



**Convention on the  
Rights of the Child**

Distr.  
GENERAL

CRC/C/OPSC/POL/1  
19 February 2009

Original: ENGLISH

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 12 (1) OF THE OPTIONAL PROTOCOL TO THE  
CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF  
CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

**Initial reports of States parties due in 2007**

**POLAND\***

[13 December 2007]

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

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## Introduction

1. On 10 September 2004 Poland ratified the Optional Protocol of 25 May 2000 to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Act of 10 September 2004, Journal of Laws no 238 item 2389). The protocol entered into force in Poland on 4 May 2005.
2. On the basis of article 12 point 1 of the Protocol the present report is being submitted to the Committee on the Rights of the Child. It is the first report since the time Poland ratified the Protocol. Further parts of the report present the implementation of the provisions of the Protocol in Poland and the activities undertaken in that respect.
3. Fighting the sale of children, child prostitution and child pornography, due to the seriousness of such crimes, the complexity of the investigation procedure, the methods of obtaining and collecting evidence, the specific way of handling the victims and the witnesses, the organized criminal groups, often acting on an international scale, requires systemic solutions aimed at the screening and efficient combating of such crimes. The efficient protection of children requires action in many fields, often on the international level. Therefore, various public institutions at the national and the local level undertake necessary actions, in many cases in cooperation with non-governmental organizations. It was also crucial to create the necessary structures within the Polish law enforcement authorities, dealing with combating trafficking in persons. It should be emphasized that the sale of children constitutes a particularly striking example of the high seriousness of the issue and therefore such crimes should be severely punished accordingly. That also concerns child prostitution and child pornography. The present report describes the actions undertaken by the Ministry of National Education, the Ministry of Interior and Administration, the Ministry of Health and the Ministry of Justice, and it also covers their cooperation with non-governmental organizations. Ban on the sale of children, child prostitution and child pornography.

### I. BAN ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

#### Article 1

4. The provisions of the Protocol concerning the penalization of child pornography and child prostitution, as well as the sale of children, do not in fact require changes of the Polish law, as amendments to the Penal Code Act introduced on 1 July 2004 (Journal of Laws of 2003, No 179, item 1750), and the amendments introduced by the Act of 27 July 2005 on changes to the Penal Code, Act - Code of Penal Proceedings and the Act - Executive Penal Code (Journal of Laws No 163, item 1363) already include the solutions required by the Protocol.
5. As regards the legal regulations in the Polish system concerning the trafficking in persons, child pornography and child prostitution, it is worth listing:
  - (a) Provisions of the *Penal Code*, regarding the following criminal offences:
    - Art. 253 of the Penal Code - trafficking in persons

- Art. 204 of the Penal Code - recruiting or kidnapping a person for prostitution abroad
- Art. 200 of the Penal Code - sexual relationships with children under 15 or presenting sexual activities to children
- Art. 202 § 2 - § 4a of the Penal Code - presenting pornographic materials to children; recording, ordering, storing, possessing and distributing pornographic materials with children; recording pornographic materials with children under 15; ordering, storing or possessing pornographic materials with children under 15
- Art. 203 of the Penal Code - making another person work as a prostitute by force, unlawful threats, deceit or taking advantage of the person's dependency or critical situation
- Art. 204 of the Penal Code - making another person work as a prostitute or facilitating it; obtaining financial gains from the prostitution of another person
- Art. 253 § 2 - illegal adoption

Taking into account the level of penalization of those crimes according to Polish law, one should state that under the regulations of the Penal Code those criminal offences are treated as serious crimes, and therefore carry a correspondingly high penalty.

(b) Regulations of the *Act of 13 June 2003 on foreigners (Journal of Laws No 128, item 1175, as amended)* regarding situations where the victim of trafficking in persons is a foreigner:

- Art. 33 sec.1 point 5 - a residence visa may be granted to a foreigner in spite of circumstances suggesting that the visa should be refused, if there are reasonable grounds for believing that the foreigner is a victim of human trafficking
- Art. 33 sec.1 point 3 - a residence visa for the time of stay necessary for the foreigner to decide to cooperate with the competent body conducting the proceedings on combating trafficking in persons
- Art. 53 sec. 1 point 15 - granting permission for settlement for a definite period of time to a foreigner who is a victim of trafficking in persons

(c) The United Nations Convention Against Transnational Organized Crime, adopted by the UN General Assembly on 15 November 2000, signed by Poland on 12 December 2000 in Palermo;

(d) The United Nations [Protocol to Prevent, Suppress and Punish Trafficking in Persons, in particular women and children, completing the above Convention, adopted by the UN General Assembly on 15 November 2002;](#)

(e) The Framework Decision of the EU Council of 19 July 2002 on combating trafficking in human beings;

(f) The Framework Decision of the EU Council of 22 December 2003 on combating the sexual exploitation of children and child pornography;

(g) The Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

### **Article 3**

#### **Sexual crimes concerning children and youth**

6. Recently a series of amendments was introduced into the Polish legislation in order to improve the legal protection of children, in particular from sexual crimes. On 27 July 2005 the Lower Chamber of the Polish Parliament adopted a resolution on amendments to the Act - Penal Law, the Act - Code of Penal Proceedings and the Act - Executive Penal Code<sup>1</sup> (Journal of Laws No 163, item 1363), introducing new regulations concerning pedophilia and raising the penalties for such offences, but not only. For instance, sanctions for sexual exploitation of children under 15 were raised, as well as for all types of rape. It is worth emphasizing that rape with another person and rape with particular violence was re-qualified from offence to crime, where the lowest penalty was set at 5 years of imprisonment (art. 197 § 3 and 4 of the Penal Code). Moreover, the extent of criminalization of sexual behaviour towards children under 15 was widened, by introducing in the new art. 200 § 2 of the Penal Code the liability of the person who, in order to satisfy his/her sexual desire, presents sexual activities to a child under 15. Taking into account the special protection of children under 15, the legislator raised the penalties for recording pornographic materials with such children (art. 202 § 4 of the Penal Code). Currently the criminal offence under article 202 § 4 of the Penal Code is punishable on conviction with 1 to 10 years imprisonment, while before the amendments of 2005 it used to be punishable on conviction with 3 months to 5 years imprisonment.

7. In the case of minors working as prostitutes and those suspected of prostitution the Police uses preventive measures, by covering them with so-called minor cards and systematic supervision by community support officers and specialists for minors. During individual conversations with young people and their supervisors, policemen investigate the reasons for the activity, the social and financial circumstances of the family and inform them about the possible consequences of prostitution. Moreover, according to the regulations on proceedings in cases of minors, the Police always informs the family Court about the cases of child prostitution.

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<sup>1</sup> The Act entered into force on 26 September 2005.

## Sale of children

8. In Poland the trafficking in persons (including women and children) was penalized in art. 253 § 1 of the Penal Code. The offence is punishable with no less than 3 years imprisonment. The Penal Code does not specify the legal definition of illegal sale of human organs and tissues, and therefore the definition from the Protocol to the Convention Against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, in particular women and children, is used. For under art. 91 of the Polish Constitution, any ratified international agreement after its publication in the Journal of Laws becomes part of the national legal order and is directly applicable. Such an agreement has priority over the act, if the act is incompatible with the agreement.

9. As regards the introduction of the definition of trafficking in persons into the Penal Code, it should be stated that the final shape of the definition will be specified in the context of the tasks imposed on the Ministry of Justice by the National Programme of Combating and Preventing Trafficking in Persons for the years 2007-2008.

10. It is worth emphasizing the importance of the [Protocol to Prevent, Suppress and Punish Trafficking in Persons, in particular women and children](#) (the so-called Palermo Protocol). Under its art. 3 subparagraph (a) trafficking in humans is defined as “*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*”.

Moreover, under subparagraph (b) of the article, the consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

11. Under subparagraph (c) of the same article, the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons”, even if this does not involve any of the means set forth in subparagraph (a) of this article. “Child” shall mean any person under eighteen years of age.

12. The definition of trafficking in persons found in the Protocol is universal. It covers a wide range of criminal behaviour, aimed at all types of exploitation of the victim (not only sexual). It is also worth emphasizing that according to the definition, the transport of a victim through the border is not a necessary condition for the criminal offence defined as trafficking in persons to occur. Trafficking in persons, as it is generally known, also takes place within one country. In many cases the victim is abducted from e.g. Ukraine to Poland and sold several times only on Polish territory. Every instance of such sale should be treated as trafficking in persons under art. 3 of the Protocol and art. 253 of the Penal Code.

13. There is no doubt that as regards trafficking in persons Poland is located at the crossroads of two commercial routes: the Balkan one and the Russian one. Poland is a country from which the victims are transported abroad, a transit country and the country of destination for traders of women from the former Soviet Union, Bulgaria and Romania. In the last two aspects (Poland as a transit country and as the country of destination) we are dealing with relatively low crime detection rate. One reason could be the deportation policy. Very often victims staying illegally in Poland are immediately deported to the border. The immediate deportation makes it impossible to collect potential evidence and understand the real significance of the problem. Victims are thus deprived of the possibility to provide evidence against perpetrators of criminal offences. The victims are brought to Poland by deceit and very often sold several times to subsequent traders in return for increasing prices, changing their place of residence, which considerably hinders the investigation in the case of reported disappearance.

14. The issue of the penalization of the illegal trade in human organs (including children's organs) is regulated in chapter 10 of the Act of 1 July 2005 *on taking, storing and transplanting cells, tissues and organs* (art. 43-46):

(a) Whoever informs about the paid sale, purchase or intermediation in the paid sale, or purchase of cells, tissues and organs for transplantation, is liable for fine, restriction of liberty or imprisonment up to one year;

(b) Whoever, in order to obtain financial gains, purchases or sells another person's cell, tissue or organ, acts as intermediary in such purchase or sale or participates in the transplantation of cells, tissues or organs obtained contrary to the legal provisions, taken from a living donor or a dead body, is liable for imprisonment up to 3 years;

(c) If the offence specified in sec. 1 has become the perpetrator's permanent source of income, he/she is liable for imprisonment up to 5 years;

(d) Whoever, without the required permission, takes a cell, a tissue or organ in order to transplant it or transplants it, is liable for fine, restriction of liberty or imprisonment up to 3 years.

15. The following institutions play a central role in the transplantation of organs, tissues or cells:

(a) The Minister of Health as a supervisory body in the system;

(b) The National Transplantation Board, as an advisor and assessor to the Minister of Health;

(c) "Poltransplant" Organization and Coordination Centre for Transplantology, as an entity financed by the Minister of Health, responsible for the coordination of the taking and transplantation of cells, tissues and organs in Poland, keeping the central register of objections to donation of organs, tissues and cells from deceased donors, keeping the National Transplantation Waiting List and the register of living donors;

(d) The National Center of Tissue and Cell Banking in Warsaw, as regards tissues and cells for transplantations in humans;

(e) Health centres with permissions from the Minister of Health to take and transplant organs.

16. At the same time, the legislator provided procedures for the taking, storing and transplantation of cells, tissues and organs, among others by: stricter control of the permits (accreditations) granted by the Ministry of Health for activities related to taking, storing and transplantation of cells, tissues and organs, in cooperation with the National Center of Tissue and Cell Banking in Warsaw and “Poltransplant” Organization and Coordination Centre for Transplantology and the National Transplantation Board, prevention of taking organs from living donors who are not relatives, siblings, adopted children of the recipient, by granting permission by the District Court on the basis of an opinion by the Ethical Commission of the National Transplantation Board, keeping the National Transplantation Waiting List and the register of living donors by “Poltransplant” Organization and Coordination Centre for Transplantology. The transplantation of organs is financed within highly specialized procedures from the budget of the competent minister for health, and the precondition for acceptance is the qualification of the patient for transplantation and registration on the National Transplantation Waiting List kept by “Poltransplant”.

### **Adoption**

17. In 253 § 2 of the Penal Code the organization of illegal adoption of children was penalized. It is punishable with imprisonment from 3 months to 3 years, whereas the abduction of a child or its detention without the consent of its legal guardian is regulated in art. 211 of the Penal Code. According to those regulations the perpetrator of such a criminal offence may be imprisoned for up to 3 years.

18. Since 1 October 1995 Poland has been a party to the Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption, prepared in the Hague on 29 May 1993. The Convention introduced a series of regulations in order to provide guarantees that intercountry adoptions shall take place in the best interest of children, respecting their fundamental rights, as well as guarantees preventing the abduction and the trafficking of children. Therefore, a system of cooperation between the competent bodies of the countries which ratified the Convention was created and the recognition of adoptions conducted on the basis of the Convention was introduced in those countries. The system of the Convention provides for the need to indicate the central authority for each country to exercise its responsibilities imposed by the Convention and to create a system of specialized institutions dealing with adoptions.

19. The central body appointed under art. 6 of the Convention is the Ministry of Labour and Social Policy, the Department of Social Assistance and Integration in Warsaw. The institutions dealing with the issue of adoption are adoption and care centres, whose competences are defined by the Act of 12 March 2004 on social assistance (Journal of Laws of 2004, No 64, item 593 as amended) and the order by the Minister of Social Policy of 30 September 2005 on adoption and care centres (Journal of Laws of 2000 r. No 205, item 1701).



20. Only the Public Adoption and Care Centre in Warsaw is authorized to keep a data bank of children waiting for adoption with a change of residence to a residence abroad, whereas the National Adoption and Care Centre in Warsaw and the Catholic Adoption and Care Centre in Warsaw are also authorized to cooperate with organizations authorized by the governments of other countries or adoption centres (order of the Minister of Social Policy of 5 October 2004 - Journal of Laws No 223, item 2266).

### **The punishability of criminal offences**

21. Besides stricter sanctions, the new act amending the Penal Code introduced changes to penal law institutions, such as penal measures and protective measures. The provisions of art. 41 § 1a and § 1b were introduced into the Penal Code, creating new forms of stating the ban on occupying particular positions or working in particular jobs related to the education, upbringing, treatment or care of children. Under art. 41 § 1a of the Penal Code, the Court may decide to forbid work in specific jobs or fields related to the education, upbringing, treatment or care of children in the case of imprisonment for a criminal offence against the sexual freedom or morality of children. In the case of repeated sentences for the criminal offence specified in art. 41 § 1a of the Penal Code, the permanent decision to forbid work at specific posts, in specific jobs or activities is obligatory (art. 41 § 1b of the Penal Code). Moreover, the Court, in the case of a sentence for a criminal offence against the sexual freedom or morality of children may impose the ban on remaining in particular circles or places, the ban on contacting certain persons or the ban on leaving a specific place of residence without the consent of the Court (art. 41a § 1 of the Penal Code). However, in the case of an imprisonment sentence for those criminal offences without suspended sentence, the Court decides on the above obligatory penal measure (art. 41a § 2 of the Penal Code).

22. The draft amendment to the Penal Code<sup>2</sup> includes the possibility to start and execute penal proceedings within 5 years of the moment the victim turns 18. It is a regulation aimed at providing a real possibility for the person who was a minor at the time of the offence to report the offence when he/she becomes an adult. Moreover, the project provides for the penalization of deeds consisting in distributing child pornography in the wide sense of the term, including computer-generated children's images. It is obvious that in the case of the projected regulation the object of protection is different than if children are exploited in order to produce pornographic materials, which is reflected in the penalty. The justification of the proposal runs as follows:

*Art. 101§ 4:* The framework decision in art. 8 sec. 6 obliges the Member States to guarantee the prosecution of at least the more serious criminal offences specified in the decision, after the exploited victim becomes an adult.

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<sup>2</sup> The draft amendment on amendments to the act - *Code of Penal Proceedings, the Act - Code of Proceedings in cases of criminal offences and several other acts* - the project was adopted by the European Committee of Council of Ministers on 26 January.

23. Sometimes children who were victims of sexual criminal offences do not even inform anybody about such situations. The European legislator, when introducing the above regulation, tried to create the possibility for a person sexually exploited in childhood to reveal the crime when he/she becomes an adult - and therefore fully consciously and independent of pressure from the relatives (if the criminal offence occurred in that circle of people), and for such action to result in the possibility of penal proceedings in the case. In practice, without proper changes to the Polish law, it could be excluded or limited due to the statute of limitations even in the case of the most serious sexual crimes. It should also be emphasized that the regulation refers both to crimes prosecuted on request or ex officio.

24. The adaptation of the Polish law to the requirements specified in art. 8 sec. 6 of the Framework decision is possible as regards the statute of limitation of criminal offences. Art. 101 of the Penal Code is the competent regulation regulating the issue of the above article of the Framework Decision. The proposed regulation is aimed at enabling the beginning and the execution of proceedings within 5 years of the moment the victim turns 18.

25. When assessing the seriousness of the criminal offence, it seems justified to cover with the proposed art. 101 of the Penal Code § 4 the offences where the victim is a minor, specified in art. 197, art. 200 § 1, art. 202 § 3 and 4, art. 203, art. 204 of the Penal Code.

*Art. 202 § 4b*

26. The framework decision introduces a wide definition of child pornography, including also realistic images of non-existing children, participating or involved in sexual practices, including the obscene presentation of sexual organs or the child's intimate parts. A similarly wide definition was adopted by the Convention of the Council of Europe on Cybercrime - art. 9 sec. 2. In the case of both legal acts, it obviously refers to computer-generated images.

27. The projected art. 202 § 4b of the Penal Code, penalizing deeds involving the distribution of child pornography in the wide sense (while it refers to computer-generated images of children) constitutes a direct implementation of art. 1a (iii) in relation to art. 3 of the Framework Decision. It is obvious that in the case of the projected regulation the object of protection is different than if children are exploited in order to produce pornographic materials, which is reflected in the penalty.

28. The child's age was defined in accordance with the requirements of the Convention of the Council of Europe on Cybercrime.

## **II. INTERNATIONAL LEGAL COOPERATION**

### **Article 4**

#### **Jurisdiction**

29. As regards jurisdiction, one must emphasize the fact that although in Poland the principle of territorial jurisdiction is in use, that is, the principle of prosecuting crimes committed on Polish territory and the principle of prosecuting Polish citizens for crimes committed abroad

(retaining the requirement of double penalty with several exceptions), under art. 113 of the Penal Code, regardless of the regulations in force at the place of the offence, the Polish act is used in respect to the Polish citizen and the foreigner who has not been deported, if he/she commits a criminal offence abroad which the Republic of Poland is obliged to prosecute on the basis of international agreements.

#### **Article 5**

##### **Extradition**

30. Poland offers international legal assistance and accepts requests for extradition on the basis of bilateral international treaties, multilateral agreements and the provisions of the Code of Penal Proceedings for lack of such agreements. Polish authorities offer legal assistance immediately, to a large extent, taking into account not only the requested actions, but also those whose necessity results from actions undertaken in accordance with the request.

#### **Article 6**

##### **International legal assistance**

31. Poland has concluded a series of bilateral agreements on legal assistance in penal cases and extradition. It is also party to many multilateral agreements, including the Convention on Mutual Assistance on Criminal Matters between the Member States of the European Union in 2000 and the Protocol to the Convention. The Convention and the Protocol entered into force in the case of Poland on 26.10.2005. It is also worth mentioning the Convention of the Council of Europe on combating the trafficking in persons signed in Warsaw in 2005. The work leading to the ratification of the Convention by Poland is in the stage of interdepartmental agreements. The Ministry of Justice is the cooperating authority. Another important document is the Convention on combating the sexual exploitation of children, which is now being negotiated at the Council of Europe. The Project of the Convention is a comprehensive one, including regulations on the prevention and combating of sexual crimes against children and assistance to the victims of such crimes.

32. The creation of specialized Police structures dealing with combating the trafficking in persons and child pornography had a positive impact on the limitation of those criminal practices. As regards the above-mentioned issues, it is worth mentioning the achievements of the Polish prosecution authorities in the international "Baleno" operation. For several months now the operation has been coordinated by the Europol in over 20 European countries, the USA and Canada and is directed against child pornography. In that particular case the common actions of the participating countries were initiated by the Dutch prosecuting authorities. The Dutch managed to eliminate a secret Dutch website serving as a contact point for people exchanging pornographic materials with small children. At the same time several hundreds of computers were found whose users downloaded films with child pornography to their hard disks. Among those computers there were some located in Poland. As a result of comprehensive Police actions, over 20 houses, flats, public and private companies and Internet cafes were searched. As a result,

Police forces participating in the “Baleno” operation seized 35 central units/computers (including 7 laptops), 22 hard disks, over 5.5 thousand CDs/DVDs, 292 floppy disks and 4 pen-drives (all the carriers containing mainly child pornography). 17 people suspected of possessing films with child pornography were arrested. Those persons were charged according to the Polish law with the possession of pornographic materials with children aged under 15. The Police forces also requested that the prosecutor and the Courts use preventive measures against the suspects, mainly in the form of temporary arrest due to the type of case and the high seriousness of the deeds. The arrested persons formed a pedophile group and they contacted each other and exchanged pornographic materials with children on the Internet. Those persons are representatives of several very distant social groups and professions. Currently, the Police is conducting intense operational and investigation actions in order to collect sufficient evidence for the purposes of the judiciary (the prosecution and the Courts), but also to find all the contacts of the arrested people which may be interesting to the Police in regard to child pornography.

33. The current provincial Police structures for combating trafficking in humans deal with both national and international cases, coordinated and supervised by the Central Team - with several other interested European states (Sweden, Great Britain, Ukraine). Those cases, now at various stages, mainly concern the trafficking in persons in most of the forms specified in the Palermo Protocol (starting from the trafficking of women to force them to prostitution, the trafficking in persons for criminal exploitation, including e.g. criminal deeds by minors and beggary), as well as child pornography and pedophilia.

### **III. PREPARATORY PROCEEDINGS**

#### **Article 7**

##### **Seizure, confiscation**

34. Under art. 44 of the Penal Code it is possible for the Court to declare forfeit of objects belonging to natural persons, coming from an offence (§ 1) and objects used or aimed at committing an offence (§ 2). Under art. 202 § 5 of the Penal Code, the Court may declare forfeit of tools or other objects used or aimed for committing the offence of public presentation of pornographic materials (including presentation to a minor under the age of 15), distributing, producing, recording or ordering, storing or possessing pornographic materials with children for public presentation, even if they do not belong to the doer. If the declaration of forfeit of objects is impossible for various reasons, the Court may decide on the forfeit of the equivalent of such objects (art. 44 § 4). Under art. 45 of the Penal Code, if the perpetrator obtained through the offence even indirect financial gain not subject to the forfeit of the objects specified in art. 44 § 1 or 6 (subject to the ban on production, possession, trade, transfer, transport or carrying), the Court declares the forfeit of the gain or its equivalent. Under art. 52 of the Penal Code, it is possible to declare forfeit in the case of legal persons. The above regulations enable the statement of forfeit not only of objects coming from an offence or used for committing the offence, but also financial gains obtained through the offence. Art. 155 § 4 of the Penal Code specifies the notion of financial or personal gain, stating that it is a gain both on one’s own and another person’s behalf. Under art. 45 of the Penal Code the Court may also declare the forfeit of

gain from the offence, even if it does not belong to the perpetrator, if the perpetrator has transmitted the gain to another natural or legal person or an entity without legal personality (§ 3). It assumes that the property constituting the gain from the offence is an object individually owned by that person or entity and the property rights related thereto. The assumption may be undermined by a contrary argument by demonstrating that they were obtained legally.

35. Under art. 100 of the Penal Code the Court may also state forfeit as an additional penalty, if the proceedings were discontinued due to the limited seriousness of the deed, the occurrence of circumstances lifting the punishability (e.g. expiration, clause of impunishability) or in the case of a conditional discontinuation of the proceedings. That refers to the forfeit of objects specified in art. 44 § 1, 2 and 6 of the Penal Code or constituting a gain obtained from an illegal action.

### **Combating child pornography on the Internet**

36. Due to the rising activity of pedophiles and their use of the Internet to contact children, who could possibly become their victims, the project involves the introduction into the Penal Code of solutions enabling the efficient combating of the phenomenon by introducing a new illegal action (adding art. 199a of the Penal Code), criminalizing contacts with children on the Internet or in another telecommunications network and using those contacts for arranging meetings with children. For similar reasons, it assumes the introduction of a separate type of criminal offence - preparation of criminal offence under art. 200 § 1 of the Penal Code (sexual practices with children under 15) and the penalization of the public promotion of pedophile behaviour. It also assumes the introduction of a penal measure into the Penal Code, by publishing the perpetrator's photograph and introducing the possibility for the Court to order such a publication, if the Court considers it useful due to the social impact of the penalty, when it does not violate the interests of the victim.

## **IV. PROTECTION OF THE RIGHTS AND INTERESTS OF CHILDREN - VICTIMS OF CRIMES**

### **Article 8**

#### **Penal procedure**

37. As regards the trafficking in persons, children are a particular category of victims, where different steps must be taken during the penal procedure than in the case of adults. Hearings of children are conducted by the prosecutor in the presence of parents and with a psychologist, unless the presence of parents is inadvisable, as one of them has committed the criminal offence of which the child was a victim or witness. Younger children are examined in special rooms (the so-called blue rooms), taking into account their individual needs. In the last few years 200 such rooms have been created in Poland and new ones are being opened systematically. They are usually located at Police stations, but also at the prosecution or local assistance institutions. They may be used during the proceedings with the victims by policemen, prosecutors and judges. The main aim of the creation of such rooms was to limit the number of examinations of children and victims of rape to a minimum (using video recordings in Court), not to expose them to traumatic

experiences again. It is important during the investigation proceedings to guarantee appropriate conditions for the child, resembling those of the child's home. The conditions and the place where the contact between the victim of the offence and the policeman takes place at the Police station are very important. The aim is to create the best conditions for the victim when waiting for the examination and during the procedure. The Police is systematically adapting the rooms to the above requirements.

38. As a principle, under art. 185a of the Code of Penal Proceedings, in cases concerning offences committed by family of caregivers or in cases regarding sexual liberty, the victim who is under 15 at the moment of examination is examined only once as a witness, in the presence of a psychologist. In exceptional cases such a person may be examined again, if new unknown circumstances are revealed which require explanations. The Ministry of Justice has taken patronage over "Mazowiecka" Child Advocacy Centre - an institution dealing with specialized assistance to children, also equipped with a blue room - a friendly place for the examination of children.

39. Moreover, in 2005 the Office for Organized Criminality of the National Prosecutor's Office has prepared and distributed to all the prosecutor's offices instructions for prosecutors conducting preparatory proceedings in cases of trafficking in children, in particular foreign children remaining in Poland without guardians. In 2005 the Presidium of the National Prosecutor's Office sent to the appeals prosecutions "*Instructions on proceedings in penal cases concerning children*", adopted at the 36<sup>th</sup> plenary session of the UN Economic and Social Council in resolution 2005/20, which are similar to the already mentioned optional Protocol. Policemen dealing with that type of victims have undergone special training and use special equipment - the examination rooms adapted to the needs of children. Within the National Programme of Combating and Preventing the Trafficking in Persons for the years 2007-2008 a "Model of support and protection of a child - victim of trafficking in persons" is being prepared, on the basis of the existing and applied model regarding adult victims.

40. Cooperation with non-governmental organizations dealing with those issues, such as "La Strada" Foundation and "Nobody's Children" Foundation, as well as "Itaka" or "Caritas", is actively developing. Cooperation and participation in that field is also undertaken with international institutions, both closely related to the Police and justice in the wide sense of the term, such as INTERPOL, EUROPOL, EUROJUST, BALTCOM, and organizations such as IMO (International Organization for Migration) or FRONTEX. That guarantees a makes more complete and more efficient realization of tasks related to combating the trafficking in persons, child prostitution and child pornography, in particular as regards the help to the victims of such criminal offences and their cooperation with the institutions.

### **Personnel training**

41. The issues discussed here remain one of the permanent points of training for prosecutors dealing with cases regarding children - victims of offences. The trainings cover issues in psychology and granting social assistance and are aimed at the better preparation of the prosecutors for the necessary help to children - victims of crimes. Prosecutors conducting or

supervising cases regarding children - victims of such criminal offences inform the children through their parents or guardians about their rights and in particular the right to privacy, safety and indemnity.

42. Training projects at the Police School in Szczytno and the Police School in Katowice are continuing, as well as encouragement projects for all the Police schools to participate in training panels devoted to the trafficking in persons, child pornography and pedophilia. It is worth noting that at some Provincial Police Headquarters only coordinators' positions or non-permanent teams have been created for combating the trafficking in persons, child pornography and pedophilia, although the issues concerned are very complex and require considerable commitment from the Police authorities. The issues of the trafficking in children, child pornography and child prostitution remain in the focus of interest not only of the criminal services combating such crimes, but also the prevention forces, mainly specialists dealing with minors and criminal prevention, undertaking various tasks and projects aimed at preventing offences whose victims are children and which constitute a social pathology with high social impact.

43. Moreover, cooperation has started with:

(a) The Institute of Social Prevention and Resocialization at Warsaw University, conducting a training project entitled "Trafficking in persons - prosecution and prevention";

(b) The Warsaw branch of OSCE as regards the monitoring of the phenomenon, supporting (mainly Police) tasks, realizing various programmes of combating the trafficking in persons;

(c) The Spanish Police - within the twinning programme regarding among others the trafficking in persons.

44. At the National Prosecutor's Office new instructions have been prepared for prosecutors conducting or supervising penal cases of trafficking in persons, which also include procedures of dealing with children - victims of trafficking in persons. At the Ministry of Justice a separate organizational entity for issues of victims of criminals' offences has been created. It systematically prepares information concerning the protection of victims, also covering the issues of child victims. The materials are distributed to the Courts and prosecutor's offices. Moreover:

(a) The National Consultation Point for Foreign Children without a Guardian and Children - Victims of Trafficking was created;

(b) "Children are not for sale" - a training and publishing project, aimed at informing about the issue of trafficking in children. The project is realized at various levels:

- Editorial - leaflets and posters with practical instructions (basic questions to ask a child from a risk group), the leaflet entitled "The issue of trafficking in children in Poland", the "Best practices" document, the leaflet on "The issue of trafficking in children in Poland and abroad" - those materials have been distributed to policemen, officers of the Border Guard, to fostering and educational centres, to centres for foreigners, Polish consular services

- Training - working meetings with representatives of various professions; trainings for employees in all the provinces - policemen, officers of the Border Guard, centres of critical intervention, prosecutor's offices, Courts, employees of Employment Control Departments
- Training for policemen - child protection officers, on the trafficking in children and commercial forms of sexual exploitation
- Specialized training on trafficking in children for officers of the Border Guard

### **Other protective measures**

45. The issue of the respect of children's rights, in particular when the child is a victim of violence, pedophilia, trafficking in persons or other criminal exploitation, remains within the sphere of interest of prosecutors and the professional supervision by the prosecutors of the management of individual organizational entities of the prosecutor's office. The basic principle when dealing with children - witnesses or victims of offences is treating them with special care and tenderness, not to increase their suffering, mainly psychological. In some district prosecutor's offices specially trained prosecutors were appointed to deal with cases of minors and children. They are prosecutors with considerable professional and family experience and particular delicacy and care as regards people in need of sympathy and support.

46. In the penal proceedings children's privacy is protected, which means that information transmitted to the media, such as the sex and age of the victim or witness, as well as the circumstances of the event, are modified in such a way as to make the identification of the child impossible. Moreover, proceedings at the Court regarding children are usually not conducted in open Court, and the examination of the witness usually takes place when the accused is not present. The right of the child to privacy is always the superior to the right to information.

## **V. PREVENTING TRAFFICKING IN CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

### **Article 9**

#### **Information, education and prevention**

47. In order to prevent sexual violence among children and youth, the Ministry of National Education is creating the best conditions for educational and preventive actions at the schools. The issue of education, including prevention, is emphasized more and more clearly also in the legal acts. Those acts include:

(a) The order by the Minister of National Education and Sports of 26 February 2002 on the basic curriculum for pre-school education and general education in particular types of schools (Journal of Laws No 51 item 458);

(b) The order by the Minister of National Education and Sports of 31 January 2002 amending the order on the framework statutes of the public kindergarten and public schools (Journal of Laws No 10 item 96);



(c) The order by the Minister of National Education of 15 January 2001 on the principles of granting and organizing psychological and pedagogical assistance in public kindergartens, schools and institutions (Journal of Laws No 13 item 110).

48. Those acts specify among others the curriculum basis for education, promoting the shaping of behaviour opposing negative phenomena, which may have impact on risky behaviour of students. The tasks of the educators were also specified, as well as the fields of their cooperation with the school pedagogue, including the creation of adequate conditions for boosting the students' development, maintaining contacts with the parents, recognizing the individual needs of the students and analyzing the reasons for school failures, defining the forms and ways of granting students psychological and pedagogical assistance, undertaking preventive and educational actions resulting from the educational curriculum of the school and the prevention programme.

49. Currently every school is obliged to prepare an educational and prevention programme for children and youth. Both programmes must be coherent with the curriculum of the educational lessons in "Health and Social Education" and result from the analysis of the educational environment.

50. The issue of trafficking in persons was also introduced into the basic curriculum of general education in the Polish educational system:

(a) In the order by the Minister of National Education and Sports of 6 November 2003 amending the order on the basic curriculum for pre-school education and general education in particular types of schools;

(b) In the basic curriculum for general education for general high schools, specialized high schools, technical high schools, supplementary general high schools and supplementary technical high schools, the curriculum for the lesson in social studies, the part devoted to Society, reads: "The Polish society in the contemporary world and its problems. Threats such as sects, the trafficking in persons, addictions, child prostitution.";

(c) The basic curriculum for grades 4-6 of primary school the curriculum for the lesson in Health education reads: "*Protection from natural and social threats*", whereas for the lesson in *Health and Social Education* (a module of Social Studies) it reads: "*The right of humans for intimacy and the protection of that right; assertive attitudes.*"

51. According to the decisions of the Minister of National Education and Sports of 5 February 2004 on the acceptance of pre-school educational curricula, school educational curricula and manuals and the withdrawal of acceptance (Journal of Laws No 25, item 220), the curriculum of general education shall include materials related to detailed educational aims, taking into account the material specified on the basis of the general curriculum. Under § 6 sec. 2 of that order the condition for the acceptance of a general school curriculum is among others the compatibility of the educational material with the range of educational materials specified in the basic general curriculum. Specialists preparing the technical assessment of the educational curriculum have been obliged to prepare a detailed assessment of that condition.

52. The offer of institutions training teachers includes issues related to trafficking in persons. The task was completed by the National In-service Teacher Training Centre of the Ministry of National Education in the following programmes:

(a) Coaches in Human Rights Education - training for a group of 40 coaches preparing for local trainings in multicultural issues, educational actions in human rights and tolerance;

(b) Human rights. Education. Action. - educational programme by Amnesty International realized in cooperation with the Central Teacher Training Centre since 2003, aimed at preparing members of Amnesty International, inspectors for the local education authority and teachers to set up Amnesty International groups at the schools;

(c) Discovering humanitarian law - humanitarian education - educational programme on human rights for educational counsellors, teacher counsellors and school teachers, realized in cooperation with the International Red Cross, including materials on the ethical aspects of law, the protection of human life, respect of human dignity, limiting violence;

(d) School volunteer work for human rights - programme assuming the permanent cooperation with government and non-government organizations on support for education for human rights and tolerance.

53. A very important aspect of educational activities at the school, organized during the course in Health and Social Education as an element of health education as regards human sexuality is promoting the correct attitudes and behaviour respecting the dignity of the human body and presenting the beauty of human love. Those are parallel activities aimed at the prevention of sexual violence against children and the issue of sexual exploitation of children and child pornography. Giving the student the appropriate knowledge and abilities in that field constitutes an important element of child and youth protection from sexual exploitation. The teacher's tasks include information about such problems and teaching children assertive attitudes, how to set barriers, refuse and search for help. The school is obliged to inform the pupils about the possibility of receiving psychological, pedagogical and therapeutic assistance.

54. The form of the classes and the material results from orders by the Minister of National Education:

(a) On the basic curriculum for pre-school education and general education in particular types of schools (Journal of Laws No 51 item 458);

(b) On the methods of school education and the material on the human sexual life, conscious and responsible parenthood, family values, life before birth and the methods and measures of conscious procreation included in the basic educational curriculum (Journal of Laws of 1999 No 67, item 756 as amended).

Those orders include the obligations of: the Convention on children's rights, The Mental Health Protection Programme, the National Alcohol Problems Prevention and Solution Programme, the National Programme for the prevention of Drug Addiction, the National Programme for HIV Prevention and Care for HIV-positive persons and persons with AIDS. The preventive activities of the school cover the entire community: students, teachers and parents.

55. The Ministry of Justice is organizing a campaign, together with “Nobody’s Children” Foundation, entitled “*The child - a vulnerable witness*”. The campaign is addressed to judges, prosecutors and employees of the law enforcement authorities, as well as psychologists, in order to make them more sensitive to the situation of children in the penal case and improve children’s examinations. Moreover, all the prosecutors and judges have received the principles of proceedings towards children participating in penal cases in order to limit the negative impact of that participation on the child.

56. Another important task is the promotion of prevention and education campaigns by the Police. The Police cooperates with the mass media in that respect. There are publications on the issue in the national and local press and regular TV shows. Prevention materials prepared by the Police and statistical data on criminality related to the trafficking in persons, as well as the basic legal acts are published regularly on the website of the Police Central Headquarters, on the Criminal Bureau site. It includes materials informing about the idea of combating and preventing the trafficking in persons and the work of the Team of the Police Central Headquarters and the provincial teams ([www.policja.pl/index.php?dzial=161&id=2535](http://www.policja.pl/index.php?dzial=161&id=2535)).

57. As regards preventive tasks, in particular the participation in educational programmes, the Police now supervises 426 preventive programmes, including 274 in general security (207 concerning minors). 14 programmes are aimed for victims of crimes, including 11 for minors. They also cover issues of individual safety in the wide sense of the term, carefulness in contacts with strangers, the principles of avoiding dangers in places of entertainment, education and residence etc., and are prepared for children and youth in the school and pre-school age, as well as their parents and guardians.

58. When combating child prostitution, policemen and representatives of other institutions participated in meetings at schools and informed the children about the legal liability, demoralization, the provisions of the *Act on proceeding in cases of minors* and other dangers related to that phenomenon - rape, battery, murders by “clients” and pimps. Employees of family, psychological and pedagogical assistance centres conducted meetings with the children on the issues of prostitution and the health risks related to prostitution, including the risk of HIV. Discussions with school pedagogues, supervisors and headmasters were also organized in order to encourage them to inform regularly about any alarming events proving or possibly proving that a child is involved in prostitution.

59. In the recent years Police has also been monitoring the issue of the so-called forced prostitution, concerning mainly women planning to start work abroad and forced to become prostitutes on the spot. Policemen inform young women, in particular students of high schools and universities, about the need to remain cautious when selecting the intermediary offering them a job abroad. The website of the Police Central Headquarters also contains advice on that issue.

60. The prevention initiatives started or continued in the recent years also include the “Safe pre-school pupil” educational programme, prepared by the employees of the Provincial Police Headquarters in Białystok and conducted in kindergartens in the podlaskie province. Two out of five thematic units - “The dangerous stranger” and “Evil touch” concern the shaping of the ability to tell the difference between bad and evil touch, teaching children to ask a trusted person

for help and say “No” in specific circumstances. The topics are covered depending on the decision of the teacher of the given group and upon written consent of the parents. The basic aim of the programme is to limit the occurrence of dangerous situations concerning children. The novelty of “Safe pre-school pupil” consists in the consolidation of all the environments the teachers, the university and the Police in prevention for the youngest, whereas the direct realization of the curriculum is based solely on the preparation of the teachers. “Safe pre-school pupil” is also one of the few programmes in Poland covering the primary prevention of the so-called “evil touch”, related to the education of children to protect them from falling victim to sexual crime.

61. In 2005 the Prevention Department of the Provincial Police Headquarters in Gorzów Wielkopolski organized a seminar for the heads of the prevention sections, specialists in cases of minors and criminal prevention of the Provincial Police Headquarters and the Municipal Police Headquarters, as well as directors of emergency young centers. The seminar was entitled “The hurt child - recognition and support” and it was organized under the patronage of the Ombudsman for Children. The aim was to improve the ability to recognize the problem of hurt children and undertake preventive and corrective measures, and in particular:

- (a) Various forms of hurting children;
- (b) Gaining the ability of legal qualification of instances of hurting children;
- (c) The extent of the problem of hurting children and the features of criminal offences where the victims are children;
- (d) The methods and possibilities of preventing the hurting of children;
- (e) Gaining the ability of making the first contact with a hurt child;
- (f) The local system of assistance for hurt children.

62. The programme “The Safe child - our friend Sznupiek” - is an initiative of the Katowice City Hall and the Municipal Police Headquarters in Katowice, realized in cooperation with the Katowice City Pedagogues and Psychologists Council. The programme is addressed to children of all the primary schools in Katowice. It is aimed at educating the children using the image of the mascot of the Silesian Police - Sznupiek the dog, in order to warn the children from danger. The programme is realized by the Municipal Police Headquarters together with: the Crisis Management Department of the City Hall, the Education Department of the City Hall, the President’s Plenipotentiary for Additions, The Katowice City Guard and the Specialized Family Support Centre in Katowice. The programme covers among others issues concerning the safety of children in contacts with adults (harassment, bullying, thefts, criminals obtaining information from children, Internet risks etc.).

63. One of the initiatives aimed at the prevention of negative events related to violence against children and youth was the drafting of the Principles of Children’s Protection - a minor victim or witness of crime by the Lublin Provincial Police Headquarters. It is worth noting that the priority tasks included special care for children - victims of sexual violence. The team consisted of

representatives of various institutions. Judges, prosecutors, psychologists, doctors and policemen cooperated to create the Principles. In order to protect the interests and the safety of the child being a victim or witness of crime or a participant of proceedings conducted under the provisions of the Penal Code, the act on proceedings in cases of minors or other acts, the need for cooperation between institutions remaining in contact with children was emphasized, as well as the need to harmonize the practices of dealing with the child being a victim or witness of crime or a participant of other proceedings. Those activities are aimed at various professional groups, which, due to their professional duties, have contacts with children (school pedagogues, teachers, community nurses, doctors, policemen, social workers, probation officers etc.).

64. The mazowieckie province continues the programme entitled "Saving Childhood". The programme is realized by the Provincial Police Headquarters in Radom and is aimed at the protection of children and youth from sexual harassment. One of the main objectives is the limitation of instances of pedophilia in the mazowieckie province and encouraging the local communities to inform the Police about cases of that pathology. When realizing the programme, the organizers started cooperation with "Nobody's Children" Foundation and the Scientific and Academic Computer Network (NASK).

65. In 2005 policemen from the mazowieckie garrison continued preventive projects within the programme in course. Children in pre-school and early school age were informed by policemen about the safety principles on the way to school and back home, during play and contacts with strangers. Pupils of primary schools were taught the general safety principles, family violence and the legal protection of victims of sexual offences. In junior secondary schools students were informed about sexual offences on minors, the relationship between sexual harassment and the abuse of alcohol or drugs. The legal situation was discussed, as well as the rights and support for victims of sexual violence. For high school students the material also included the victimization of sexual violence against minors and the physical and mental consequences of sexual exploitation.

66. Preventive actions were also organized in the case of adults who have contacts with children at work. During special meetings they were informed about the basic legal acts regulating the rights and obligations of minor victims of offences (including sexual offences), the legal possibilities of assistance for the victims and the competences of the Police.

#### **Assistance to victims of criminal offences**

67. Children being victims or witnesses of crime and the members of their families receive information from the persons conducting the proceedings on the possibilities of obtaining various forms of help. Such assistance is offered by various organizations, associations, foundations and social welfare centres and its aim is support in the wide sense of the term - psychological, financial, legal and other, depending on the child's needs. Moreover, the right for efficient help is realized by the possible appointment of a legal guardian for the child if the parents cannot take care of the child, regardless of the reasons. At the same time, Courts and prosecutor's offices received information about the already existing "blue rooms" with the instructions to create rooms meeting specific requirements in their entities.

68. The Ministry of Interior and Administration prepared a study containing the principles specified in the penal procedure which should be used if a minor is victim of trafficking in persons. *Substantial instructions for prosecutors conducting or supervising penal proceedings in cases of trafficking in persons* were prepared, covering proceedings with children who are victims of trafficking in persons. Those instructions were distributed to Courts and prosecutor's offices.

69. The act of 22 April 2005 *amending the act on foreigners and the act on granting protection on Polish territory and several other acts*, specifies the conditions for granting temporary residence permits to victims of trafficking in persons who cooperate with the competent authorities and the methods of realizing the country's obligations towards those victims - third country citizens. The Act entered into force on 1 October 2005. It was decided that the obligations of the country towards the victims would be financed from the state budget as an order of public action between the Ministry of the Interior and Administration and a non-governmental organization who wins the open competition.

70. On 1 April 2007 a draft amendment of the act of 12 March 2004 on social welfare entered into force, which is the basis for granting support, that is, covering a person with the social welfare system, as a victim of trafficking in persons (also referring to foreigners).

71. Provisions legalizing the stay of foreign children without guardians, vulnerable of becoming victims of trafficking in persons, in childcare institutions were introduced into the act on social welfare. The resolution on childcare institutions is in preparation, in order to introduce detailed provisions concerning the method of sending and accepting foreign children to 24h childcare institutions. The new changes will enable the better analysis of the life situation of those children and monitoring their fate.

72. The Ministry of Justice has created a Team for the Preparation of the Crime Victim National Programme. The team is preparing a pilot project to create a Network of Support for Crime Victims in Poland. The project assumes the creation of the institution of a victim tutor - a person who supports the victim throughout the penal proceedings and, if necessary, after the proceedings. First of all, victims requiring special care (children) will be granted such help. The programme also involves therapeutic, psychological and other help necessary to the child, both at Family Diagnosis and Consultation Centres and at the child's place of residence.

73. "Nobody's Children" Foundation plays an important part in the support for sexually exploited children. The Foundation, besides granting direct psychological assistance to hurt children, realizes the child protection programme called "*The Child under the Umbrella of Law*", aimed at improving the situation of children participating in penal proceedings, the "*Programme for foreign children without care*" - aimed at supporting children who are victims of trafficking in persons or "*Children's safety on the Internet*" for the safety of children having access to the Internet.

#### **Government programmes and strategies**

74. The growing frequency of trafficking in persons, where the victims are more and more often children, has created the need to find system solutions related to the recognition and

combating of such crimes. The above mentioned deportation policy, hindering the collection of evidence and the cooperation with the law enforcement authorities, have resulted in changes in that respect. Therefore on 16 September 2003 the Council of Ministers adopted the *National Programme of Combating and Preventing Trafficking in Persons*. Various entities of public administration and non-governmental organizations participate in the programme. Currently, the programme is being realized as a continuation for the years 2005-2006, whereas its next continuation for the years 2007 - 2008 has already been prepared. The working group of the Team for Combating and Preventing the Trafficking in Persons prepared the "*Algorithm of proceedings for officers of law enforcement authorities in the case of revealing trafficking in persons*." The Police and the Border Guard, as well as participants of trainings on proceeding with victims and witnesses of trafficking in persons had frequently referred to the need for such a document. The issue is particularly important, due to the launch on 1 January 2006 of the Programme for the Support and Protection of Foreigners - victims of trafficking in persons, by the La Strada Foundation, as a task ordered by the Ministry of Interior and Administration. Currently the *Algorithm* functions as the procedure in force whose correct use requires a time-consuming commitment of officers dealing with the trafficking in persons and their thorough training.

75. Currently the National Programme of Combating and Preventing trafficking in Persons for the years 2007-2008 adopted by the Council of Ministers in April 2007 is being realized.

76. Besides the National Programme of Combating and Preventing the Trafficking in Persons, it proved necessary to create full-time professional Police structures following the example of other European countries - which would be able to cooperate on an international level with other Police formations and international organizations specializing in the prevention and combating of trafficking in persons, human organs, pedophilia and child pornography. The issue of trafficking in persons due to its seriousness, the complexity of the investigation procedure, the preparatory procedure, the specific way of handling the witnesses, the methods of obtaining and collecting evidence, the organized criminal groups dealing with trafficking in persons and the international scale of their activities, made it necessary to create the Central Team for Combating Trafficking in Persons, human organs, child pornography and pedophilia within the structures of the Police Central Headquarters and the coordinators/full-time teams at the Provincial Police Headquarters. The team was appointed by the decision no 488 of 5 September 2006 by the Chief Police Officer. The tasks of the central team involve:

(a) The coordination and supervision of the activities of coordinators and teams for combating the trafficking in persons appointed by the Provincial Police Headquarters and the Warsaw Police Headquarters in relation to combating the trafficking in persons, human organs, pedophilia and child pornography;

(b) Prevention activities aimed at limiting the trafficking in persons, human organs, pedophilia and child pornography;

(c) Coordination and initiation of training and professional training for policemen combating the crimes specified in point 1;

(d) Participation in the organization of international operations for combating crime related to trafficking in persons, human organs, pedophilia and child pornography;

(e) The organization of cooperation with non-Police entities;

(f) Cooperation with the Institute of Resocialization of Warsaw University in order to analyze the current regulations on trafficking in persons, human organs, pedophilia and child pornography as regards their practicality, coherence and legibility.

77. By virtue of the decision of the provincial Chief Police Officers the above mentioned full-time Teams for Combating the Trafficking in Persons were appointed, consisting of 2-4 officers. Their tasks include:

(a) Applying the principles specified in the “*Algorithm of proceedings for officers of law enforcement authorities in the case of revealing trafficking in persons*”;

(b) Analyzing the phenomena and events concerning the trafficking in persons, human organs, pedophilia and child pornography;

(c) Supervision and coordination of preparatory proceedings and operational in that field;

(d) Analyses of the Internet (communicators, chats, forums, discussion lists etc.);

(e) Systematic monitoring of the potential places of trafficking in persons, including escort agencies, massage centres, as well as road prostitution;

(f) Keeping a central database of trafficking in persons, human organs, pedophilia and child pornography in cooperation with the Criminal Investigation Entities of the Police Central Headquarters within the System of Informational Reporting;

(g) Participation in international operations related to trafficking in persons, pedophilia and child pornography;

(h) Tasks ordered by the Team of Police Central Headquarters within the coordination of tasks regarding cases on national and international level;

(i) Maintaining contacts with non-Police entities and local governments as regards criminal prevention of trafficking in persons;

(j) Organizing training for policemen of other departments and dependent entities.

78. The provincial “Actions aimed at the prevention of sexual exploitation of children”, started in December 2003 at the Provincial Police Headquarters in Olsztyn are also continuing. As a result, the operating procedures when receiving information about the sexual exploitation of children were prepared. In the case of suspicion of sexual crime against a child, the obligation of



contact by phone by the officer in duty with the coordinator of the Psychologists' Team of the Provincial Police Headquarters in Olsztyn was established, in order to advise the policemen starting actions in the case, or the obligation of the presence of psychologist in person.

79. Moreover, the officers in duty were trained and well prepared for the reception of such information - both anonymous and official. They were informed about the need to treat victims and witnesses of such offences in a special way. Every officer in duty was handed the *List of institutions offering support to persons in need in the warmińsko-mazurskie province*, prepared by the Prevention Department of the Provincial Police Headquarters, so that the officers, besides taking the Police measures, could also send the victims to supporting institutions. The obligation of conducting procedures with child victims in the "blue room" was also introduced and a free hotline was launched for the anonymous reporting of alarming situations and obtaining advice (a psychologist answers the calls).

### **The Programme for the Prevention of Social Maladjustment and Criminality among Children and Youth**

80. The Ministry of the Interior and Administration coordinates the realization of the Programme for the Prevention of Social Maladjustment and Criminality among Children and Youth, which creates the framework and directions of activities of particular departments, entities of local administration, non-governmental organizations and other non-public entities, as well as original and local solutions adapted to the situation and the specific needs as regards social prevention.

81. The aim of the Programme is to limit the rate of social maladjustment and juvenile delinquency growth, as well as to ease the critical instances of social maladjustment, in particular those threatening the health and life of the young generation and leading to permanent adverse consequences to their future. The Programme is evaluated on a yearly basis. The reports submitted so far show that most provinces in Poland offer family, legal and psychological counselling, as well as psychological and pedagogical support and information campaigns on the institutions and organizations offering help to the child and the family. Activities are also undertaken in order to increase the accessibility to information points, hotlines, addiction counselling, psychiatric counselling, mediation and crisis assistance. Information on the preventive functions of justice and public order forces is distributed.

82. The Police participates actively in the programme by realizing a series of prevention projects. As the latest report of 2005 shows, in Poland the cooperation of schools and educational institutions and the Police was developing. In the context of that cooperation the Police was regularly informed about events suggesting the occurrence of crime, constituting a threat to the health and safety of the pupils and the demoralization of children and youth. The Police offered help in solving difficult cases with potential criminal background which occurred at the school or educational institution. The information received so far shows that the cooperation is highly valued by the schools which have suggested several times that it should be developed further.

83. Entities involved in the realization of the programme implemented strategies of limiting the damage in order to ease the consequences of incidental behaviour different than the norm and behavioural disorders. The programme also included prevention programmes including the issue of sexual exploitation of children and youth.

84. The procedures for the actions of teachers and the methods of cooperation of school with the Police in situations threatening children and youth with delinquency, demoralization, in particular: drug abuse, alcohol abuse and prostitution, distributed throughout Poland should be emphasized. It is a programme in module - an element of the Programme for the Prevention of Social Maladjustment and Criminality among Children and Youth.

85. The issue of sexual exploitation of children was included in the document National Action Plan for Children for the years 2004-2012 "Poland for Children", "Protection from sexual harassment, exploitation and violence", adopted by the Council of Ministers in 2004, which forms one of the four main fields of activities considered important in issues concerning children. The Interdepartmental Team for Children adopted the Action Schedule to the National Action Plan for Children. The tasks in that field concern the necessary changes which should focus on:

- (a) Raising social and legal awareness;
- (b) Countering helplessness in education and dysfunctions in the family;
- (c) Improving the legal system;
- (d) Using the mass media in combating violence;

(e) Perfecting the institutional system of reacting to violence against children in the context of exploitation, harassment and violence. Many actions from that context are already being realized by the competent departments e.g. the Ministry of Justice, the Ministry of Labour and Social Protection, the Ministry of National Education, the Ministry of Interior and Administration and the Police.

86. The National Action Plan for Children was created in cooperation with the Ministry of National Education, together with the public administration and non-governmental organizations acting in the interest of children. The cooperation is coordinated and continued when realizing the planned activities.

### **Interdepartmental cooperation**

87. Representatives of particular departments take active part in the undertakings organized by other entities, aimed at activities for the benefit of children and youth, including actions for combating the trafficking in children, child prostitution and pornography. One example is the participation in the work of interdepartmental teams and working groups e.g. the Team for preparing the National Programme for Victims of Crime at the Ministry of Justice.

88. By order of the President of the Council of Ministers of 5 March 2004 an interdepartmental Team for Combating and Preventing the Trafficking in Persons was appointed. Institutions competent for the issue of trafficking in persons, as well as non-governmental organizations take part in the works of the Team and its Working Group.

89. In December 2006 the Ministry of Interior and Administration, together with the Office of the Ombudsman for Children organized a conference on “*Children’s Safety in Poland*”. The topic of the conference was the project of the *National Strategy Of Children’s Safety*, prepared at Office of the Ombudsman for Children, which, according to the authors, is supposed to include among others the issue of the sexual exploitation of children and youth.

90. The Ministry of National Education organizes activities on the national level to prevent problem behaviour among children and youth. Those include:

(a) Participation in the National Forum for Victims of Crimes - initial legislative work on the act on the protection of victims of crimes;

(b) Participation in the activities of the Central Council for the Social Readaptation of Convicts at the Ministry of Justice as regards the support for centres dealing with that issue throughout Poland;

(c) Cooperation with departments, institutions and non-governmental organizations as regards the prevention of maladjustment and violence, the most important projects being trainings for pedagogues and teachers, national educational and informational campaigns and preventive actions organized in local communities;

(d) Training for teachers and parents on the issues of violence against children, issues related to child prostitution and pornography which are conducted by the central institution for teacher training - the Methodic Centre for Psychological and pedagogical Assistance;

(e) Financing training on the above issues organized by non-governmental organizations as state tasks ordered to entities not belonging to the public finance sector.

#### **Cooperation with non-governmental organizations**

91. Appreciating the crucial role of non-governmental organizations in the activities for the benefit of children and youth and in view of the act of 24 April 2003 on public benefit activities and volunteering (Journal of Laws No 96, item 873 as amended), the Ministry of the Interior and Administration is intensifying cooperation in that field. In the context of that cooperation the Ministry orders among others public tasks to be realized by non-governmental entities. For instance, in 2006 the Minister of the Interior and Administration ordered a task entitled “Protection from Harassment, Exploitation and Violence”, involving:

(a) Informational and educational campaigns aimed at the entire society, including professional groups involved in work with children and employees of the local authorities, including the distribution of leaflets, publications and editing materials on the protection from violence;

(b) Organizing training and workshops on the protection from violence;

(c) Promoting the belief in the need to react to violence, including information about the protection of witnesses reporting cases of violence;

- (d) Organization of voluntary work in the field of support and assistance to families in crisis;
- (e) Activities related to guaranteeing the victim free psychological, legal, and social support;
- (f) The main aim of the project was to promote the relief in the need to combat all forms of harassment, exploitation and violence and proposing the proper system solutions.

92. The Ministry of National Education cooperates with non-governmental organizations undertaking preventive and educational programmes aimed at preventing violence and delinquency among children and youth. For instance, "La Strada" Foundation was charged with the public task of organizing a prevention and organization campaign on the trafficking in persons among young people called "*Knowing more*". ITAKA Foundation organized a prevention project ordered by the Ministry called "*Don't run away*", aimed for preventing children and youth from running from home for reasons of trafficking in persons or pedophilia. The public tasks also included cooperation with other non-governmental organizations such as: "No to Violence" Association in Łódź, "Friends' Circle" Association in Warsaw, Association for the Children of the Legnica Copperfield, or the Management of the Association of Children's Friends. In the context of cooperation with no-governmental organizations the National Conference on combating and preventing the trafficking in persons was organized (March 2006). The work of one of the working groups concentrated on the issue of trafficking in children. The aim was to identify the main threats in the issue of trafficking in children and to create recommendations for undertaking particular activities.

93. The Ministry of National Education in cooperation with the Committee for Children's Rights Protection, trained three thousand pedagogues and teachers in the prevention of violence against children, and ca 20 thousand recipients received the publications published in the context of the programme. "*Children of the Street*" programme realized in cooperation with the Foundation for Poland involved trainings and study tours for 300 employees of institutions granting support to children and youth in crisis (children's care centres, community centres). In cooperation with the National Committee for Resocializing Education prevention programmes addressed to children and youth from environments with potential risk of pathology were organized ("*Teacher-counsellor on the street*" and "*Family pedagogue*").

94. As regards the prevention of trafficking in persons, including children, and child prostitution and the prevention of child Internet pornography, the Police cooperates with central and local government institutions, as well as social organizations in many parts of Poland. The Police Central Headquarters cooperate among others with Caritas of the Warsaw Archdiocese, organizing actions aimed at preventing forced prostitution and trafficking in persons. The cooperation involves the distribution of leaflets and posters through the intermediary of local entities, containing information on institutions granting support to victims with a list of telephone numbers. The Police also cooperates in those issues with the National Office for AIDS, the Centre for Women's Rights, "La Strada" Foundation and "Nobody's Children" Foundation, "Kids Protect" Association, scientific and academic centres monitoring those issues in studies and analyses, as well as many entities undertaking prevention projects aimed for children and youth on the regional and local level.

## VI. INTERNATIONAL COOPERATION AND SUPPORT

### Article 10

#### Creating cooperation

95. Understanding the crucial role of international cooperation in preventing and combating child prostitution, child pornography and trafficking in children, the Minister of the Interior and Administration will support the implementation of the Programme of “Preventing and combating violence against children, youth and women and the protection of victims and risk groups - DAPHNE III for the years 2007-2013”.

96. The programme was adopted by the Council of the European Union on 5 March 2007, by the European Parliament on 21 May 2007 and is a continuation of EU activities in the context of combating violence in the previous years in Daphne and Daphne II projects. The project is part of the “Fundamental Rights and Justice” programme.

97. The main aims of the programme “Preventing and combating violence against children, youth and women and the protection of victims and risk groups - DAPHNE III for the years 2007-2013” include among others: combating all forms of violence (physical, sexual and psychological) against children, youth and women (including among others the prevention and combating of sexual exploitation, family violence, school violence) and guaranteeing support to victims of violence and risk groups.

98. The programme is addressed to all the groups directly or indirectly dealing with the issue of violence, that is, both victims of violence and the groups threatened with violence and the remaining intermediary groups such as teachers and trainers, Police, Border Guard, social workers, local and central authorities, employees of justice, non-governmental organizations, trade unions, religious groups etc.

99. One of the main elements of Daphne III is support for entities realizing the programme of prevention and combating violence against children, youth and women, as well as support for victims by granting operational subsidies and subsidies to particular supranational projects in the interest of the EU presented by entities from a minimum of two Member States (e.g. by non-governmental organizations, local authorities on the proper level, local entities of public safety and order, research and scientific centres etc.). The projected budget of Daphne III for the years 2007-2013 is EUR 116.85 mln.

100. The programme involves concrete actions undertaken by the European Commission e.g. studies and scientific research, public opinion research, preparation of indexes and common methods, collection, preparation and distribution of data and statistics, organization of public campaigns and events, creating and keeping websites, preparation and distribution of information materials, support for networks of national experts.

101. The Ministry of the Interior and Administration, when supporting the implementation of Daphne III:

(a) Shall support activities raising social awareness in issues of violence, including the promotion of initiatives undertaken by the European Commission within Daphne III programme;

(b) Shall promote knowledge about the possibility to apply for subsidies from EU funds in the context of Daphne III (e.g. by organizing trainings, conferences, seminars);

(c) Shall promote the results of undertakings and projects realized in the context of Daphne III as examples of “best practices” in combating violence against children, youth and women.

102. When creating cooperation it is worth remembering:

(a) Initial working meetings of groups of professionals aimed at working out a system of identification of children threatened with trafficking and intervention activities which should be undertaken as crucial for limiting the trafficking in children;

(b) Cooperation among countries of the Baltic Sea - systematic exchange of experiences and information with 11 countries in the region; regular contacts with the Secretariat of the Children’s Department of the Council of the Baltic Sea States;

(c) Experts’ discussion on foreign children staying in Poland without guardians - meeting organized in cooperation with the Representation of UNHCR in Poland, with representatives of all the identified organizations and institutions responsible for the fate of foreign children without guardians or indirectly deciding about their situation;

(d) Working meeting of the programme on “Children without guardians in Europe” which was a continuation of the discussion of the EU recommendations on the procedures of age assessment, reports from particular European countries (29 countries participate in the programme), practices concerning family reunification and organizational issues concerning further cooperation on the project;

(e) On 28 November 2006 at the 3rd National Conference “Support for children - victims of crimes” a session on “The Commercial exploitation of Children” was organized, where Polish and foreign experts presented activities aimed at combating trafficking in children;

(f) As regards the development of the consultation point, there were events for foreign children without guardians and children who are victims of trafficking, including:

- Psychological assistance (diagnostic and therapeutic) from the Foundation to six foreign children; they regularly attended therapeutic meetings. The children came from the Ukraine, African countries and Armenia.
- Support in the form of legal, psychological, social intervention.
- The national consultation point for foreign children without guardians offered help to institutions and professionals dealing with foreign children. There were consultations on the phone and in person for the Police, employees of educational and fostering institutions, lawyers dealing with situations of foreign children, foster families.

- Intervention and monitoring of the respect of the rights of foreign children without guardians supported by “Nobody’s Children” Foundation, adaptation activities were launched.

103. Another important step taken by the Ministry of National Education is the participation in “Children at Risk” international group. WGCC (Working Group for Cooperation on Children at Risk) was created on 28 January 2002 during the international meeting in Vilnius and is part of the International Programme on Children at Risk in the Baltic Region. The group focuses on the coordination of the activities in the region, aimed at combating all forms of abuse of children, granting support and assistance to children, providing welfare. The basic aim is the coordination and creation of a system of assistance for children in the countries of the Baltic Sea. The initiative of a special group was launched by the Council of the Baltic Sea States. The general advisor and secretary of the group is Lars Loof. Members of the group are also members of a group coordinating all the activities.

104. Since February 2003 the representative of the Ministry of National Education is a member and the national coordinator of the Working Group for Cooperation on Children at Risk (WGCC). In order to realize the tasks resulting from membership in the Group he has been cooperating: with “Nobody’s Children” Foundation from Warsaw since 2006 and with the National In-Service Teacher Training Center in Warsaw since 2007. At the meeting of the Group which took place on 12 February 2003 in Stockholm the scope of activities was expanded to include sexually exploited children, children living in institutions and children living in the streets.

105. The Group has its own website - “Children’s Centre”. The main task of the site is to exchange information between Baltic Sea states. Sending and placing reports, information, studies on events in any of the Member States is the coordinator’s duty. The website includes special discussion groups in English: sexually exploited children, children in the street, juvenile delinquents, children in institutions, children without care. The coordinator’s tasks include the granting of access to the website to the interested Parties (every coordinator should monitor the registration of users on his own behalf). For each country one discussion forum in the national language was created. Every coordinator should place current national information about children at risk on the website. The secret part of the website is accessible to ca 25 institutions and professionals working with children at risk. The website is visited by ca 400 people per week. The coordinator’s tasks include guaranteeing the security of the website.

106. The Council of the Baltic Sea States attaches a lot of importance to issues related to trafficking in persons, mainly children and women. In October 2003 during a meeting in Copenhagen a new idea to create National Contact Points (NCPs) was launched. The idea of NCPs is based on the Convention on Children’s Rights and the decisions resulting from:

- The Palermo Declaration - Summit in Saint Petersburg, June 2002
- Meetings of the Senior Council, representatives of the Foreign Ministries in Pori, June 2002

- Meeting of Senior Officials in Frösundavik, February 2003
- Congress on Preventing Trafficking in Children “Stop to Slavery”, Helsinki 2003

According to those decisions, the countries’ efforts should concentrate on assistance to children who are “sold” and those remaining without any care in a foreign country. That group covers children and youth looking for refuge in another country, travelling in the Schengen zone, Staying in the country of destination with a valid passport or visas and those without legal documents, as well as those traded from the country of origin to another country.

107. The need to create National Contact Points (NCPs) results from the best interest of the child. It will make is possible for all the sectors, institutions and non-governmental organizations to offer the child full support in the country of origin, of transit and destination. The network of such points in Baltic Sea States will enable the rapid identification of the child’s data, its life situation in the country of origin and the selection of the best possible assistance. The possibility to focus activities in one place guarantees the coordination of the efforts by various entities acting in the interest of children, the estimation of the seriousness of the problem and the organization of efficient care of children staying outside the country of origin, separated from parents, guardians or illegally crossing the borders.

108. Since 2004 “Nobody’s Children” Foundation, after the acceptance of the Minister of National Education, has been realizing the tasks of the National Point for Foreign Children without Guardians and Children who are victims of trafficking in Poland by:

- (a) Contacting the entities responsible for the intervention, care and reintegration of foreign children without guardians and children who are victims of trafficking in cases when all the other possibilities have been exhausted;
- (b) Collecting data and information on the issues of foreign children without guardians and children who are victims of trafficking;
- (c) Efforts at identifying gaps in the legal system, social and psychological assistance system for foreign children without guardians and children who are victims of trafficking;
- (d) Systematic exchange of experiences and information with 11 countries of the Baltic Sea participating in the project;
- (e) Regular contacts with the Secretariat of the Children’s Department of the Council of the Baltic Sea States;
- (f) Participation in meetings of National Contact Points.

National contact points have already been established in the following countries: Finland, Iceland, Norway, Poland, Sweden, Lithuania, Latvia, Estonia and in three Eastern European countries regarded as the countries of origin of victims of trafficking in children - Belarus, Moldova and Ukraine.

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