (material evidence) secured during the proceedings; (4) interviewing minors other than the juvenile (Article 20, para. 1-3 of JJA) and all activities involving the injured party (Article 21, para. 3 of JJA). At the same time, it should be emphasized that the amendment has incorporated some of the procedural guarantees based on the criminal defendant's rights into the content of the amended act. These include the juvenile's right to defend themselves, the right to counsel, the right to refuse to testify or answer specific questions, and the introduction of the principles of mandatory defence (Articles 18a and 32c of JJA).

According to the Helsinki Foundation for Human Rights (HFHR), these changes have actually undermined the procedural guarantees for juvenile delinquents. Within the previous legislative framework, they were tried according to the provisions of the Code of Criminal Procedure, having the same rights and procedural guarantees as adult offenders.

Today, as a result of the amendment, the procedural guarantees for juvenile delinquents have been significantly reduced. There are no longer any legal bases to provide them with such procedural guarantees as the presumption of innocence, the obligation to ascertain the substantive truth, or the principle of *in dubio pro reo*.

The standard of the right to counsel has also been lowered, at least partly. According to the previous legislation, a juvenile was entitled to apply for a public defender. The chief judge was obliged to appoint such a counsel if the juvenile had proven that neither he nor his parents could afford to hire a private attorney without prejudice to their ability to support themselves and their family. The amended Juvenile Justice Act obliges the chief judge to appoint a public defender for the juvenile only if the judge finds his participation in the case necessary.

### **Recommendation**

**A juvenile's procedural rights should be consistent with the binding international standards, including in particular the right to a fee public defence counsel and respecting the presumption of innocence principle.**



## Children belonging to minority groups

CRC/C/14/Add. 194 – point 53

### **Insufficient knowledge of Polish**

Research conducted by a group of psychologists at the Jagiellonian University in Krakow shows that one of the several factors predicting whether Roma children will attend schools for children with special needs (as opposed to regular schools) is their knowledge of the Polish language. It should be added that Roma children are bilingual with Romani being their first language. When these children start primary education, they do not speak Polish as fluently as their peers, they find it more difficult to learn new information, they make less progress than other children, and, consequently, they are more likely to be referred for psychological assessment. During the assessment procedures used by psychological and pedagogical counselling centres, children complete psychological tests designed to measure their cognitive skills. The problem is, however, that the tests are in Polish, which often leads to lower scores. This, in turn, may result in the decision to refer the child to a special school. It should be noted that despite the fact that counselling centres have access to non-verbal tests and, most recently, culturally sensitive tests, such tools are generally not used when assessing Roma children.

Another problem involves communication between the counselling centres' staff and parents who ultimately decide about their children's further education. These are often persons with no formal education or people who attended special schools themselves (in the communist era, before 1989, most Roma children were referred to special schools), so they are not always fully aware of the consequences of their decisions.

### **Recommendations**

- 1) Undertaking efforts to support Roma children in learning Polish. Teaching them Polish as a foreign language is essential at the initial stage of education. It is only possible in the form of extracurricular classes conducted by well-trained teachers (qualified for teaching Polish as a foreign language; currently such classes are conducted by teachers specialized in Polish studies and trained to teach Polish to Polish students). The number of hours should depend on each child's individual needs.**
- 2) Organising classes for professionals working at psychological and pedagogical counselling centres on Roma history and culture. This knowledge will improve their communication with Roma children during the assessment process and may be helpful in selecting the right assessment tool to test each child's cognitive skills. Moreover, it will facilitate communication with Roma children's parents who often sign documents decisive for their children's further education without being aware of the consequences of their decision.**
- 3) Organising workshops for professionals working at psychological and pedagogical counselling centres on how to use culturally sensitive tests when assessing Roma children.**
- 4) The obligation/recommendation to use non-verbal and culturally sensitive tests when assessing Roma children at psychological and pedagogical counselling centres.**

### **Segregated education**

Although segregated education is forbidden in Poland, the government continues to fund kindergartens for Roma children (the funds come from the state budget: The Programme for the Roma Community for 2007-2013. Such funding is also enabled by the National Roma Integration Programme for 2014-2020, which is going to be implemented in Poland).

### **Recommendation**

**Phasing out kindergartens for Roma children to comply with the ban on segregated education.**

### **Roma Education Assistants**

Since 2001, initially within the Pilot Government Programme for the Roma Community in Małopolska for 2001-2003, and then within the Programme for the Roma Community in Poland, the government has funded the institution of Roma Education Assistant (a person of Romani origin mediating between the child's parents and the school). It turns out that the presence of Roma Assistants at schools has helped to reduce many problems related to Roma children's education (helping children with their homework, mediating in conflict situations, motivating children to learn, facilitating communication between parents and teachers, etc.). Unfortunately, this role is often performed by persons with no qualifications for working at school (e.g., special school graduates or persons with incomplete primary education), and the only selection criterion is ethnicity. They often do not have their own desk or office and their status within the school is not clearly defined.

### **Recommendation**

**Strengthening the function of Roma Education Assistant through:**

- **regular evaluation of Roma Assistants' work (as not all persons performing this role are competent);**
- **offering them opportunities to improve their professional skills (regular training and workshops; a uniform educational programme for Roma Assistants all over Poland is needed);**
- **providing opportunities to continue or complete formal education (high school, graduate or postgraduate university education) for the most active Roma Assistants;**
- **defining the status of the Roma Assistant within the school (at the national level): remuneration proportionate to the scope of responsibilities, own office/desk in the school, ways of communicating with teachers and Roma parents, clear scope of duties).**

### **Insufficient knowledge of Roma culture among teachers**

Polish teachers have poor knowledge of Roma culture and history. Activities organized at schools are often limited to organizing a Roma Day. Usually, it is just a concert or a dance performance.

### **Recommendations**

- 1) Organising classes and developing educational materials (e.g., e-learning lessons) for teachers on Roma history and culture. Such knowledge and materials will enable teachers to conduct classes about the Roma (e.g., during the form period) and will certainly facilitate their communication with Roma children and their parents.**
- 2) Providing school libraries with publications about the Roma community to be used both by students and by teachers.**

# Recommendations

## General Measures of Implementation

### Legislation

#### **Legal representation of children in criminal procedures**

- 1) It is necessary to regulate the issue of due representation of children in criminal procedures in the Polish Code of Criminal Procedure.
- 2) Adequate preparation and training of candidates for guardians ad litem.

#### **Interviewing child witnesses**

- 3) It is necessary to develop standards of interviewing children – a „child interview protocol” that will include the required changes.
- 4) Obligatory training on how to interview children for those who interview children.
- 5) Changing the legal formula on the right to refuse to testify or to answer a question, allowing for the child’s age.
- 6) Amending the Ordinance of the Minister of National Education on Disciplinary Committees by introducing a provision that a child victim or witness shall be interviewed according to the Code of Criminal Procedure.

#### **Participation of court-appointed experts in criminal and family proceedings**

- 7) Passing the bill on court-appointed experts, defining both their required skills and qualifications, and the vetting procedures. The new legislation should also take into account the specific nature of the criminal process in cases involving children;
- 8) Offering education and training programmes for candidates for court-appointed experts.

#### **Lengthy court proceedings**

- 9) Introducing special solutions to give priority to cases involving children, in both family and criminal courts.

#### **Child victims of human trafficking**

- 10) Improving professionals’ knowledge about child trafficking.
- 11) Implementing special procedures of admitting child victims of trafficking to care institutions and providing adequate training in this area.

#### **Child begging**

- 12) Implementing systemic solutions to combat child begging.

### Coordination

- 13) Creating a mechanism for coordinating the policy on children. Establishing a new structure or delegating the powers to an existing structure. Defining the scope of activity, competence, and budget of the new body, which will be responsible both for coordinating efforts for children and for monitoring their effects.
- 14) Developing a strategy for children with measurable goals and a monitoring system.

### Independent monitoring

- 15) Developing and implementing a system for monitoring and self-evaluation of the implementation of the Convention on the Rights of the Child.

### **Allocation of resources**

- 16) Developing a system for monitoring and analysing the expenditures for children by individual ministries and government institutions, which would make it possible to estimate the overall government spending on children and to evaluate the effectiveness of these expenditures and how they change over time.

### **Data collection**

#### **The system for data collection**

- 17) Collecting all data as recommended by the Committee on the Rights of the Child.

#### **Scarce data on children, especially young children under 5**

- 18) Developing a system for monitoring children in Poland.
- 19) Developing adequate methodologies and allowing for the specific nature of monitoring the situation of young children. Working out a definition of the young child's wellbeing, its indicators and methods of data collection. This would make it possible to monitor the "soft" aspects of children's wellbeing, such as access to education, social interactions or the opportunity to grow up in a favourable physical and social environment.

#### **Cooperation with civil society**

- 20) Conducting consultations in a way that allow NGOs to express their opinions about the consulted matters.
- 21) Publicising information on which of the comments (if any) have been accepted and taken into account.

### **Dissemination**

- 22) Conducting systematic education on the rights of the child.

## **General Principles**

### **Respect for the views of the child**

- 1) Obliging all public institutions to respect the child's views.
- 2) Developing and implementing standards of hearing children in court procedures.
- 3) Promoting the institution of child hearing among judges.
- 4) Obliging the Family Diagnostic and Consulting Centres responsible for giving opinions in guardianship cases to take the child's views into account in matters that affect the child.
- 5) Developing and implementing training programmes for family court judges focusing (among another topics) on how to hear children to make them feel secure and give them a sense of privacy.

## **Civil Rights and Freedoms**

### **Freedom of conscience and religion**

#### **Free choice between ethics classes and religion classes in public schools**

- 1) Monitoring the implementation of the ordinance on the conditions and organisation of religion classes in public schools and kindergartens.
- 2) Guaranteeing the constitutional freedom of conscience and religion in public education institutions.

### **„Windows of life” (baby hatches)**

- 3) It is necessary to engage in efforts to develop prevention approaches, create systemic programmes and solutions, and promote the existing good practices (applied by NGOs) to reduce the problem of newborn babies being abandoned.

### **Ill-treatment and violence**

- 4) Establishing the Child Protection Services.
- 5) Expanding the training offer to include central programmes focusing on violence against children.

## **Family Environment and Alternative Care**

### **Alternative care systems**

#### **Family-type foster care for children with special needs**

- 1) Intensifying efforts, including national activities, to recruit candidates to work as foster families. Effective support for the existing family-type forms of foster care. Preventing foster parents’ outflow from the system.
- 2) Collecting data enabling in-depth analyses of the causing factors, rather than just quantitative information about the number of foster families in Poland as of specific dates.
- 3) Developing family-type foster care – specialized professional foster families.

#### **Children in institutional foster care, including children with special needs**

- 4) Adopting regulations that will prevent children under 7 (under 10, ultimately) from being placed in institutions, while respecting the principle of placing siblings together.
- 5) Intervention pre-adoption facilities for children with special needs should be replaced by specialized professional foster families. The existing mechanisms of providing financial support for specialized foster families are not being implemented.

#### **Barriers to the development of family-type foster care**

- 6) Preparing plans for developing family-type foster care based on previous analyses of the community’s actual needs; developing family-type forms of foster care according to the identified needs. Providing sufficient funds in the district budget for the implementation of the plans.
- 7) Introducing a special regulation to make it clear that foster care coordinators are obliged to respect foster families’ privacy when performing their duties.

#### **Mandatory informing**

- 8) Introducing a statutory obligation for foster care organizers to inform individuals who work as foster parents or run family-type forms of foster care about their rights guaranteed by the Act.

#### **Leaving care**

- 9) Developing and implementing a national programme for facilitating the process of leaving care for young people with disabilities, including the provision of a sufficient number of supervised/protected flats as an alternative to the existing system of institutional forms, such as Residential Nursing Homes.
- 10) Developing and implementing a national social housing programme, allowing for the needs of young people who are leaving care.

- 11) Increasing the number of protected/supervised flats, including flats for care leavers (according to the actual demand).

#### **Teacher training**

- 12) Modifying the teacher training system to include information about the specific nature of working with children in foster care in the content (and practice) of teacher education.

## **Basic Health and Welfare**

### **Basic Health**

#### **Breastfeeding**

- 1) Monitoring of breastfeeding in Poland.
- 2) Promoting and supporting initiatives aimed at breastfeeding.
- 3) Conducting educational campaigns showing the benefits of breast feeding both for the child and for the mother.

#### **The Public Health Act**

- 4) A public health bill needs to be prepared as soon as possible. The new law should set the principles of operation for the public health system and ensure that paediatric care has its due place within the system. Additionally, it should define ways of identifying and preventing major public health risks, including specific goals and efforts for prevention, health promotion, and health education.

#### **Primary health care**

- 5) Strengthening primary health care.
- 6) Shifting priorities towards outpatient care and prevention.
- 7) Expanding the competence of primary care physicians and liberating the diagnostic and treatment procedures to enable family physicians and paediatricians to refer their patients to computed tomography or other specialized diagnostic tests to facilitate early diagnosis.

#### **Tendencies in children's development**

- 8) It is necessary to accommodate the growing number of children with chronic diseases and to prepare the health care system for this growth to ensure full access to medical services for all children.
- 9) Introducing appropriate and effective health education, targeted both at children and at their parents, focusing on healthy eating habits and the health benefits of physical activity.
- 10) Ensuring good access to specialized medical services, including rehabilitation, for all children and young people, especially in small towns and rural areas.
- 11) Ensuring effective and generally available preventive dental care.

#### **Deficiency of child health care**

- 12) Improving the valuation of paediatric procedures to reflect their real cost.

#### **Vaccinations**

- 13) Modifying the mandatory vaccine schedule
- 14) Conducting an awareness raising campaign to improve parents' understanding of the importance of vaccinations for their children's health.

## **Mental health**

- 15) Providing more funding for the child and adolescent mental health care system and raising the number of child psychiatrists.
- 16) Changing the system of educating child psychiatrists to increase the number of specialists in this field.
- 17) Expanding the system of community treatment.

## **Standard of Living**

### **Lack of monitoring of poverty among children based on public statistics**

- 1) The quality of information on poverty among children published by the Main Statistical Office should be improved. More specifically, poverty should be presented in absolute and relative values by children's main characteristics: age, gender, place of living, family type, and disability. It is also important that the statistics should show to what extent child and family benefits contribute to reducing poverty incidence and depth among children.

### **Children as the group at the highest risk of poverty**

- 2) Reducing relative and, more importantly, extreme poverty should be the government's priority. It should be reflected by a commitment to reduce child poverty indicators by 2020. In the National Reform Programme and the National Programme for Preventing Poverty and Social Exclusion, the goal of reducing the number of persons at risk of poverty or exclusion by 1.5 million should be complemented with specific goals related to child poverty: reducing the number of children affected by relative poverty from 1.5 million in 2013 to 750 thousand in 2020, and reducing the number of children living in extreme poverty from 710 thousand in 2013 to 355 thousand in 2020.

### **Too low and poorly structured social expenditures; too low family allowances with supplements**

- 3) The income thresholds determining the eligibility for family allowances should be systematically raised to make such support available to more and more families (ultimately, only wealthy families should be excluded from the system). Family allowances should be systematically updated to reach the level of at least 50% of children's subsistence minimum, allowing for the increased needs of children with disabilities.
- 4) The family allowance supplement for children living in large families should be increased. This change should not only make up for the drop in the supplement's real value, but also ensure that large families are more effectively protected from the increased risk of poverty.
- 5) The measures of the minimum living standard, i.e., the subsistence minimum and the living minimum, should allow for the needs of children with disabilities: those who do not require constant care or supervision and those who are dependent on such help (helpless children).
- 6) The family allowance supplement for children with disabilities should be raised. This change should not only make up for the drop in the supplement's real value, but also ensure that children with disabilities are more effectively protected from the increased risk of poverty. The same applies to the helplessness allowance.
- 7) The announced changes in tax deductions (refunds for poorer families with children) and gradual (rather than cliff-edge or threshold-based) withdrawal of family benefits should be effectively implemented.



## Education

### **Ineffective efforts to provide equal educational opportunities**

- 1) Implementing an effective system for providing equal educational opportunities for children in rural areas and disadvantaged environments at all levels of education; monitoring and evaluating its effects.

### **Public expenditure on education: too low and unevenly distributed**

- 2) Implementing an additional mechanism of raising the education expenditure per student in poorer counties.

### **Access to early education**

- 3) Introducing state subsidies for local governments to fund care and education services for children under 5 and to provide access to early education for all children.

### **Financial support for children**

- 4) Creating a system that will guarantee effective use of financial resources allocated for the equalisation of educational opportunities: better identification of students' needs, less formalised procedures of requesting and obtaining support, and supporting schools and teachers in the provision of individualised assistance (to meet each child's specific needs).
- 5) Ensuring cooperation between public and private support programmes, e.g., by promoting stronger engagement of local authorities, schools, and teachers in informing children and their families about available grants and in helping them to apply for such grants.
- 6) Monitoring the implementation of the new principles of funding school textbooks and evaluating their impact on the quality of education (including the quality of teaching using the new primer published by the Ministry of National Education)

### **Access to computers and the internet**

- 7) Including the possibility to co-finance the purchase of mobile devices and internet access in financial support programmes for children in rural areas and disadvantaged environments.
- 8) Developing an effective system for making computers and the internet available to children in schools, public libraries and other local institutions, so that all children have free access to them.
- 9) Effective programmes to promote the use of information and communication technologies in education and the development of passions and knowledge, rather than only for entertainment and social interaction.
- 10) Developing government-funded programmes for creating open educational resources, i.e., openly licensed materials for students and teachers.
- 11) Cooperation among the Ministry of Administration and Digitalisation, the Ministry of National Education, and the Ministry of Infrastructure and Development, to make new technologies more available to children living in small towns, rural areas, and disadvantaged environments, including the creation of local centres of digital activity in close cooperation with education institutions.
- 12) Improving digital skills among teachers of all school subjects, at all levels of education.

### **Low level of education in vocational schools**

- 13) Urgent modernisation of vocational training to prevent it from creating a mechanism of reproducing and increasing social inequalities.

### **Selected achievements and problems**

- 14) Easing the pressure to achieve good results in standardised external tests, decreasing their importance, and eliminating the mechanisms of selection (e.g., preventing the division of students into "better" and "worse" classes at all levels of education and stopping the practice of admitting students from outside the school catchment area at the lower secondary level).
- 15) Preparing schools and training teachers on how to work with children with special educational needs.

- 16) Monitoring the educational paths, achievements and life careers of children in the above mentioned group.

#### **Uninvolved school**

- 17) Increasing the importance of citizenship education in the work of schools and teachers; systemic support for efforts promoting student participation and the democratic school culture.
- 18) Implementing the Social Capital Formation Strategy with respect to children and adults. The strategy was developed in 2009 by several government departments and NGOs, but no action plan was formulated and it is uncertain whether the strategy is going to be implemented.
- 19) Modifying the core curriculum for schools and kindergartens to make sure pupils, students, teachers and parents know the rights of the child and can use the mechanisms of their protection.
- 20) Training teachers on children's rights and human rights in general; promoting the model of school that not only teaches about these rights, but also respects them in its daily work and shows children how they can act in defence of their own rights and the rights of others.

#### **Integration of the systems of early care and education**

- 21) It is necessary to integrate the systems of early childhood care and education, which implies the need to work out the principles of cooperation between the Ministry of National Education and the Ministry of Labour and Social Policy in this area.

#### **New core curriculum**

- 22) It is necessary to create a new core curriculum for early education.
- 23) It is necessary to introduce changes in the preschool core curriculum to oblige teachers to apply the Convention on the Rights of the Child in their daily teaching work.

#### **Alternative forms of preschool education**

- 24) Increasing the flexibility of „alternative forms of preschool education“. This requires significant changes in relevant ordinances, in particular: decreasing the number of children in a group (it shouldn't be higher than 15); waiving the medical record books for parent volunteers; simplifying the building and sanitary/epidemiological regulations; providing additional training for teachers (especially on working with mixed age groups, cooperating with parents, and the equalisation of educational opportunities).

#### **Removing barriers to the development of services for young children**

- 25) Amending sanitary/epidemiological, building, fire and other regulations to adapt them to the development of alternative care and educational services.

## **Special Protection Measures**

### **Refugee children and unaccompanied minors seeking asylum**

#### **Unaccompanied minors in the refugee status determination procedure**

- 1) Introducing the institution of legal guardian for unaccompanied minors, who would be responsible for protecting the child's best interest and ensuring that the child's views are taken into account, and would be entitled to represent the child in all administrative procedures. To this end, it is necessary to amend the Act on Protecting Aliens within the Territory of Poland and, if necessary, the Family and Guardianship Code.

#### **Placing unaccompanied minors in guarded detention centres**

- 2) Amending the Aliens Act<sup>41</sup> by adding provisions that would explicitly outlaw placing persons under 18 in guarded detention centres for aliens.

#### **Access to public health care**

- 3) Amending the Act on Health Care Services Financed from Public Funds<sup>42</sup> by adding provisions that would grant alien minors and women during pregnancy, delivery, and confinement access to free of charge health care, regardless of their residence status.

#### **Access to social welfare and family benefits**

- 4) Amending the Social Services Act<sup>43</sup> and the Act on Family Benefits<sup>44</sup> to make family benefits and social welfare benefits/services available to foreign nationals who have been granted a residence permit on humanitarian grounds on the same terms as to internationally protected persons.

#### **Sexual Exploitation and Trafficking**

- 5) Organising and conducting training for judges who adjudicate criminal cases related to commercial sexual exploitation of children.
- 6) Incorporating the topic of child sexual exploitation into the curriculums of secondary schools and colleges/universities offering tourism-related programmes.
- 7) Developing and implementing a National Action Plan Against Commercial Sexual Exploitation of Children.
- 8) Including the topic of human trafficking in school curriculums.
- 9) Amending the Social Services Act which, in its current form, prevents the provision of adequate help for EU citizens being victims of human trafficking.

#### **Juvenile Justice**

##### **Length of stay in juvenile shelters**

- 10) A minor's stay in a juvenile shelter should not exceed 3 months.

##### **Procedural guarantees**

- 11) A juvenile's procedural rights should be consistent with the binding international standards, including in particular the right to a free public defence counsel and respecting the presumption of innocence principle.

#### **Children belonging to minority groups**

##### **Insufficient knowledge of Polish**

- 12) Undertaking efforts to support Roma children in learning Polish. Teaching them Polish as a foreign language is essential at the initial stage of education. It is only possible in the form of extracurricular classes conducted by well-trained teachers (qualified for teaching Polish as a foreign language; currently such classes are conducted by teachers specialized in Polish studies and trained to teach Polish to Polish students). The number of hours should depend on each child's individual needs.
- 13) Organising classes for professionals working at psychological and pedagogical counselling centres on Roma history and culture. This knowledge will improve their communication with Roma children during the assessment process and may be helpful in selecting the right assessment tool to test each child's cognitive skills. Moreover, it will facilitate

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<sup>41</sup> Aliens Act of 12 Dec 2013 (Dz.U. 2013.1650).

<sup>42</sup> Act of 27 Dec 2004 on Health Care Services Financed from Public Funds (Dz. U. 2008,1641027, consolidated text).

<sup>43</sup> Social Services Act of 12 March 2004 (Dz. U. 2013.182, consolidated text).

<sup>44</sup> Act of 28 Nov 2003 on Family Benefits (Dz. U. 2013.1456, consolidated text).

communication with Roma children's parents who often sign documents decisive for their children's further education without being aware of the consequences of their decision.

14) Organising workshops for professionals working at psychological and pedagogical counselling centres on how to use culturally sensitive tests when assessing Roma children.

15) The obligation/recommendation to use non-verbal and culturally sensitive tests when assessing Roma children at psychological and pedagogical counselling centres.

### **Segregated education**

16) Phasing out kindergartens for Roma children to comply with the ban on segregated education.

### **Roma Education Assistants**

17) Strengthening the function of Roma Education Assistant through:

- regular evaluation of Roma Assistants' work (as not all persons performing this role are competent);
- offering them opportunities to improve their professional skills (regular training and workshops; a uniform educational programme for Roma Assistants all over Poland is needed);
- providing opportunities to continue or complete formal education (high school, graduate or postgraduate university education) for the most active Roma Assistants;
- defining the status of the Roma Assistant within the school (at the national level): remuneration proportionate to the scope of responsibilities, own office/desk in the school, ways of communicating with teachers and Roma parents, clear scope of duties).

### **Insufficient knowledge of Roma culture among teachers**

18) Organising classes and developing educational materials (e.g., e-learning lessons) for teachers on Roma history and culture. Such knowledge and materials will enable teachers to conduct classes about the Roma (e.g., during the form period) and will certainly facilitate their communication with Roma children and their parents.

19) Providing school libraries with publications about the Roma community to be used both by students and by teachers.