

Franet National contribution to the Fundamental Rights Report 2022

POLAND

Contractor's name: Helsinki Foundation for Human Rights

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

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Policy and legal highlights 2021

Franet country study: policy and legal highlights 2021	
Issues in the fundamental rights institutional landscape	Despite the CJEU order for a fine of EUR 1 million a day for failure to suspend the Disciplinary Chamber and key provisions of the "muzzle law" , changes in the structure of the Supreme Court and disciplinary and immunity proceedings against judges are not enforced. Provisions prohibiting judges from examining the independence of the judiciary (in the case of judges nominated by the National Council of the Judiciary in its present shape) remain in force.
EU Charter of Fundamental Rights	The Constitutional Tribunal ruled on the primacy of the Polish constitution regarding the judicial independence over the EU treaty law , and thus rejected the recognition of the CJEU rulings concerning the independence of Polish judiciary.
Equality and non-discrimination	Due to the pressure of the European Commission, a number of regional, provincial and local resolutions on "LGBT-free zones" were changed or repealed , but some still remain valid. The Supreme Administrative Court has recognised these resolutions as administrative acts subject to review , but has deferred ruling on their legality.
Racism, xenophobia & Roma integration	During the migration crisis on the Polish-Belarusian border, opinion polls confirm an improvement in the attitude of Poles towards refugees compared to previous years. European Commission initiated proceedings against Poland for non-implementation of Framework Decision 2008/913/JHA . Despite significant funding for Roma integration under previous and current Roma integration programmes, the situation of some Roma settlements remains unresolved .
Asylum & migration	The ongoing conflict on the Polish-Belarusian border led to the temporary suspension of EU asylum rules , which extended the possibility of detaining migrants in temporary centres even up to 16 weeks, as well as lengthened the processing of asylum applications to even 4 weeks and simplified deportations.
Data protection and digital society	The Regional Administrative Court in Warsaw ruled that the obligation of judges and prosecutors to submit statements of association membership for publication in the Public Information Bulletin was not contrary to the GDPR . The report on the functioning of new technologies in the judiciary shows insufficient digitization of the Polish judiciary , but also warns against limiting access to court for the digitally excluded.
Rights of the child	The government is drafting changes to protect children from violence . Although Polish law prohibits corporal punishment since 2010, it has not been criminalised yet .
Access to justice, including	The amendment to the Code of Criminal Procedure introduced a presumption that the injured party is a minor and required the investigating authorities to obtain certain information about the victim.

victims of crime	The Supreme Audit Chamber's report on the functioning of the Fund for Victims' Aid and Post-Penitentiary Assistance concludes that public funds are spent in an "uneconomic and irrational" way , and its activities have fostered "corruption mechanisms".
Convention on the Rights of Persons with Disability	The government adopted the Strategy for Persons with Disabilities 2021-2030 , the first comprehensive and holistic policy for people with disabilities in Poland.

Chapter 1. Equality and non-discrimination

1.1 Legal and policy developments or measures relevant to fostering equality and combating discrimination against EU citizens based on their nationality and against LGBTI people

Covid-related measures and their impact on EU citizens and their family members. EU citizens and their family members were treated equally to Polish citizens in the regulations concerning the fight against the epidemic. No cases of discrimination based on EU citizenship in access to health care, social benefits or employment were reported during the period under review. Current legislation provides for *ex lege* extension of the validity periods of the following documents issued to EU/EEA/Switzerland nationals and their family members who reside with or join them: (1) documents confirming the right of permanent residence, (2) residence cards of EU citizen's family member, (3) permanent residence cards of EU citizen's family members.¹ The extension of the validity periods of documents by law, if the end of the validity period of one of the above-mentioned documents falls within the period of an epidemic emergency or epidemic state, it will be extended until the 30th day following the day of cancellation of the one of the states (epidemic emergency or epidemic) that will be in force last.² Currently, it is possible to register a residence, to obtain a certificate of registration of residence of an EU citizen, to issue a residence card of an EU citizen family member, as well as documents confirming the right of permanent residence on the territory of Poland by appointment with the voivodship office.

Discrimination against EU citizens based on their nationality. A specific form of discrimination of EU citizens with regard to their nationality and sexual orientation is reflected in an ongoing battle to recognize the equal status of children, born abroad, of whom at least one parent is a Polish citizen and who therefore acquire Polish citizenship by the force of law, but who are refused Polish identity cards or passports because the Polish authorities do not transcribe birth certificates showing same-sex parents. Although the Supreme Administrative Court confirmed that there should be a legal avenue to issue identity documents

¹ Poland, Act of 2 March 2020 on special solutions related to the prevention, prevention and combating of COVID-19, other infectious diseases and the crisis situations caused by them (*ustawa z dnia 2 marca 2020 r. o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych*), Journal of Laws of 2020, item 374, as amended.

² Princ, Marcin. 2020. *Foreigners' Rights in The Age of Pandemics—Migration Aspects*. Wrocław Review of Law, Administration & Economics 10: 93–111, <https://www.sciendo.com/article/10.2478/wrlae-2020-0007>

to Polish citizens,³ the resolution of 7 judges of the Supreme Administrative Court of 2.12.2019, case no. II OPS 1/19, stated that transferring the data of foreign birth certificates showing persons of same sex as parents is incompatible with the Polish public order. Following this resolution, the way to obtain a Polish birth certificate has been closed for children born abroad of same-sex couples. In practice, there are only two cities in Poland where civil registry offices transcribe foreign birth certificates indicating that two women of Polish nationality are parents of the child (thereby refusing to transcribe birth certificates indicating two men as parents). It is thus the prevailing practice of the administrative organs in Poland to consider the same-sex parenthood as contradictory to the Polish public order.

In this context, the Regional Administrative Court in Cracow referred a preliminary question to the Court of Justice of the European Union asking whether:

Article 21(1), in conjunction with Article 20(2)(a), of the Treaty on the Functioning of the European Union, in conjunction with Articles 7, 21(1) and 24(2) of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding the authorities of the Member State of the minor's nationality from refusing to transcribe his or her birth certificate, issued by another Member State, which is necessary in order to obtain an identity document of the Member State of his or her nationality, on the ground that the national law of that State does not provide for same-sex parenthood and that that certificate indicates same-sex parents?⁴

The case is registered as *C-2/21 Rzecznik Praw Obywatelskich*, but the CJEU suspended the proceedings pending the judgment in a similar Bulgarian case.⁵ The Polish case originated in a complaint by the Ombudsman against the refusal to transcribe the Spanish birth certificate of a child whose parents were two women (a Polish citizen and an Irish citizen married in Ireland). In consequence, the child could not obtain a Polish identity card or passport in accordance with Polish law. Hence, the lack of transcription effectively blocked the issuance of Polish identity documents, resulting in a restriction of the fundamental rights of EU citizens to freely move within the EU.

³ Judgment of the Supreme Administrative Court of 10.10.2018, case no. II OSK 2552/16, which ruled on the admissibility of the transcription of a foreign child's birth certificate in which two women are indicated as parents. The Supreme Administrative Court held that the obligation to transcribe the birth certificate, which is only performed to protect the rights of the child and to certify its identity, does not contradict the fundamental principles of the Polish legal order. Moreover, refusal of the transcription would constitute a violation of EU law and international law protecting the rights of the child. In 2018, the Supreme Administrative Court also ruled on the need to confirm Polish citizenship for children of a homosexual couple born as a result of surrogacy.

⁴ Decision of the Regional Administrative Court in Cracow of 9.12.2020, case no. III SA/Kr 1217/19.

⁵ See case C-490/20.

A similar case is also pending before the European Court of Human Rights.⁶ The applicants in this case complain under Article 8 of the Convention alone and taken in conjunction with Article 14 of the Convention about a breach of their right to respect for their private and family life. Their case concerns a refusal to transcribe the birth certificate of a child born in the United Kingdom. According to the British birth certificate, the child's parents were two women. The head of the registry office refused to recognise the birth certificate, arguing that it would be contrary to Polish law. The decision of the head of the registry office was upheld by the provincial governor and the administrative courts. The courts stressed that entering the contents of a foreign birth certificate into Polish civil-status records would constitute a violation of the fundamental principles of the Polish legal order, since the parents of the child are persons of the same sex. The Polish Helsinki Foundation for Human Rights prepared an *amicus curiae* brief to the Court.⁷

Recognition of foreign decisions on gender reassignment. A different development in the protection of the rights of migrant Polish citizens in relation to their gender identity can be noted in the field of recognition of enforceability of foreign judgments or decisions confirming gender reassignment in accordance to the foreign law. The procedure applied is analogous to the recognition of enforceability of a divorce decision. It is conducted on the basis of the Code of Civil Procedure in a non-contentious proceedings and depends solely on the confirmation of the finality of the foreign judgment or decision on gender reassignment.

Furthermore, the Supreme Administrative Court ruled that a Polish citizen is entitled to a new passport with her current data reflecting her gender reassignment carried out abroad.⁸ The Court found that it is not contrary to the fundamental principles of the Polish legal order to transcribe a foreign birth certificate indicating the relevant changes regarding the name and gender in the Polish civil status files. The Court held that the authorities are obliged to legally recognise the gender identity of a Polish citizen according to the changes in the foreign birth certificates.

Discrimination with regard to the LGBTIQ status. The most important development concerning the rights of LGBTIQ persons is related to the infamous resolutions of regional, provincial and local self-government declaring the so-called LGBT-free zones or signing the Local Government Charter on the Rights of the Family. Both resolutions are likely to discriminate individuals or their organizations on the basis of sexual orientation as they unwelcome any public presence of the so-called "LGBT ideology" on the territory under the jurisdiction

⁶ Application no. [1298/19](#) *A.P. and R.P. against Poland* lodged on 12 December 2018 and communicated to the government on 8.12.2020 (published on 11.01.2021).

⁷ <https://www.hfhr.pl/etpc-zajmie-sie-kolejna-sprawa-transkrypcji-aktu-urodzenia-dziecka-pary-tej-samej-plci-hfpc-sklada-opinie-przyjaciela-sadu/>

⁸ Judgment of the Supreme Administrative Court of 9.12.2020, Case no. II OSK 3320/18.

of the relevant authorities. The European Commission started its infringement proceedings against Poland on this matter and stopped talks with 5 regional authorities on their access to the React EU Fund until they repeal their resolutions against the "LGBT ideology".⁹ Currently, 3 regions repealed their resolutions, but they still remain valid in 2 regional and several provincial and local government units.¹⁰

According to the Polish Ombudsman, the resolutions against the "LGBT ideology" are discriminatory and infringe of the right to respect for one's private and family life. The Ombudsman has already challenged 9 such resolutions in administrative courts. In 4 cases, the resolutions were annulled,¹¹ but in 5 cases the regional administrative courts found that such resolutions do not constitute "acts in matters of public administration" and thus fall outside their power of judicial review. However, the Supreme Administrative Court confirmed in a decision of 2 July 2021 that administrative courts may effectively review such resolutions.¹² It thus held that acts of local government bodies and their unions taken in matters of public administration shall include all acts of such bodies except those which are subject to the jurisdiction of courts other than administrative courts, in particular ordinary courts. It was expected that in October 2021, the Supreme Administrative Court would examine the resolution of the Osiek Commune Council on the merits in the cassation appeal proceedings filed by the prosecution's office against the judgment of the regional administrative court annulling the resolution but the hearings on this case were postponed.

The controversy over the role of regional and local government with regard to the situation of LGBTI people in Poland was also subject of a special fact-finding mission of the CoE Congress of Local and Regional Authorities to Poland. In June 2021, the Congress adopted a resolution calling on Polish local and regional authorities to withdraw all declarations and resolutions against so-called "LGBT ideology" and all analogous texts regardless of their title.¹³

⁹ <https://wyborcza.pl/7,173236,27539888,eu-suspends-regional-recovery-funds-to-poland-over-lgbt-free.html> [6.9.2021]

¹⁰ According to Hate Atlas, the area of "LGBT-free zones" has shrunk to 16.5 percent of the country - previously it was nearly 30 percent, <https://noizz.pl/lgbt/strefy-wolne-od-lgbt-znikaja-ale-lubelskie-wciaz-moze-stracic-fundusze/vyns35w>

¹¹ See judgment of the Regional Administrative Court in Gliwice of 14 July 2020, case no. III SA/GI 15/20 (resolution of Istebna commune), judgment of the Regional Administrative Court in Warsaw (Radom) of 15 July 2020, case no. VIII SA/Wa 42/20 (resolution of the municipality of Klwów), judgment of the Regional Administrative Court in Lublin of 6 August 2020, case no. III SA/Lu 7/20 (resolution of the municipality of Serniki), judgment of the Regional Administrative Court in Kielce of 11 September 2020, case no. II SA/Ke 382/20 (resolution of the municipality of Osiek).

¹² Judgment of the Supreme Administrative Court of 2.07.2021, case no. III OSK 3353/21.

¹³ Resolution 471 (2021), available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680a287d7>

Discrimination with regard to sexual orientation in custody proceedings.

In September 2021, the European Court of Human Rights rendered a judgment against Poland finding that taking custody of the children from the mother, limiting her parental rights and placing the children in the custody of the father because of the mother's relationship with another woman constituted discrimination on grounds of sexual orientation and a violation of the mother's and child's right to respect for family life.¹⁴ The Court notes that throughout the domestic proceedings, during which the applicant fought to regain custody of her child, the focus of the courts was her sexual orientation and the fact that she was in a relationship with a woman.

Discrimination with regard to gender identity in employment. The Supreme Court considers an extraordinary complaint filed by the Prosecutor General against a second-instance judgment which found a violation of the principle of equal treatment in a case involving a transgender person who refused to work in a male uniform while undergoing her legal gender reassignment process.¹⁵ For the Prosecutor General, the application of anti-discrimination law and human rights restricted the constitutional freedoms and rights of the entrepreneur related to the conduct of its business, despite the fact that it did not in fact show any discriminatory actions. Moreover, the Prosecutor General argues that gender identity as a premise subject to protection against discrimination under Article 32 of the Polish Constitution, and such an interpretation threatens the legal order. The Ombudsman requested the Supreme Court to dismiss the complaint. The plaintiff in this case was accepted to work on a civil contract in a security company as a man since her identity card formally indicated her gender as male. But she refused to work in a male uniform because she lived according to her female gender. She complained to a court claim for violation of the principle of equal treatment based on the Equal Treatment Act of 3 December 2010.

The court of the first instance did not recognize her claim, but the court of the second instance upheld it in its entirety, including the damages. In the oral reasoning, the court indicated that although there is no comprehensive regulation of the rights of transgender persons in Poland, the prohibition of discrimination against transgender persons is part of the EU law applicable in this case. In the opinion of the court, the Polish law on Equal Treatment implements EU directive and needs to be interpreted in a manner consistent with the principles of EU law and the case law of the Court of Justice of the EU.

¹⁴ Judgment of 16.09.2021, app. no. 20741/10.

¹⁵ The status of the Chamber of Extraordinary Control and Public Matters in charge of reviewing extraordinary complaints is problematic because it was established as part of so-called judicial reforms and filled by judges appointed upon the recommendation of the politicized National Council of the Judiciary. Hence, the appointment procedure raises doubts as to the independence of the judges of the new Chamber of the Supreme Court.

The case is of great importance for the rights of transgender people in employment. This is because it was the first time in this trial that a Polish court considered a claim for violation of the principle of equal treatment based on gender identity under the Equal Treatment Act of 3 December 2010. Further, for the first time in Polish jurisprudence, there was also confirmation that prohibition of discrimination based on sex also means prohibition of discrimination based on gender identity.¹⁶ The Ombudsman joined that case on the side of the plaintiff.¹⁷

The lack of recognition of non-binary persons in the national census. As far as transgender and non-binary people are concerned, the National Population and Housing Census does not allow for the disclosure of gender identity other than male and female “in order to standardise the data provided”. The Director of the Central Statistical Office confirmed that other options would introduce undetermined data which are not accepted in the questionnaire. In the opinion of the Ombudsman, this solution violates the main principle of data relevance which requires that the selectable gender options correspond to the actual state of affairs.¹⁸

1.2 Findings and methodology of research, studies, or surveys on experiences of discrimination against EU citizens on the grounds of nationality and against LGBTI people

Access of Romanian Roma to Covid vaccinations and mobile medical care.

In response to the Covid-19 pandemic, the Poznań-based Acceptance Foundation launched medical support activities for Romanian Roma living in allotment gardens in Poznań.¹⁹ The Foundation was also involved in informing Roma communities about changing legal regulations in connection with the pandemic, as well as providing basic diagnostic services (taking temperature, possible medical transport). Then the activities were expanded to include social and living assistance. In response to the ever-growing problems with access to health care (limiting the activities of of medical outpatient clinics, possibilities of performing basic medical examinations), the Foundation launched the Mobile Ambulance Project to provide mobile medical services. The Mobile Ambulance was based on the medical visits organized in the ambulance and the creation of a

¹⁶ <https://oko.press/nowa-idea-ministra-ziobry-walczy-o-prawo-do-dyskryminacji-osob-transplciowych-zlozyl-skarge/>

¹⁷ <https://bip.brpo.gov.pl/pl/content/oddalic-skarge-nadzwyczajna-prokuratora-generalnego-ws-osoby-transplciowej-pismo-rpo-do>

¹⁸ <https://bip.brpo.gov.pl/pl/content/rpo-gus-spis-powszechny-osoby-transplciowe-niebinarne>

¹⁹ Czarnota K. 2021. *Dostęp do szczepień – sytuacja imigrantów romskich pochodzenia rumuńskiego w Poznaniu. Stereotypy, diagnoza sytuacji i projektowanie przyszłych działań medycznych*, Centrum Badań Migracyjnych, Poznań, https://8005a1c1-bc6e-4f88-9e9f-2183a5bd9c4f.filesusr.com/uqd/a61642_f6d1fa6ddd1c4cf084221f97e59b446f.pdf

consultation point open to anyone interested. The ambulance comes to the allotment gardens several times a month, and medical consultations are given in the presence of a medical doctor.²⁰

There is no information about similar initiatives in other cities or regions, although mobile covid vaccination stations are widely used across the country.

Portraying transgenderism as a social pathology. A negative example of an educational guidebook for the members of the police includes portraying transgenderism as a social pathology, next to drug addiction, prostitution, religious sects and begging. The theme of the guide is "Social pathologies - selected issues", Legionowo 2020, teaching material no 191, and it is published by the Police Training Centre, Department of Preventive Services. The guide mentions the subculture "Gender Fluid" next to skinheads, punks and metalheads. It defines it as the change of the individual perception of one's gender according to one's preference.²¹ The Ombudsman requested the Police Training Center to reply to his intervention.

Chapter 2. Racism, xenophobia and related intolerance

2.1 Findings and methodology of research, studies, or surveys on experiences of ethnic discrimination, racism and hate crime

1. The research published in July by the Center for Research on Prejudice,²² which compared anti-immigrant hate speech in Poland, UK and Germany, showed that Poles in the UK are protected against hate speech to a greater extent than Ukrainians are in Poland or Turks are in Germany. British people encounter hate speech towards Poles significantly less often than Germans encounter hate speech towards Turks and Poles encounter hate speech towards Ukrainians. Furthermore, the Brits perceived hate speech towards Poles as more insulting, were more eager to introduce a hate speech ban and were using hate speech less often. There were

²⁰ <http://akceptacja.org.pl/wzamacniamy-spolecznosc-poznanskich-romow-z-magovox/>

²¹ <https://bip.brpo.gov.pl/pl/content/rpo-transplciowosc-w-policyjnym-podreczniku-jako-patologia-spoleczna>

²² Center for Research on Prejudice, *Mowa nienawiści wobec imigrantów. Obrażliwy język wobec imigrantów z Polski w Wielkiej Brytanii, imigrantów z Turcji w Niemczech i imigrantów z Ukrainy w Polsce.*, June 2021. Methodology: a quota sample research was conducted online (N=1209 in PL, 49,66% male, 49,57% female, 0,77% other).

no significant differences between Poles and Germans in their attitudes towards hate speech against migrants.

2. The survey conducted in March²³ registered a clear improvement in attitudes of Poles towards almost all of the 22 nationalities/ethnic groups included in the survey. However, while towards the majority of surveyed nations the attitudes improved compared to previous years, negative feelings prevailed towards Roma and Arabs. One of the few nationalities towards whom a statistically significant improvement of Poles' attitudes was not noticed were Asians. The authors of the report contribute the general improvement in attitudes to the coronavirus pandemic which strengthened the feeling of solidarity with others.

3. In mid September, during the PL-BY border crisis, the Public Opinion Research Center polled Polish society²⁴ on their general attitudes towards refugees as well as their views on the situation of refugees stuck at the Polish-Belarusian border. The attitudes towards refugees improved compared to the similar 2018 survey. The percentage of people who think that Poland should welcome refugees from war zones temporarily as well as percentage of respondents who would allow refugees to settle in Poland permanently increased by 4%. The respondents were stricter as regards policies towards persons attempting to cross the eastern Polish border, only 33% would allow these people to apply for asylum in Poland while 52% were against.

4. The General Prosecutor's Office has declined a freedom of information request for an annual report on racially motivated hate crimes committed in Poland on the grounds of it being an internal document, even though similar documents were publicly available between 2015-2018.²⁵

2.2 Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive

There were no legal developments in the reporting period that relate to the application of the Racial Equality Directive.

The draft National Equal Treatment Programme 2021-2030,²⁶ reported in the previous period, remains under internal consultations in the Ministry of Family and

²³ Public Opinion Research Center, [Attitudes towards Other Nations](#), March 2021. Methodology: a mixed-mode survey CAPI, CATI and CAWI (N=1179).

²⁴ Public Opinion Research Center, [Public Opinion on Refugees and Situation of Migrants on the Border with Belarus](#), September 2021. Methodology: a mixed-mode survey CAPI, CATI and CAWI (N=1218).

²⁵ National Prosecutor's Office, Report on the investigations on racial, antisemitic and xenophobic hate crimes. [Wyciąg ze sprawozdania dot. spraw o przestępstwa popełnione z pobudek rasistowskich, antysemickich lub ksenofobicznych prowadzonych w 2017 roku w jednostkach organizacyjnych prokuratury](#), June 2018.

²⁶ Governmental Plenipotentiary for Equal Treatment, [Draft National Equal Treatment Programme 2021-2030](#), version of 14 April 2021.

Social Policy. The Governmental Plenipotentiary for Equal Treatment has made some amendments in the draft document resulting from the public consultations which took place in November-December 2020. An amended version of the draft Programme has been published on the Plenipotentiary`s website in April 2021. The amendments that relate to the application of the RED entail the addition of new tasks: development of a migrant workers` labour market integration model and redefining the role and tasks of a equal treatment plenipotentiaries at the regional (voivodeship) level.

The term of office of the Ombudsperson Adam Bodnar, who also assumed the role of an equality body, came to an end in September 2020, but due to the Parliament not being able to elect his successor, he officially stepped down only on the 15th of July 2021. Prof. Marcin Wiącek was elected a new Ombudsman and assumed the office a week later.²⁷

There were no legal developments that relate to the application of the Framework Decision on Racism and Homofobia.

As a result of public consultations, the draft National Equal Treatment Programme 2021-2030 (see above) was supplemented with additional priority of combatting hate speech through "promoton of a fact and respect-based language".²⁸ The aim is to be achieved through 1/ a social campaign, 2/ promotion of high standards of debate on television, 3/ periodic research on hate speech in public debate, and 4/ setting up a hate speech monitoring team within the office of the Plenipotentiary for Equal Treatment.

In April the UN Committee on the Elimination of Racial Discrimination issued a follow-up letter as a response to the Polish government`s report of October 2020.²⁹ The Committee found Poland`s report unsatisfactory as regards in particular: 1/the lack of information on measures taken to strengthen the mandate and authority of the Government Plenipotentiary for Equal Treatment and the lack of information on measures to increase its financial and human resources, 2/ measures taken to combat racist hate speech and incitement to violence, including awareness-raising campaigns and 3/ the impact of provisions declaring as illegal parties or associations which promote or incite racial discrimination.³⁰ The Polish Government was asked to provide more detailed information in its next report in January 2022.

Polish Ombudsman has also continued his efforts initiated in 2020 to encourage the Polish National Prosecutor`s office to strengthen its policies as regards hate

²⁷ The Office of Ombudsman, [Marcin Wiącek złożył ślubowanie w Sejmie jako nowy RPO](#), 23 July 2021.

²⁸ Governmental Plenipotentiary for Equal Treatment, [Draft National Equal Treatment Programme 2021-2030](#), p.100.

²⁹ Poland, [State Party report on Follow-up to Concluding Observations \(CERD/C/POL/FCO/22-24\)](#), October 2020.

³⁰ UN Committee on the Elimination of Racial Discrimination, [Follow-up letter sent to the State party](#), April 2021.

crime investigations. Following up on the case of fascist greeting during public celebrations in 2020 which was discontinued by the Prosecutor in Białystok on the grounds of it being a Roman salute,³¹ the Ombudsman called on the National Prosecutor to analyze the hate crime investigations which were discontinued because the investigators did not consider the acts as being of criminal nature. The Ombudsman encouraged the Prosecutor to issue, if need be, new guidelines for investigators based on the analysis.³² However, the National Prosecutor, who also assumes the office of the Minister of Justice, declined his cooperation on the matter.³³

The European Commission has issued a letter of formal notice to Poland as regards the transposition of EU rules on combating racism and xenophobia by means of criminal law (Framework Decision 2008/913/JHA).³⁴ The Commission stated that Poland has not fully transposed provisions on incitement to racist or xenophobic violence as well as incitement to hatred. The Polish government has responded timely, however, the response was not made public.³⁵

Chapter 3. Roma equality and inclusion

3.1 Policy developments in regards to the application of the EU Roma strategic Framework for equality, inclusion and participation for 2020-2030

Please put down the name of the national Roma framework/Roma strategy/integrated set of policy measures and the link	Program integracji społecznej i obywatelskiej Romów w Polsce na lata 2021–2030 (Programme for Social and Civic Integration of Roma in Poland 2021-2030)
Please add a hyperlink if the strategy is publicly available.	https://www.gov.pl/web/mniejszosci-narodowe-i-etniczne/rada-ministrow-uchwalila-nowy-program-integracji-spoecznej-i-obywatelskiej-romow-w-polsce-na-lata-2021-2030
Did an evaluation of the previous Roma inclusion	Yes

³¹ P. Rabięga (TVN24), [Sąd nakazał prokuraturze podjęcie sprawy hajlowania przez narodowców](#), 3 August 2021.

³² [Letter from the Ombudsman to the National Prosecutor of 5 August 2021.](#)

³³ [Response from the National Prosecutor to the Ombudsman of 9 September 2021.](#)

³⁴ European Commission, [Formal notice of 18 February 2021 on the incorrect transposition of the Council Framework Decision 2008/913/JHA by Poland](#), INFR(2020)2322.

³⁵ The Ministry of Justice has declined a freedom of information request as well as has not responded to the [official request for information from the Ombudsman issued in March 2021.](#)

<p>strategy take place? If yes, please provide reference</p>	<p>Szostakowska M., Sekutowicz K., Iwaniak A. (2020), <u>Evaluation of the Programme for Integration of Roma community in Poland 2014-2020. Final report.</u> (Badanie ewaluacyjne Programu integracji społeczności romskiej w Polsce na lata 2014 – 2020. Raport końcowy).</p>
<p>Does the strategy use the (headline) indicators as suggested in the new portfolio of indicators?</p>	<p>Partially. The 2020- 2030 programme incorporated a very limited number and scope of indicators as follows: 1/ number of children participating in primary education 2/ number of Roma youth applying for a scholarships at the secondary school level (EU headline indicator 4.7) 3/ number of Roma students applying for student scholarships 4/ number of Roma education assistants employed 5/ total number of persons who benefitted from the education services and benefits (scholarships, after school activities, school sets for 1st graders, kindergarten) 6/ beneficiaries of health education 7/ beneficiaries of safety education 8/ beneficiaries of vocational education 9/ number of persons benefitting from the housing programme (EU headline indicator 7.14-16). The data will be retrieved from the national registries operated by the Ministry of Internal Affairs and Administration and the Ministry of Education and Science. The statistical information on the Roma population, divided by age, is registered in the national census conducted every 10 years. The number of Roma pupils is retrieved from the System of Education Information (SIO), which records information about all pupils in Poland; pupils 'of Roma origin' are registered in the System provided that they are beneficiaries of additional educational support. The registry is not available publicly, however information can be made accessible upon a FOI request. The majority of data is registered by the Ministry of Internal Affairs and Administration, acting as the main operator of the Roma integration programmes; these entail e.g. the number of vaccinated pupils, number of student scholarships, number of renovated houses or persons attending vocational courses or trainings. The data is mainly obtained through reporting from the entities implementing projects funded under the Programme. Information can be made accessible upon a FOI request. The baseline numbers in the new Integration Programme were obtained from the abovementioned registries, from the reports summarizing spendings under the previous Roma Programme as well as from the national census.</p>
<p>Was Roma civil society involved in the development of the</p>	<p>Yes, representatives of Roma communities were consulted during the meetings of the Joint</p>

strategy? Please provide examples?	Commission of the Government and National Minorities in 2020, as well as during working contacts of the Ministry of Internal Affairs (<i>Programme for Social and Civic Integration of Roma in Poland 2021-2030</i> , p. 9).
Were NHRIs and/or equality bodies involved in the strategy development? Please provide example?	No
Does the new strategy link to the operational programmes for the new EU funding period 2021-2027?	Yes

3.2 Legal and policy developments or measures directly or indirectly addressing Roma/Travellers inclusion

There were no legal developments addressing Roma inclusion in 2021. The Programme for Social and Civic Integration of Roma in Poland 2021-2030, which entered into force on the 21 December 2020, remains the main document governing national and local efforts addressing Roma inclusion. By the end of September 2021 two rounds of funding were distributed among various stakeholders, as targeted and systemic subsidies.³⁶

The programme sets out only three areas of intervention: housing, education and innovative integration projects. Drawing from the previous programme, which despite significant efforts and resources used has not contributed to the decrease of the education gap, the current programme gives priority to education.³⁷ The programme indicators reflect a limited scope of the programme and refer solely to education and housing (see above).³⁸ The programme leaves out e.g. employment or discrimination, which are to be covered by other national or EU programmes and strategies.

As reported in the previous period, the programme brings more focus towards a coordination and exchange of information at the local level, obliging the voivodes to hold biannual meetings with all of stakeholders active in their territory, as well as gives priority to funding applicants who develop local Roma inclusion strategies.³⁹ The lack of local strategies developed under previous integration

³⁶ The calls for proposals are published at [the governmental website](#).

³⁷ Ministry of Internal Affairs, [Programme for Social and Civic Integration of Roma in Poland 2021-2030](#) (Program integracji społecznej i obywatelskiej Romów w Polsce na lata 2021-2030), p. 52.

³⁸ Ministry of Internal Affairs, [Programme for Social and Civic Integration of Roma in Poland 2021-2030](#) (Program integracji społecznej i obywatelskiej Romów w Polsce na lata 2021-2030), p. 58.

³⁹ Ministry of Internal Affairs, [Programme for Social and Civic Integration of Roma in Poland 2021-2030](#) (Program integracji społecznej i obywatelskiej Romów w Polsce na lata 2021-2030), p. 55-56.

programme (2014-2020) was pointed out in the Programme evaluation report,⁴⁰ as well as in the Supreme Audit Office report finalized in July 2021.⁴¹

One of the most important measures addressing the Roma inclusion in the area of education remain Roma education assistants who are one of the pillars of the Roma integration programme.⁴² The assistants, whose work is funded with the education subsidies, were the ones to support Roma children and youth during the COVID-19 pandemic. The biggest challenges of the process according to the June 2021 report by the Ministry of Education prepared for the Parliamentary Commission on National Minorities, were the lack of computers, Internet and necessary computer skills in the Roma communities making it impossible for children to engage in online classes. Local administrations responded to these challenges in various ways: through the purchases of necessary equipment, by bringing some classes back to the school premises, or by putting more tasks on the Roma education assistants who would print out the materials and bring them to Roma pupils to fill out.⁴³

Despite significant amounts of funding allocated for Roma inclusion in the previous as well as the current Roma integration programmes, the situation of some of the Roma settlements remains unsolved. In Maszkowice, the Roma community (between 225 and 300 persons) lives in dire conditions, which, according to the Ombudsman, is to be attributed partly to the inaction of local administration.⁴⁴ In Gdańsk-Osowa a small Roma community (ca. 70 persons, mostly children) of Romanian origin has been ordered by court to empty the premises they are currently occupying without granting them any substitute accommodation.⁴⁵ The defendants were not represented in court by lawyers nor supported in any other way despite the fact that in 2020 the city of Gdańsk promised to give "all the

⁴⁰ Szostakowska M., Sekutowicz K., Iwaniak A. [Evaluation of the Programme for Integration of Roma community in Poland 2014-2020. Final report.](#) (Badanie ewaluacyjne Programu integracji społeczności romskiej w Polsce na lata 2014 – 2020. Raport końcowy), September 2020.

⁴¹ The Supreme Audit Office (Najwyższa Izba Kontroli), [Public administration activity in sustaining cultural and language identity of national and ethnic minorities and local language communities.](#) (Działalność organów administracji publicznej dotycząca podtrzymywania tożsamości kulturowej i językowej mniejszości narodowych i etnicznych oraz społeczności posługującej się językiem regionalnym), July 2021, p.107-109.

⁴² Ministry of Internal Affairs, [Programme for Social and Civic Integration of Roma in Poland 2021-2030](#) (Program integracji społecznej i obywatelskiej Romów w Polsce na lata 2021–2030), p. 29.

⁴³ Information from the Ministry of Education and Science presented at the [39. meeting of the Parliamentary Committee for National and Ethnic Minorities of 21 July 2021.](#)

⁴⁴ [Minutes from the 39. meeting of the Parliamentary Committee for National and Ethnic Minorities of 21 July 2021.](#), p. 29.

⁴⁵ Wierciński J., [Eviction without substitute accommodation for almost every inhabitant of the Roma settlement. It's a default judgement.](#) (Eksmisja „na bruk” dla niemal wszystkich mieszkańców romskiej osady. To wyrok zaoczny), Dziennik Bałtycki, 29 January 2021.

necessary support to the community".⁴⁶ In Mielec, violent clashes between Roma and Polish inhabitants during a March Against Violence revealed a history of tensions and violence between the two communities.⁴⁷

⁴⁶ Wierciński J., [Ombudsman and city`s president spokesperson speak out on the issue of Roma people from Gdańsk](#) (RPO i rzecznik prezydent miasta zabierają głos w sprawie gdańskich Romów), Dziennik Bałtycki, 3 January 2020.

⁴⁷ TVN, [Roma and Poles clashing in Mielec. A speeding car drove into a group of people.](#) (Starcie Polaków i Romów w Mielcu. W grupę ludzi wjechał rozpędzony samochód), 14 July 2021.

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

4.1 Number of beneficiaries of international protection whose protection status was revoked in 2021

Country	Cessation of refugee status		Cessation of subsidiary protection	
	Number of refugee status revoked	Main reasons	Number of subsidiary protection status revoked	Main reasons
POLAND	4 (all decisions are final)	Article 21 (1)(1) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (<i>A foreigner is deprived of the refugee status if, after granting this status, the competent authority finds that the foreigner has voluntarily reacquired the protection of the state of which he or she is a citizen</i>).	32 (31 decisions final and 1 not final yet because appeal has been submitted)	- Article 22 (1)(1) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (<i>A foreigner is deprived of subsidiary protection if the circumstances for which it was granted ceased to exist or have changed in such a way that protection is no longer required</i>) + Article 22 (2) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (<i>Deprivation of subsidiary protection in the case referred to in para. 1, point 1, may occur only when the change of circumstances is so significant and long-lasting that the foreigner's further fear of suffering serious harm is not justified</i>).

				<ul style="list-style-type: none">- Article 22 (1)(2) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (<i>A foreigner shall be deprived of subsidiary protection if, after its granting, the circumstances referred to in art. 19 paragraph (1) (3a) or (3b) or in art. 20 (1) (2b) or (2c) + Article 20 (1)(2c) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (A foreigner is deprived of subsidiary protection in the event that he poses a threat to the security of the state or society).</i>
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4.2 National border monitoring mechanisms

Country	Legal source providing for border monitoring	Organisation(s) responsible for monitoring	Is the monitoring body at the at same time the National Preventative Mechanism? (Y/N)	Are reports publicly available? [if yes, please add hyperlink]	Number of monitoring operations in 2021	Is monitoring (at least partially) funded by the EU? If so, under which modalities?
POLAND	Article 333 (1) of the Act of 12 December 2013 on foreigners, available at: https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU2013001650/U/D20131650Lj.pdf	NGOs: Halina Nieć Legal Aid Center, The Rule of Law Institute Foundation, Multiocalenie Foundation, Helisnki Foundation for Human Rights.	N	N	0 (as of 30 September 2021)	N/A

Chapter 5. Information society, privacy and data protection

5.1 Legal and policy developments or measures that have been implemented related to data protection and private life with regards to security issues

Controversy related to data protection of vaccinated persons. The regulation of the Council of Ministers of 6 May 2021 on the establishment of certain restrictions, orders and prohibitions in connection with the outbreak of the pandemic⁴⁸ allowed to increase the limits of participants of the events by the number of vaccinated persons.

The above regulation raised a number of questions related to the problem of who and under what circumstances may request information on the vaccination of an individual. Some event organizers requested such information even though the regulation did not grant them such permission.

Therefore, the Personal Data Protection Office (PDPO) has prepared detailed guidelines. In this guidelines, PDPO on the basis of the European General Data Protection Regulation (GDPR) underlined that entities covered by the regulation of the Council of Minister, do not have the right to request information on the vaccination of an individual. As pointed out, the information on vaccination is health data, which is a special category of personal data described in art. 9 of the GDPR, therefore its proceeding is subject of a stricter protection and permissible after fulfilling at least one of the conditions of art. 9 par. 2 of the GDPR. This information may only be provided if an individual voluntarily agrees to its submission. Importantly, the consent of an individual must be made under the conditions of art. 4 p. 11 and art. 7 of the GDPR. This means that consent must be voluntary, conscious, expressed in the form of an unambiguous expression of will and possible to revoke at any time.⁴⁹

⁴⁸ Poland, Act of May 6, 2021, Regulation of the Council of Ministers on the establishment of certain restrictions, orders and prohibitions in connection with an epidemic (Journal of Laws, item 861).

⁴⁹ Poland, Communication of the Personal Data Protection Office, available in Polish at: <https://uodo.gov.pl/pl/138/2088>.

Security of personal data in the context of the Polish National Census 2021. In 2021, a national census takes place in Poland in order to update the data held by the Central Statistical Office (CSO). The PDPO received numerous signals regarding doubts about the process of obtaining data as part of the national Census, and more precisely the legal basis for obtaining a PESEL number by the Central Statistical Office (GUS).⁵⁰

The respondents' doubts were raised by the fact that, according to the Act on the National Population and Housing Census, there is no PESEL number in the part concerning the scope of information collected within the census. The Act on official statistics defines this personal data as necessary to achieve the statistical aim. Therefore, the PDPO requested the CSO to formulate a more transparent basis of the data collected in the census.

In response to the request, the President of the CSO indicated that in order to ensure greater transparency regarding the legal grounds for the processing of personal data, including PESEL numbers, the information clauses were supplemented with the provisions specifying the legal grounds for processing personal data.

The Central Register of Real Beneficiaries - doubts regarding the protection of personal data. The Central Register of Real Beneficiaries (CRRB) has been operating in Poland since 2019 - this system is used to collect and process information about natural persons exercising control over companies. The official purpose of the CRRB is to prevent money laundering and terrorist financing. However, the CRRB discloses PESEL numbers of persons exercising control over companies, which may lead to many abuses.

Due to the risks arising from the provision of PESEL, the Ombudsman asked the Ministry of Finance to solve this problem⁵¹. As emphasized, the disclosure of this number, also in public registers, may have serious consequences for the individual, related to, inter alia, with the possibility of identity theft.

⁵⁰ Poland, Communication of the Personal Data Protection Office, available in Polish at: <https://uodo.gov.pl/pl/138/2071>.

⁵¹ Poland, Office of the Human Rights, available in Polish at: <https://uodo.gov.pl/pl/138/2088https://bip.brpo.gov.pl/pl/content/rpo-pesel-szefow-spolek-dostepny-internet>.

The Ombudsman also referred this problem to the PDPO. The answer indicated that the adoption of the solution allowing unlimited access to the PESEL numbers of real beneficiaries is contrary to the assumption of art. 87 of the GDPR. Its purpose is the special protection of national identification numbers along with EU standards concerning the admissibility of introducing national regulations limiting the rights to the protection of privacy and personal data.

The Ministry of Finance has not yet commented on the Ombudsman's request.

Judgement of the Provincial Administrative Court on publishing statements of judges and prosecutors regarding their membership in associations. In a judgment of February 15, 2021, the Provincial Administrative Court court in Warsaw stated that the obligation for judges and prosecutors to submit declarations of membership in an association to publish them in the Public Information Bulletin is not contrary to the GDPR.⁵²

This judgment upheld the position of GDPO, according to which the obligation imposed on judges and prosecutors does not violate the GDPR, as it results from legal provisions. Thus, in this case, it could not be considered that the supervisory authority had legal grounds to issue a decision restricting the processing of personal data of judges and prosecutors pursuant to art. 70 par. 1 of the GDPR.⁵³ The case concerned the provisions of the Act amending the Acts - Law on the System of Common Courts, the Act on the Supreme Court and certain other acts, which obligated judges and prosecutors to submit the above-mentioned statements, which are then published in the Public Information Bulletin. The PDPO proceedings showed that the processing of personal data of judges and prosecutors is therefore the result of the above-mentioned a person an obligation clearly defined in a legal provision. In this case, the Ombudsman demanded the supervisory body to issue a decision restricting the processing of personal data of judges and prosecutors pursuant to Art. 70 paragraph. 1 of GDPR – the request has been rejected.

⁵² Judgement of the Provincial Administrative Court in Warsaw of 15 February 2021, case no II SA/Wa 1264/20.

⁵³ Poland, Communication of the Personal Data Protection Office, available in Polish at: <https://uodo.gov.pl/pl/138/1922>.

Central Cybercrime Bureau - a new project of the government. During the conference on July 27, 2021, the Prime Minister announced the creation of Central Cybercrime Bureau.⁵⁴ In the opinion of the project promoters, the basic tasks of the office are to be:

1. identify, prevent and overcome crimes committed with the use of modern ICT technologies;
2. provide necessary support to other organizational units of the Police in identifying, preventing and overcoming crimes.

As the Prime Minister emphasized, "Computer fraud, fake e-mails, SMS or identity theft are phenomena that we hear about more and more often. To counteract this, we are creating a service whose task will be to solve those cybersecurity problems." The Bureau is to be a special Police unit responsible for identifying, preventing and overcoming cybercrimes. Pursuant to the amendment to the Police Act, the new unit will be managed by the commander of the Central Cybercrime Bureau, as a body supervised by the Police Chief Commandant. A separate recruitment path is also to be created for the officers who will be recruited to the Bureau.

The powers of the Bureau are to be very broad and questionable from the point of view of legality. Panoptykon Foundation experts presented numerous risks related to such broad powers of the Bureau.⁵⁵ The Bureau will be authorized to produce, acquire, unload or make available computer programs, what is prohibited by the Criminal Code. As a result, the police received the right to break, also remotely, any security, e.g. to a cloud drive.

Importantly, the information taken over by the Bureau may relate to crimes pursued by the Police, but also be completely unrelated to the subject of control, e.g. when looking for evidence of fiscal crimes on the discs of the management board of companies. Moreover, as experts point out, the tools created by the Bureau can be used, for example, to search the information systems of editorial offices that speak unfavorably about the authorities. The information obtained in this way, e.g. about informants or journalistic investigations, can be used in a way that would jeopardize access to a reliable source of information.

⁵⁴Poland, Communication of the Government, available in Polish <https://www.gov.pl/web/mswia/powstanie-centralne-biuro-zwalczania-cyberprzestepczosci>.

⁵⁵ Prawo.pl, Nowe Biuro do walki z cyberprzestępczością budzi wątpliwości, available in Polish at: <https://www.prawo.pl/prawo/nowe-biuro-do-walki-z-cyberprzestepczoscia,509791.html>.

In the context of the new Bureau, the demand is also repeated that persons who has been under surveillance should be informed about the surveillance that had been carried out in the past; moreover, the Police and other services should be the subject of independent control.

New rules for identifying hospital patients - a serious threat to the protection of personal data. From January 1, 2022, each hospital patient will have an identification band containing his name, surname and date of birth. As indicated by the Ministry of Health, the main goal of the introduced change is to ensure patient safety. The wristbands are primarily intended to eliminate the possibility of confusing individual patients.

However, the inclusion of the above data is contrary to the GDPR. Information placed on the bands must be recorded in such a way that the patient cannot be identified by unauthorized persons. As experts point out, the solution to this problem would be to introduce individual patient codes on the wristbands, then an authorized person could read the patient's personal data using a special reader. However, such a solution is currently not possible to implement due to the excessively high costs.⁵⁶

As a result, from January 1, 2022, each patient will have a wristband containing his personal data, which is clearly contrary to the GDPR.

Digital Services Act (DSA). In April 2021, the Council of Ministers presented its official statement on the issue of the DSA. As emphasized, although the DSA draft took into account a number of postulates proposed by the government, this act could be much better, and therefore a number of proposals for its improvement has been presented.

The most relevant postulates are presented below:

1. the powers of national regulators (digital service coordinators) should be increased in order to ensure adequate supervision over the activities of online platforms,

⁵⁶ Prawo.pl, Opaski w szpitalach – bezpieczeństwo wygrało z RODO, available in Polish at: <https://www.prawo.pl/zdrowie/jakie-dane-na-opasce-informacyjnej-pacjenta-zmiana-przepisow,509701.html>

2. the DSA should include a safeguard that would prevent from the issuing of general injunctions for the removal of certain content if these infringe national law only by some Member States,
3. the content management process of large platforms should take into account as much as possible of the socio-cultural context of the user's country; users should be able to appeal against the platform's decisions to a national court,
4. terms of services of large platforms should be published in an understandable, legible and user-friendly manner,
5. large online platforms should be obligated to tackle harmful content, including disinformation.⁵⁷

As indicated by the government, these demands will be a major contribution to the fast-paced negotiations in the EU Council on the DSA.

In August 2021, the government launched a dedicated platform through which every citizen can participate in consultations regarding the DSA.⁵⁸

The Draft AI Regulation. In September 2021, the Union of Polish Metropolises (UPM), presented its opinion on the issue of the Draft AI Regulation; this opinion includes a number of critical remarks on the draft regulation.⁵⁹ In UPM's opinion, the layout and logical division of the draft AI regulation do not support the development of machine learning techniques and should be changed. The Draft should provide a framework for the application of AI, but not by prohibiting the use of specific systems or indicating the risk of its use. In the opinion of UPM, the Draft should first of all define the scope of admissibility of the use of AI and products that may use it. As emphasized, the approach to regulatory creation in the field of AI should be 'based on learning'. UPM also proposed other changes to the Draft, e.g.:

⁵⁷ Poland, official statement of the Polish Government, available in Polish at: <https://www.gov.pl/web/cyfryzacja/akt-o-uslugach-cyfrowych-w-ue--oto-nasze-stanowisko>.

⁵⁸ Poland, Communication of the Polish Government, available in Polish at: <https://www.gov.pl/web/cyfryzacja/akt-w-sprawie-danych--wez-udzial-w-konsultacjach>.

⁵⁹ Poland, official statement of the Union of Polish Metropolises, available in Polish at: <https://metropolie.pl/artukul/ump-o-projekcie-aktu-w-sprawie-sztucznej-inteligencji-tzw-ai-act>

1. clarification of the definition of AI and public entities,
2. regulation directly enabling the use of AI by public entities,
3. the necessity to take into account the complexity of the public structure in the Draft.

Act on the Protection of Freedom of Speech in Online Social Networks. In January 2021, the Ministry of Justice presented project of the Act on the Protection of Freedom of Speech in Online Social Networks, the so-called Freedom Act.⁶⁰ The main purpose of the Freedom Act is to eliminate unlawful content posted on social media, including content that violates personal rights, hate speech, disinformation, criminal content, as well as content that violates good manners, including disseminating or praising violence, suffering or humiliation.

In order to achieve the above mentioned assumptions it is planned to appoint a new authority - the Freedom of Speech Council; its members are to be appointed by the Sejm for a 6-year term. The Council will consist of, inter alia, specialists in the field of law and linguistics. What is important, the Freedom Act imposes strict obligations on the providers of social network services in Poland. Each provider will have to introduce effective control procedures regarding the illegal content reported by the users of their services. Providers will have 48 hours to review user complaints regarding the dissemination of illegal content, restriction of access to content or restriction of access to the user's profile. As a penalty for not considering the complaint on time, the Council may impose a fine on the service provider in the amount of PLN 50,000. up to PLN 50 million. A user dissatisfied with the resolution of the complaint will be able to lodge a complaint to the Council; after that, it will be possible to appeal against the decision of the Council to the Provincial Administrative Court in order to check the legality of the decision.⁶¹

⁶⁰ Poland, official statement of the Polish Government, available in Polish at: <https://www.gov.pl/web/sprawiedliwosc/zachecamy-do-zapoznania-sie-z-projektem-ustawy-o-ochronie-wolnosci-uzytownikow-serwisow-spolesznosciowych>

⁶¹ Poland, Opinion of the ombudsman on the project of the Act on the Protection of Freedom of Speech in Online Social Networks, available in Polish at: <https://bip.brpo.gov.pl/pl/content/rpo-ms-uwagi-projekt-wolnosci-slowa-internet>

5.2 Artificial intelligence and big data

Actor*	Type**	Description	Are Human Rights issues mentioned? (yes/no)	Reference
Government	Legislative change	In July 2021, the Sejm adopted the Act on open data and the re-use of public sector information. As indicated by the government, this act will have a positive impact on the innovativeness of the Polish economy, and thus - also on the quality of life of citizens; it introduces a new category of high-value data, the re-use of which may have significant benefits for society, the environment and the economy. The vast majority of this data will be available free of charge in a machine-readable format and via an application programming interface. Research data that has been produced or collected through publicly funded research will also be re-used.	No	Chancellery of the Prime Minister, 2021, <i>Otwieramy dane publiczne – Sejm za, Cyfryzacja KPRM</i> , www.gov.pl (official website of the Polish government), 23 July 2021. Available in Polish at: https://www.gov.pl/web/cyfryzacja/otwieramy-dane-publiczne--sejm-za
Cyfrowa Polska (a non-profit employers' organization)	Conference	The purpose of the conference was to discuss about artificial intelligence and its perspectives. The organizers also aimed to encourage young people to be interested in the development of artificial intelligence. During the	No	Cyfrowa Polska, 2021, <i>Konferencja Cyfrowej Polski: Sztuczna inteligencja jednym z priorytetów wyzwań dla rządu i biznesu</i> , cyfrowapolska.org , 18 May 2021.

		conference, the government Commissioner for GovTech gave a speech, in which she emphasized the importance of AI development in the list of government priorities. The Commissioner has also inaugurated the Digitization Leaders program - another edition of paid internships at the Chancellery of the Prime Minister at GovTech Centre.		Available in Polish at: https://cyfrowapolska.org/pl/konferencja-cyfrowej-polski-sztuczna-inteligencja-jednym-z-priorytetow-i-wyzwan-dla-rzadu-i-biznesu/
Helsińska Fundacja Praw Człowieka (Helsinki Foundation for Human Rights), Clifford Chance	Report	The Helsinki Foundation for Human Rights, as part of a project conducted with the Clifford Chance law firm, has prepared a report on the functioning of new technologies in the justice system. The report showed the insufficient digitization of the Polish judiciary - in the opinion of over 90% of respondents, the judiciary does not adequately use new technological solutions that could significantly improve the functioning of the judiciary. The report also examines the level of digitization of the judiciary in other European countries, as well as in the US and China. The solutions introduced in connection with the COVID-19 pandemic, such as online hearings or filling procedural documents online, were also discussed. The report also indicated the necessity to introduce the achievements of	Yes Equality under the law. The right to an effective remedy and to fair trial.	Helsińska Fundacja Praw Człowieka, Clifford Chance, 2021, <i>Nowe technologie, nowa sprawiedliwość, nowe pytania. Wdrażanie nowych technologii w wymiarze sprawiedliwości.</i> , www.hfhr.pl , Warsaw, June 2021. Available in Polish at: https://www.hfhr.pl/wp-content/uploads/2021/07/Raport.-Nowe-Technologie-Nowa-Sprawiedliwosc-Nowe-Wyzwania.-Wdrazanie-nowych-technologii-w-wymiarze-sprawiedliwosci.pdf

		<p>technology in the judiciary, and as emphasized, it is possible to digitalize the judiciary without jeopardizing its essence - reliability and justice.</p> <p>The report also discusses the risks associated with the digitization of the justice system. The digitization will significantly improve the work of the judiciary, however, it may lead to the limitation of the right to a court of digitally excluded people. As the authors of the report point out, it is necessary to pay special attention to digitally excluded people, whose access to court and fair trial may be limited due to the lack of technical equipment (i.e. people without access to the Internet).</p>		
Naukowa i Akademicka Sieć Komputerowa (Scientific and Academic Computer Network)	Innovative computer software	NASK is at the stage of testing the EZD RP. EZD RP is a software, which will enable the conduct of administrative matters and the implementation of processes in offices in electronic form. The system will be available for officials at every level of the administration. EZD RP enables handling of correspondence, management of files, registers and statistics, substitutions, information	No	<p>Ministry of Digital Affairs, 2021, <i>EZD RP fundamentem cyfrowego państwa.</i>, www.gov.pl (official website of Polish government), 17 August 2021.</p> <p>Available in Polish at: https://www.gov.pl/web/ezd-rp/EZD-RP-fundamentem-cyfrowego-panstwa</p>

		management, system administration, AI, document circulation; it also includes an electronic signature module that enables signature verification without using external applications.		
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Chapter 6. Rights of the child

6.1 Measures taken during the COVID 19 to ensure the well-being of children living in poverty and the protection of children from violence

Measures to address the specific vulnerabilities of children living in poverty	<p>The additional attendance allowance.</p> <p>The additional attendance allowance was introduced in March 2020 on the basis of the Act issued in connection with counteracting the results of COVID-19 pandemic. This attendance is a cash benefit granted to parents who must resign from work in order to provide care for their children due to the unforeseen closure of, inter alia, kindergarten or school; it is provided for parents of children under the age of 8. Although this allowance was supposed to be temporary, it is systematically extended by the government, currently until June 25, 2021.⁶²</p>
Measures to protect children from violence	<p>New guarantees for victims of domestic violence – initiative of the Ministry of Justice.</p> <p>In July 2021, the Ministry of Justice proposed its new solutions in order to protect people from domestic violence.⁶³ These changes are an extension of the so-called "anti-violence law" that entered into force in 2020. In the opinion of the Ministry of Justice, the anti-violence law has significantly improved the situation of victims of domestic violence, which is why they are planning further changes in this respect. However, the draft has not yet been prepared, the Ministry has presented assumptions of the draft in press statements.⁶⁴</p> <p>According to the assumptions, victims will be protected not only in the family home or in its immediate vicinity, but also in any other place. The perpetrator of violence will not be able to approach victims of violence anywhere.</p> <p>To protect children who are the victims of domestic violence, will be a possibility of imposing a prohibition on the perpetrator from entering all places where the child learns and stays, for example, to places where sport activities or art classes are conducted. Information on the issuance of prohibitions will be forwarded to the appropriate institutions. The new regulations will also</p>

⁶² Poland, Act of June 2, 2021, Regulation of the Council of Ministers on the definition of a longer period of receiving additional attendance allowance in order to counteract COVID-19.

⁶³ Poland, Communication of the Polish Government, available in Polish at: <https://www.gov.pl/web/sprawiedliwosc/wzmocnienie-ochrony-ofiar-przemocy-domowej>

⁶⁴ Radiomaryja.pl, „Ustawa antyprzemocowa 2.0” jest na etapie uzgodnień międzyresortowych, available in Polish at: <https://www.radiomaryja.pl/informacje/tylko-u-nas-dr-m-romanowski-ustawa-antyprzemocowa-2-0-jest-na-etapie-uzgodnien-miedzyresortowych/>

	<p>prohibit the perpetrator of domestic violence from contacting the victims via the Internet, social media or telephone. The offenders will no longer have an access to any weapon – the Police will have the right to take the weapon away from the person who uses domestic violence.</p> <p>Further guarantees for victims of domestic violence – draft of an Act prepared by the Ministry of Family and Social Policy.⁶⁵</p> <p>Currently, the Act on domestic violence provides protection to victims of ‘family violence’; according to the draft, it is necessary to provide support for victims of domestic violence, regardless of whether the victim is a member of perpetrator's family. As a result, the protection will also be applied to persons in informal relationships, their children as well as former spouses.</p> <p>The definition of violence is also to be changed - the new definition will include economic violence. The new meaning of violence is to be brought into line with the criteria provided for in the Istanbul Convention.⁶⁶</p> <p>Protection of children against violence - statement of the Association of Family Judges in Poland.⁶⁷</p> <p>This statement, published by the judges from the Association of Family Judges in Poland, indicates a number of current problems related to the protection of children against violence.</p> <p>In the judges' opinion, the system of preventing domestic violence is ineffective - more and more often the problem of domestic violence is revealed in the event of the child's death. As judges point out, this is situation is a result of shortage of staff in the courts and the underfunding of the family support system. Due to the above, court proceedings related to the protection of children take too long, which (due to its specificity) cannot be accepted. Once the judgement is issued, problems arise with its enforcement, because due to the underfunding of foster families, it is difficult to isolate children from the perpetrators.</p> <p>As emphasized, since August 1, 2010, corporal punishment is officially prohibited in Poland – however, the regulations do not introduce any criminal sanction for such punishments, therefore</p>
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⁶⁵ Projekt ustawy o zmianie ustawy o przeciwdziałaniu przemocy w rodzinie oraz niektórych innych ustaw, available in Polish at: <https://archiwum.bip.kprm.gov.pl/kpr/form/r77679,Projekt-ustawy-o-zmianie-ustawy-o-przeciwdzialaniu-przemocy-w-rodzinie-oraz-niek.html>

⁶⁶ Prawo.pl, Przemoc ekonomiczna to też przemoc domowa – jest projekt zmiany ustawy, available in Polish at: <https://www.prawo.pl/prawnicy-sady/przemoc-domowa-projekt-nowelizacji-ustawy-o-przemocy-w-rodzinie,510938.html>.

⁶⁷ Ssrwp.pl, Stanowisko Zarządu Stowarzyszenia Sędziów Rodzinnych w Polsce z dnia 6 marca 2021 roku, available in Polish at: <http://www.ssrwp.pl/aktualnosci.php?typ=uc&art=325&start=0&irek=31>.

	it is much more difficult to protect children against domestic violence. ⁶⁸
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6.2 Legal and policy developments or measures relating to criminal proceedings

Legislative changes	<p>At the beginning of 2021, a significant amendment to the Code of Criminal Procedure entered into force.⁶⁹</p> <p>The abovementioned amendment introduced the principle of the presumption of the age of the victim – the aim of this principle is to extend the application of special standards relating to child victims to persons whose age cannot be established, e.g. foreigners whose identity is unknown, and whose physical and mental characteristics may indicate that they are underaged.</p> <p>This amendment has also introduced the obligation of the procedural authorities to establish circumstances concerning "the characteristics and personal conditions of the victim, as well as the type and size of the negative consequences of the crime". As indicated by the authors of the bill, this amendment assumes that the prosecutor or a judge should enter into a dialogue with the victim and receive information whether the victim actually understood his rights and know how to use those rights properly.⁷⁰</p> <p>Changes regarding juvenile perpetrators</p> <p>In July 2021, the Ministry of Justice presented a draft of the new Act on the support and rehabilitation of the juveniles. As indicated by the Ministry of Justice, this act is to be adopted by the Council of Ministers in the fourth quarter of 2021.⁷¹ The main</p>
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⁶⁸Prawo.pl, Przemoc wobec dzieci nadal polskim problemem - braki na każdym etapie, available in Polish at: <https://www.prawo.pl/prawnicy-sady/przemoc-wobec-dzieci-braki-systemowe-przy-opiniach-bieglych-i,507094.html>.

⁶⁹ Poland, Act of December 16, 2020 amending the Act – Code of Criminal Procedure (Journal of Laws, item 155).

⁷⁰ Prawo.pl, Już obowiązują przepisy wzmacniające ochronę pokrzywdzonych dzieci, available in Polish at: <https://www.prawo.pl/prawnicy-sady/za-wzmocnieniem-ochrony-pokrzywdzonych-dzieci-senat,505793.html>.

⁷¹ Projekt ustawy o wspieraniu i resocjalizacji nieletnich., available in Polish at: <https://archiwum.bip.kprm.gov.pl/kpr/form/r1183549007232,Projekt-ustawy-o-wspieraniu-resocjalizacji-nieletnich.html>

	<p>aim of this act is to rehabilitate juvenile perpetrators, as well as support them in their pursuit of shaping correct attitudes.⁷²</p> <p>Main assumptions of the draft:</p> <ol style="list-style-type: none"> 1. juvenile perpetrators of the most serious crimes will be obligatorily sent to a correctional facility, 2. increasing the upper age limit for juveniles staying in a correctional facility from 21 to 24 years, 3. creating new, stricter correctional facilities that will be intended for those who have committed a crime and have turned 13 and - in exceptional cases - for juveniles who, although have not committed a criminal act, but are strongly demoralized, 4. the appointment of a special commission, which will indicate to the court a facility appropriate for a juvenile, in the event of a juvenile's mental health problems. <p>Currently, the draft has been submitted to public consultations.</p>
Policy developments	N/A
Other measures or initiatives	<p>Extension of victims' rights in cases where the perpetrator is a juvenile</p> <p>The government has published a draft of an amendment to the Act on juvenile delinquency proceedings; it is primarily aimed at improving the situation of the aggrieved persons in cases in which the perpetrator is a juvenile.⁷³</p> <p>According to the draft, the aggrieved will be entitled to:</p> <ol style="list-style-type: none"> 1. be informed about the initiation of the procedure and his rights, 2. use the services of an attorney, until the beginning of the hearing in which, in principle, he is entitled to participate, 3. submit evidences, 4. ask questions when taking evidence admitted by the court at his request. <p>However, experts consider this project as insufficient. Despite these changes, the person aggrieved by the juveniles will not have as many procedural rights as a party to a normal a trial,</p>

⁷² Prawo.pl, Surowsze kary dla nieletnich, nowe ośrodki wychowawcze – jest już projekt zmian, available in Polish at: <https://www.prawo.pl/prawnicy-sady/postepowanie-w-sprawach-nieletnich-ms-proponuje-zmiany,508683.html>.

⁷³ Prawo.pl, Uprawnienia pokrzywdzonego przez nieletniego sprawcę – wciąż za małe, available in Polish at: <https://www.prawo.pl/prawnicy-sady/uprawnienia-pokrzywdzonego-w-sprawach-nieletnich-status,509730.html>

	and as a consequence the possibility of protecting his rights will be still limited.
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Chapter 7. Access to justice

7.1 Legal and policy developments or measures relevant to the implementation of the Victims' Rights Directive and the EU strategy for Victims' Rights 2020-2025

Amendment to the Code of Criminal Proceedings. On 9 February 2021, an amendment to the Code of Criminal Proceedings which concerned procedural rights of victims came into force. The amendment has introduced a presumption of being a minor with regard to the injured party, as well as obliged authorities conducting the proceedings to gain certain information about the victim.

According to the first part of the amendment, if doubts as to the age of the injured cannot be removed and there is a justified presumption that the injured is a minor, the provisions of the Code of Criminal Proceedings concerning injured minors shall apply to the injured.⁷⁴ As indicated in the explanatory memorandum to the new provision, the aim of the change was to extend the application of special standards regarding child victims to those injured parties whose age cannot be determined (e.g. foreigners whose identity is unknown) and, judging from their psychophysical features, it can be assumed that their age is below 18 years.⁷⁵ As a result of the amendment's coming into force, since 9 February 2021 the following measures have been applicable to victims assumed to be minors:

- mandatory audiovisual recording of the questioning;⁷⁶
- the right to have their procedural rights exercised by their statutory representatives or by the persons who have custody of the injured;⁷⁷
- the right to be represented by an attorney during the investigation and judicial proceedings;⁷⁸

⁷⁴ Poland, Code of Criminal Proceedings (*Kodeks postępowania karnego*), 6 June 1997, Article 49b.

⁷⁵ Poland, Explanatory memorandum to the Act amending the Code of Criminal Proceedings (*Uzasadnienie ustawy o zmianie ustawy Kodeks postępowania karnego*), 16 December 2020.

⁷⁶ Poland, Code of Criminal Proceedings (*Kodeks postępowania karnego*), 6 June 1997, Article 147(2a).

⁷⁷ Poland, Code of Criminal Proceedings (*Kodeks postępowania karnego*), 6 June 1997, Article 51(2).

⁷⁸ Poland, Code of Criminal Proceedings (*Kodeks postępowania karnego*), 6 June 1997, Article 87(1) and (2).

- certain rules concerning the questioning of minors, such as e.g. using adequately adapted rooms,⁷⁹ presence of a trained psychologist during the questioning⁸⁰ or conducting the questioning only once⁸¹ during the proceedings.

The second part of the amendment concerns victims in general, regardless of their presumed or actual age. The newly-introduced Article 52a of the Code of Criminal Proceedings stipulates that the authority conducting the criminal proceedings is obliged to determine the circumstances of the case related to the personal characteristics and conditions of the victim, as well as the type and extent of the negative consequences of the crime.⁸² Therefore, the aim of this provision is to strengthen the individual assessment of the injured in order to determine their needs and the necessity to apply certain measures depending on the victims' will.⁸³

Draft amendment to the Criminal Code. The Ministry of Justice has published the draft law amending the Criminal Code, aimed at making criminal liability stricter for crimes involving violence, crimes against sexual liberty (i.e. crimes enumerated in Chapter XXV of the Criminal Code, such as e.g. rape, sexual intercourse with a minor or pandering) and driving under the influence of alcohol.⁸⁴ The draft law largely repeats provisions included in the amendment of 13 June 2019, which was contested by the Constitutional Tribunal before coming into force due to the faulty legislative procedure. The amendment includes, among others, such changes as:

- abolition of the prescriptive period, after the lapse of which a crime ceases to be punishable, for rapes resulting in the victim's death or grave bodily harm, or rapes committed to the detriment of a minor below 15 years of age, and extension of such period in the case of homicide (from 30 to 40 years);
- raising the maximum penalty for felonies imposed for a specified period of time from 15 years of deprivation of liberty to 30 years, and abolition of the separate penalty of 25 years (meaning that a court will be authorised to impose imprisonment ranging from 1 month to 30 years, or life imprisonment);

⁷⁹ Poland, Code of Criminal Proceedings (*Kodeks postępowania karnego*), 6 June 1997, Article 185d(1).

⁸⁰ Poland, Code of Criminal Proceedings (*Kodeks postępowania karnego*), 6 June 1997, Article 185a(2).

⁸¹ Poland, Code of Criminal Proceedings (*Kodeks postępowania karnego*), 6 June 1997, Article 185c(1a).

⁸² Poland, Code of Criminal Proceedings (*Kodeks postępowania karnego*), 6 June 1997, Article 52a.

⁸³ Poland, Explanatory memorandum to the Act amending the Code of Criminal Proceedings, 16 December 2020 (*Uzasadnienie ustawy o zmianie ustawy Kodeks postępowania karnego*).

⁸⁴ Poland, Ministry of Justice, [Minister Sprawiedliwości: W walce z pedofilią liczy się surowość kary](#), 26 May 2021.

- raising the minimum penalty for homicides (from 8 to 10 years of imprisonment), as well as introducing harsher punishments for batteries or brawls and rapes (with the maximum penalty of life imprisonment for the latter);
- changes concerning drink-driving that include raising the maximum penalty and compulsory forfeiture of the vehicle or its equivalent;
- lowering of the minimum age of criminal liability for homicides from 15 to 14 years.

As of September 2021, the draft law was in the process of interministerial arrangements and public consultation.⁸⁵

Draft amendment concerning proceedings before family and care courts (*sądy rodzinne i opiekuńcze*). The Ministry of Justice has also revealed the main assumptions of the draft law amending substantive and procedural civil law.⁸⁶ Among other changes, the new law is supposed to strengthen the protection of children against domestic violence. In order to achieve this aim, a change in civil procedure is planned, obliging family courts to report every single proceedings for limiting or depriving of parental authority initiated *motu proprio* to the prosecution, provided that it is suspected that a child's welfare is in danger. According to the Ministry of Justice, by engaging the prosecution, it will be possible to take timely actions to prevent possibly tragic results of domestic violence (in particular, the prosecution is authorised to initiate criminal proceedings with regard to the alleged perpetrator, which allows to order the suspect's apprehension and detention in a police custody – which would effectively isolate him or her from the victim). The draft law includes also the introduction of child-friendly rooms in which the questionings will take place during proceedings in family and care courts.

Continuing practice of questionable spending from the Justice Fund. On 30 September 2021, the Supreme Audit Chamber published the first complex report on the functioning of the Victim Assistance and Post-Penitentiary Fund (the Justice Fund) since its creation in 2017.⁸⁷ According to the report, the Justice Fund, supervised by the Minister of Justice, due to the lack of clear, normative definition of its tasks, spent public funds in a "thriftless and unreasonable" manner, whereas its activities favoured the emergence of "corruptive mechanisms".⁸⁸ Moreover, the

⁸⁵ P. Szymaniak, [Kodeks karny bardziej surowy](#), Dziennik Gazeta Prawna, 20 September 2021.

⁸⁶ Poland, Ministry of Justice, [Reforma prawa rodzinnego – zmiany dla dobra dzieci i rodzin](#), 11 May 2021.

⁸⁷ Poland, Supreme Audit Chamber, [Realizacja zadań Funduszu Pomocy Pokrzywdzonym oraz Pomocy Postpenitecyjnej – Funduszu Sprawiedliwości. Informacja o wynikach kontroli](#), 30 September 2021.

⁸⁸ Poland, Supreme Audit Chamber, [NIK o realizacji ustawowych zadań Funduszu Sprawiedliwości](#), 30 September 2021.

Minister of Justice has not ensured that all potential beneficiaries of the Fund have equal and transparent access to its resources. As the report indicates, both in the case of NGOs and public entities the decisions on granting subsidies have been made on a discretionary basis and not documented sufficiently, nor publicly announced (despite a legal obligation stemming from the Act on public finances). Although the Supreme Audit Chamber has welcomed the creation of the all-country network of facilities providing help to crime victims, these efforts were dashed by the unreliable calls for offers, which were not aimed at choosing the best possible entity providing such services. It is also reported that, in some cases, subsidies were granted to certain arbitrarily-chosen local governments “under the guise of supporting crime victims” for financing expenditures loosely or not related to providing help to victims.

7.2 Measures addressing violence against women

No major developments in this regard occurred during the reporting period of 2021.

On 19 July 2021, the Ministry of Justice organised a press conference⁸⁹ to summarise the **8-month period of application of the “anti-violence package”**: a set of amendments to various legal acts aimed at preventing and combating domestic violence, in force since November 2020. The Ministry has also announced the intention to introduce new measures in this field.

According to the Ministry of Justice, between the package’s entry into force on 30 November 2020 and 30 June 2021, there were 1,938 cases of effective isolation of perpetrators of violence, including 1,607 orders to vacate the premises with a restraint order, 112 orders to vacate without a restraint order and 219 orders not to approach the premises in which the victim resides. On 30 November 2021, the Ministry of Justice informed that during the 1-year period since the new provisions had come into force, in total more than 3,200 orders to vacate the premises (with or without additional restraint orders) had been issued. In 96,4% of cases, such orders were issued with regard to male perpetrators of violence.⁹⁰

Measures introduced by the anti-violence package are applied by courts in civil proceedings, upon request and according to the provisions of the Code of Civil

⁸⁹ Poland, Ministry of Justice, [Wzmocnienie ochrony ofiar przemocy domowej](#), 19 July 2021.

⁹⁰ Poland, Ministry of Justice, [Rok skutecznego działania ustawy antyprzemocowej](#), 30 November 2021.

Procedure.⁹¹ The court shall adjudicate after the hearing has been closed and within one month from the date of submission of the request.

With regard to the successful (in the Ministry's opinion) implementation of the first set of anti-violence provisions, it was announced that next changes in the Code of Civil Procedure would follow, such as e.g.:

- extension of restraint orders imposed on perpetrators to any other areas than households and its vicinities;
- introduction of the possibility to impose restraint orders on perpetrators other than those who lived in the same premises as the victim;
- introduction of the prohibition of contacting the victim of domestic violence by the perpetrator via phone, social media or the Internet;
- immediate deprivation of legally owned fire arms by the police or military police in the case of a perpetrator of domestic violence.

The anti-violence package does not address **the impact of lockdown** introduced due to the COVID-19 pandemic on domestic violence. The scale of this phenomenon in Poland has not been thoroughly researched yet. On one hand, the total number of Blue Card proceedings (proceedings related to reported cases of domestic violence) initiated in 2020 amounted to 91,300 – which was lower by 3,5% than the number in 2019 (94,700).⁹² According to the experts, however, this does not indicate a decrease in the scale of violence itself, but rather results from the fact that the pandemic hindered the work of police officers and social workers, who usually reported the majority of cases. On the other hand, a higher demand for help was indicated by hotlines offering help for victims of domestic violence.

Furthermore, the Council of Ministers is conducting the consultation process regarding the **draft resolution on establishing the National Programme for Domestic Violence Prevention 2022**.⁹³ The programme sets out detailed arrangements concerning the following areas: 1) providing protection and help for victims of domestic violence, 2) applying correctional and educational measures to perpetrators of domestic violence, 3) raising social awareness of causes and results of domestic violence, 4) promotion of non-violent educational methods, 5) dissemination of knowledge concerning forms of providing help for victims and perpetrators of domestic violence. The programme will comprise of various

⁹¹ Poland, Code of Civil Procedure (*Kodeks postępowania cywilnego*), 17 November 1964, Section Ia.

⁹² M. Topolewska, [Niebieskie karty i przemoc - jakie statystyki?](#), Infor.pl, 3 September 2021.

⁹³ Poland, Council of Ministers, [Draft resolution on establishing the National Programme for Domestic Violence Prevention 2022](#) (Projekt uchwały Rady Ministrów w sprawie ustanowienia Krajowego Programu Przeciwdziałania Przemocy w Rodzinie na rok 2022).

activities, among which there will be conducting country-wide or local media campaigns, an increase in funding specialised institutions supporting victims of domestic violence and maintaining the 24-hour free-of-charge hotline for the victims. In comparison to the 2021 programme, the one for 2022 will also include launching a website dedicated to promoting forms of help available for domestic violence victims.

Since the 2022 programme confers conducting certain educational, correctional and therapeutical measures with regard to perpetrators on local government units, its representatives have assessed the government's proposal. According to the Association of Polish Counties (*Związek Powiatów Polskich*), funds allocated for the implementation of the programme are too limited given the scale of conferred tasks.⁹⁴ By way of an example, each of 380 Polish counties will receive only PLN 9,600 (approx. EUR 2,100) to conduct correctional and educational activities for perpetrators. Therefore, in the Association's opinion, their implementation will be virtually impossible.

The legislative process concerning the programme is still on-going but it is supposed to be adopted before the end of the year.

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

8.1 CRPD policy & legal developments

Governmental Strategy for Persons with Disabilities 2021-2030. In February 2021, the governmental Strategy for Persons with Disabilities 2021-2030, the first such complex and holistic policy concerning persons with disabilities in Poland,⁹⁵ was published in the journal of laws.⁹⁶

The strategy comprises of 113 activities, grouped in the following 8 categories: I. independent life, II. accessibility, III. education, IV. work, V. living conditions and social protection, VI. health, VII. raising awareness, VIII. coordination. According

⁹⁴ M. Topolewska, [Za mało pieniędzy na walkę z przemocą](#), Dziennik Gazeta Prawna, 24 November 2021.

⁹⁵ Poland, Plenipotentiary for Persons with Disabilities, [Pierwsza polska Strategia na rzecz Osób z Niepełnosprawnościami](#), 16 February 2021.

⁹⁶ Poland, Prime Minister, [Rząd ogłasza strategię na rzecz Osób z Niepełnosprawnościami na lata 2021-2030](#), 16 February 2021.

to the strategy's authors, the main indicator monitoring its implementation will be the labour force participation of persons with disabilities in the working-age population (with its anticipated value of 35% in 2025 and 45% in 2030).

Among the advantages of the adopted strategy, experts indicate the fact that it has been prepared in close cooperation with stakeholders (in particular, civic society organisations grouping persons with disabilities), as well as its main objective, which is employment and social activation.⁹⁷ The strategy is also welcomed due to the adoption of the idea of deinstitutionalisation – focusing on the development of services within local communities instead of the all-day care in special facilities.

The implementation of the strategy will be supervised by the government's Plenipotentiary for Persons with Disabilities.

Reform of the system of medical examination of persons with disabilities.

The government's Plenipotentiary for Persons with Disabilities has responded to the address by the Commissioner for Human Rights, regarding the system of medical examination of such persons, indicating that a reform of the entire system is in progress.⁹⁸ According to the Plenipotentiary, a uniform system of medical examination will replace the already existing several separate ones, in conformity with the CRPD. This issue has been addressed by the Ombudsman multiple times in the past. In the most recent letter,⁹⁹ the Commissioner has indicated that currently there are six systems of examination of disabilities in Poland (four pertaining to benefits, one – to the degree of disability and one concerning special education). This means that a person is examined by various examination teams, which – when it comes to persons with disabilities – can be significantly burdensome, particularly during the COVID-19 pandemic. The situation, according to the Ombudsman, is aggravated by the complexity and ambiguity of applicable provisions.

No developments in implementing CT's judgement concerning care benefits for guardians of adult persons with disabilities.

Poland still has not implemented the judgement of the Constitutional Tribunal of 2014 concerning care benefits for guardians of adult persons with disabilities.¹⁰⁰ In this judgement, the constitutional court has declared the situation in which the benefit's value is different depending on the moment the disability was determined (significantly lower if the person was already an adult) unconstitutional. Despite the declaration

⁹⁷ R. Bakalarczyk, [Czy Strategia na rzecz Osób z Niepełnosprawnościami przyniesie przełom?](#), klubjagiellonski.pl, 4 May 2021.

⁹⁸ Poland, Plenipotentiary for Persons with Disabilities, [Response to the Ombudsman](#), 22 September 2021.

⁹⁹ Poland, Commissioner for Human Rights, [Jak wyglądają prace nad reformą systemu orzecznictwa ws. niepełnosprawności? MRiPS odpowiada Rzecznikowi](#), 30 August 2021.

¹⁰⁰ Poland, Judgement of the Constitutional Court, case no K 38/13, 21 October 2014.

of the Senate's head of legislative committee made in 2020,¹⁰¹ no draft amendment to the act regulating care benefits has been published by the higher house of Polish parliament yet.¹⁰²

Preparation of draft law implementing CPRD. On 10 September 2021, the Ministry of Family, Labour and Social Policy announced the initiation of works aimed at preparing a new law, known under the working title of the Act on equal opportunities.¹⁰³ As indicated by the government, the law will be aimed at guaranteeing full implementation of the CPRD into Polish legal system. The draft law will be prepared by a consortium led by the governmental Plenipotentiary for Persons with Disabilities, in cooperation with NGOs and universities. According to the Plenipotentiary, the draft law will be focused primarily on the fundamental rights of persons with disabilities, and its preparation will be preceded by a thorough analysis of the legal situation of such persons, as well as public consultations involving civic society, academia and local government units. It is expected that the law will be prepared before the end of 2023.

Electoral rights of incapacitated persons. The Senate is preparing an amendment to the Electoral Code that will allow incapacitated persons (including persons with disabilities) to vote in elections to the European Parliament.¹⁰⁴ Currently, the law deprives such persons of the right to vote in all types of elections. However, whereas in the case of presidential, parliamentary and local elections such limitation is provided by the Constitution, the lack of electoral rights in European elections is only stipulated by an act – the Electoral Code of 2011. Therefore, it is possible to change it without amending the Constitution, which requires a qualified majority. Granting electoral rights to the incapacitated will be in conformity with the jurisprudence of the European Court of Human Rights, and will follow a precedent judgement of a Polish court ordering to add a partially incapacitated person to the voters' register. According to the court's argumentation in the latter case, partial incapacitation does not preclude making a rational and conscious choice.

8.2 CRPD monitoring at national level

¹⁰¹ Poland, Commissioner for Human Rights, [Szansa dla opiekunów osób z niepełnosprawnością. Senat podjął prace nad wykonaniem wyroku TK z 21 października 2014 r.](#), 6 July 2020.

¹⁰² Poland, Senate, [List of current legislative initiatives](#), 9 October 2021.

¹⁰³ Poland, Plenipotentiary for Persons with Disabilities, [Wyrównywanie szans osób z niepełnosprawnościami. Rusza nowy projekt](#), 10 September 2021.

¹⁰⁴ Rp.pl, [Osoby ubezwłasnowolnione będą mogły głosować w eurowyborach - wkrótce projekt ustawy](#), 21 July 2021.

In 2021, there were no major findings when it comes to the CRPD monitoring at national level in Poland.

The Ombudsman's remarks concerning the Strategy for Social Services Development 2021-2040. In July 2021, the Commissioner for Human Rights, acting as an independent body monitoring the implementation of the CRPD, addressed the Minister of Family, Labour and Social Policy with regard to the governmental "Strategy for Social Services Development 2021-2040".¹⁰⁵ The Ombudsman has indicated that the document requires numerous amendments. First of all, as indicated by the Commissioner, as well as stakeholder NGOs,¹⁰⁶ the community of persons with disabilities should be involved to a greater extent in drafting new policies; in this strategy, however, the Ministry has disregarded several ideas presented by the community and replaced them with such that were not discussed with stakeholders. Second, the Ombudsman suggested that the document needs linguistic revision in order to eliminate paternalistic terms and replace them with more inclusive language, respecting the subjectivity of persons with disabilities. Third, according to the Commissioner, the strategy lacks a precise timeline and indicators allowing to evaluate its implementation. Among other remarks, the Ombudsman suggests also that the strategy should include, as a long-term objective, a departure from stationary care facilities in favour of developing services for persons with disabilities within local communities, which would allow them to live more independently.

The Ombudsman's opinion on the objectives of the draft law governing personal assistance for persons with disabilities. The Chancellery of the President of Poland is drafting the main objectives of the new law on personal assistance for persons with disabilities.¹⁰⁷ In December 2021, the Ombudsman addressed the Chancellery of the President with regard to these objectives.¹⁰⁸ The Ombudsman has emphasised that availability of personal assistance is one of the most fundamental instruments envisaged by CRPD (Article 19b) and that UN Committee on the Rights of Persons with Disabilities indicated in 2018 the lack of systemic solutions in this field in Poland. The Ombudsman has pointed out that personal assistance should always be adjusted to individual needs of a particular person, as well as that persons with disabilities should be free to choose the level of control over the service, according to their needs, capabilities, lifestyle and preferences. It is crucial, in the Ombudsman's opinion, that personal assistance should be financed publicly not as a part of social welfare, but a means of

¹⁰⁵ Poland, Commissioner for Human Rights, [Jak poprawić strategię rozwoju usług społecznych – RPO do Ministra Rodziny i Polityki Społecznej](#), 19 July 2021.

¹⁰⁶ A. Deja, [Jeszcze tylko dziś podpisz apel w sprawie Strategii Deinstytucjonalizacji](#), ngo.pl, 2 August 2021.

¹⁰⁷ O. Zakolska, D. Starzyńska-Rosiecka, [„Duda: projekt o asystencji osobistej osób z niepełnosprawnościami trafi do Sejmu do końca roku”](#), Polish Press Agency, 12 July 2021.

¹⁰⁸ Poland, The Commissioner for Human Rights, [Asystenci osób z niepełnosprawnościami. Uwagi RPO do założeń nowych przepisów](#), 15 December 2021.

equalising opportunities. Among the more detailed remarks, the Ombudsman indicates that e.g. personal assistants accompanying persons with disabilities should be exempt from entrance fee to cultural facilities and that the problem of an assistant's absence resulting from illnesses should be addressed.

Annex 1 – Promising Practices

Thematic area	<p style="text-align: center;">EQUALITY AND NON-DISCRIMINATION</p> <p style="text-align: center;">Please provide one example of a practice to tackle nationality-based discrimination, or discrimination against LGBTI people, such as awareness raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2021 relevant to equality and non-discrimination of EU citizens or LGBTI people, preferably one conducted by a national equality body.</p>
Title (original language)	Tęczowy Piątek
Title (EN)	Rainbow Friday
Organisation (original language)	Kampania Przeciwko Homofobii
Organisation (EN)	Campaign Against Homophobia
Government / Civil society	Civil Society
Funding body	Campaign Against Homophobia
Reference (incl. URL, where available)	https://kph.org.pl/teczowy-piatek-2021/

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	<p>This project has been organized for 6 years, always on the last Friday of October. Recently, its organization is even more important in view of the backlash from public institutions towards the LGBT community</p>
Type of initiative	<p>Awareness raising campaign</p>
Main target group	<p>LGBTI pupils</p>
Indicate level of implementation: Local/Regional/National	<p>National</p>
Brief description (max. 1000 chars)	<p>The "Rainbow Friday" campaign aims to show solidarity with LGBTQI people. During "Rainbow Friday" schools can show support for LGBTQI people allowing their staff members and pupils to dress in rainbow colors, wear a rainbow pin, organize a lesson on tolerance and the problems of the LGBTQI community, hang a poster about the action and organize workshops or conversations with people who face the problem of aggression and intolerance</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>The whole campaign is suitable for implementation in other countries.</p>

<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>"Rainbow Friday" was a well-received campaign, repeated for the past 6 years, but the Ministry of Education has recently filed a legislative initiative to make the presence of NGOs in schools conditional on a curator's approval. According to the draft law, teachers and principals who want to support LGBT+ students and educate about sexual orientation and gender identity will face dismissal or even prosecution. Similarly, another bill in parliament seeks to eliminate the promotion of LGBTI identity from public spaces.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The campaign shows support for LGBTI students and raises awareness of social problems they face (violence, exclusion and the lack of acceptance in their families, schools, among peers)</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>Rainbow Fridays can also be organized in other institutions, such as workplaces or government offices, especially in countries where the government does not impede the recognition of LGBT rights.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning,</p>	<p>LGBTI students can initiate these actions themselves or remain observers.</p>

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

Thematic area	<p style="text-align: center;">RACISM, XENOPHOBIA AND RELATED INTOLERANCE</p> <p style="text-align: center;">Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about either: active cooperation with CSOs in addressing racism and hate crime; or combating racism and unequal treatment in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.</p>
Title (original language)	Kampania edukacyjno-społeczna promująca Ukrainę
Title (EN)	Educational campaign promoting Ukraine
Organisation (original language)	Miasto Wrocław
Organisation (EN)	The project is implemented by the Wrocław municipality in cooperation with the artistic collective Ukrainer
Government / Civil society	Wrocław Municipality, artistic collective Ukrainer
Funding body	Wrocław Municipality

Reference (incl. URL, where available)	https://www.wroclaw.pl/rusza-kampania-edukacyjnospoleczna-promujaca-ukraine
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	March – April 2021
Type of initiative	Social campaign
Main target group	Inhabitants of Wrocław
Indicate level of implementation: Local/Regional/National	Local
Brief description (max. 1000 chars)	Social campaign on the city buses and trams. Videos promoting Ukraine were played in the public transportation vehicles for the inhabitants of Wrocław. The campaign addresses the issue of xenophobia and intolerance towards Ukrainian citizens living in Wrocław through promotion of a positive image of Ukraine. The videos were played on 212 screens at a frequency of 6 times per hour for 2 months.

<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<ul style="list-style-type: none"> - Videos promoting a country of origin of migrants living in the city - Using public transportation vehicles to promote tolerance
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>The videos created for the campaign may be re-used in other settings and on other occasions.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The number of "views" of videos on public transport.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The idea of promoting tolerance and respect towards other nations and cultures by videos played on public transport is transferrable to any setting.</p>

<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>The project was developed with the Ukrainian collective Ukrainer and was an initiative of Olga Chrebor, who is a city employee with Ukrainian background.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>N/A</p>

Thematic area	<p style="text-align: center;">ROMA EQUALITY AND INCLUSION</p> <p>Please provide one example of promising practice related to the two topics addressed in the chapter. Please make the link between the selected practice and the topics explicit.</p>
Title (original language)	Program integracji społeczno-zawodowej społeczności romskiej na terenie województwa mazowieckiego
Title (EN)	Socio-vocational integration of Roma community in Mazowieckie Voivodeship
Organisation (original language)	Zakład Kształcenia Zawodowego w Warszawie
Organisation (EN)	Vocational Training Facility in Warsaw
Government / Civil society	Formally an association, but an education facility which is a part of the national education system
Funding body	Roma Integration Programme (Ministry of Internal Affairs and Administration)
Reference (incl. URL, where available)	https://www.zdz.edu.pl/projekty/projekty-aktualne

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	1.06.2021 – 31.12.2021
Type of initiative	Vocational training
Main target group	Roma youth
Indicate level of implementation: Local/Regional/National	Regional (voivodeship)
Brief description (max. 1000 chars)	Vocational training, option to receive professional certificates and vocational counselling for young Roma youth with the aim of improving their chances in the labour market, empowering them and levelling the field between men and women.
Highlight any element of the actions that is transferable (max. 500 chars)	<ul style="list-style-type: none"> - Vocational training for Roma youth - Vocational counselling for young people - Courses which end in receiving professional certificates

<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>Young Roma people receive practical and sought after vocation which facilitates their access to the labour market.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>Concrete number of people who receive training (20).</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The problem of unemployment in the Roma communities is present in many Member States. So is the issue of young girls resigning from education and not entering the labour market despite finishing primary education.</p>

<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>Not this programme particularly, but the need for creating similar practices was stressed by the beneficiaries during the evaluation of the previous Roma integration programme.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>N/A</p>

Thematic area	<p style="text-align: center;">INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</p> <p style="text-align: center;">Please provide one example of a promising practice related to the topics addressed in the chapter, i.e. data protection, and/or artificial intelligence systems.</p>
Title (original language)	Twoje dane – Twoja sprawa!
Title (EN)	Your data – your business!
Organisation (original language)	Urząd Ochrony Danych Osobowych.
Organisation (EN)	Personal Data Protection Office.
Government / Civil society	Government.
Funding body	Personal Data Protection Office.
Reference (incl. URL, where available)	https://uodo.gov.pl/pl/21/32

<p>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</p>	<p>September 2020 – June 2021</p>
<p>Type of initiative</p>	<p>Educational campaign.</p>
<p>Main target group</p>	<p>Teachers and students.</p>
<p>Indicate level of implementation: Local/Regional/National</p>	<p>National.</p>
<p>Brief description (max. 1000 chars)</p>	<p>This program is divided into several stages. The aim of the basic stage is to train and equip the teachers and in-service teacher training centers with educational materials, including information on the principles of personal data protection and lesson plans, as well as preparing teachers to shape conscious, responsible and open attitudes among students. Institutions registered for the Program received educational materials during a two-day compulsory training course, which took place in Warsaw. An important part of the Program is also to conduct classes in schools and teacher training institutions related to the subject of personal data protection (including meetings, trainings, lessons).</p>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>Due to the spread of remote learning, the methods of training for teachers described above could be considered as transeferable.</p>

<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>This is the 11th edition of the program and the Personal Data Protection Office declares that this program will be further developed in the future.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>During this year's edition of the program, participants prepared 1,778 initiatives to improve and ensure better protection of personal data; 419 schools and teacher training centers have signed up to participate in this year's edition of the program (2564 teachers and 50 861 students).</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The practice is universally applicable - recently, there has been a widespread dissemination of remote learning, and therefore this initiative, aimed at increasing the standard of personal data protection, should be considered as transferrable.</p>

<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>N/A</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>Participants have prepared 1,778 initiatives related to, inter alia, personal data protection. These initiatives have been published with a brief overview on the PDPO's website.</p>

Thematic area	<p style="text-align: center;">RIGHTS OF THE CHILD</p> <p style="text-align: center;">Please provide a promising practice related to the topics addressed in the chapter.</p>
Title (original language)	Dzieci w wirtualnej sieci.
Title (EN)	Children in the virtual network.
Organisation (original language)	Fundacja Edukacji Zdrowotnej i Psychoterapii.
Organisation (EN)	Health Education and Psychotherapy Fundation.
Government / Civil society	Civil society.
Funding body	Private funds.
Reference (incl. URL, where available)	https://www.edukacja-zdrowotna.pl/wp-content/uploads/2021/03/Dzieci-w-wirtualnej-sieci_v20_internet.pdf

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	March 2021.
Type of initiative	Guidebook.
Main target group	Parents.
Indicate level of implementation: Local/Regional/National	National.
Brief description (max. 1000 chars)	<p>Unlimited access to the Internet and the virtual world via smartphones, tablets and computers causes great havoc in the psyche and emotional development of children. These threats have become even more acute due to remote learning caused by the Covid-19 pandemic.</p> <p>This guidebook aims to emphasize the dangers faced by children on the Internet (e.g. pornography and violent content) and to provide parents with the necessary knowledge and solutions to ensure the safety of their children; the guidebook also contains information on dealing with Internet addiction among children. The guidebook "Dzieci w wirtualnej sieci" is available online.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	The idea of developing a guidebook ensuring the safety of children on the Internet has to be considered as easily transferrable to other Member States.

<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>Due to the increasing access of children to the Internet, parents should be provided with knowledge on how to keep them safe online. The COVID-19 pandemic has made it necessary to implement remote lessons, therefore children spend more time online than ever. It is to be expected that the trend for children to be online will continue to grow, and therefore parents' education in this area is essential.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>This guidebook was disseminated in many schools all over the country, therefore it should be considered that the initiative has met the interest of many recipients and received a positive opinion.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The COVID-19 pandemic has forced Member States to implement remote learning for children, therefore educating parents about keeping their children safe online is an important issue not only in Poland.</p>

<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>N/A</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>N/A</p>

Thematic area	RIGHTS OF THE CHILD Please provide a promising practice related to the topics addressed in the chapter.
Title (original language)	Dobrze widzieć – program profilaktyki krótkowzroczności.
Title (EN)	Good to see - myopia prevention program.
Organisation (original language)	Ministerstwo Edukacji i Nauki.
Organisation (EN)	Ministry of Education and Science.
Government / Civil society	Government.
Funding body	Public funds.
Reference (incl. URL, where available)	Introduction of the promising practice: https://www.gov.pl/web/edukacja-i-nauka/dobrze-widziec--program-profilaktyki-krotkowzrocznosc-u-uczniow-z-edukacji-wczesnoszkolnej Summary of the promising practice: https://www.gov.pl/web/edukacja-i-nauka/dobrze-widziec--profilaktyka-dzieciecej-krotkowzrocznosc--konferencja-podsumowujaca-badanie-przesiewowe-uczniow-z-lubelskich-szkol-z-udzialem-ministra-edukacji-i-nauki

<p>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</p>	<p>Q4 of the 2021.</p>
<p>Type of initiative</p>	<p>Medical examinations aimed at preventing myopia among children aged 7-10.</p>
<p>Main target group</p>	<p>Children aged 7-10.</p>
<p>Indicate level of implementation: Local/Regional/National</p>	<p>Local – Lubelskie Voivodship.</p>
<p>Brief description (max. 1000 chars)</p>	<p>As the initiators pointed out, myopia is a significant health problem that affects younger and younger students and progresses most at school age; among children who spend most of the day in closed rooms in front of a computer or TV screen, myopia is much more common. During the pandemic, children spent most of the school year at home during remote-learning, which could aggravate myopia. Various types of ophthalmological examinations were carried out during the program. Children diagnosed with myopia are to receive ophthalmological treatment; more than 800 children from the Lubelskie Voivodeship have been examined by the specialists. Summing up the initiative, the Ministry pointed out that remote learning, staying in closed rooms and the using of smartphones caused serious health problems among children aged 7-10. The Ministry of Education and Science would like to extend this initiative to the entire country.</p>

<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>This initiative is comprehensive - it includes diagnosis and treatment of the children. Therefore, the whole initiative is worth transferring, as myopia is a disease that affects children all over EU.</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>Easy access of children to smartphones, laptops, tablets, etc. has a negative impact on their health and can cause various diseases, including myopia. Due to distance learning, children have to spend more time using abovementioned multimedia devices. Therefore, the problem of myopia among the children is still developing, so this initiative should be continued and extended.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The Ministry of Education and Science presented a detailed summary of this initiative. So far, 807 children have been examined by the specialists. 50 of them were referred for clinical trials. Five of them received a referral for in-depth treatment.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>This practice is universally applicable - children around the world have problems with their vision; the isolation and remote learning caused by the pandemic has only exacerbated this issue.</p>

<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>N/A</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>The presentation of a detailed summary by the Ministry of Education and Science (described above) makes it possible to decide whether to continue the examination of children.</p>

Thematic area	<p style="text-align: center;">ACCESS TO JUSTICE</p> <p style="text-align: center;">Please provide one example of a promising practice related to the topics addressed in the chapter.</p>
Title (original language)	Razem przeciwko przemocy
Title (EN)	Together against violence
Organisation (original language)	Centrum Praw Kobiet
Organisation (EN)	Women's Rights Centre
Government / Civil society	Civil society
Funding body	Polish-American Freedom Foundation
Reference (incl. URL, where available)	https://cpk.org.pl/co-robimy/realizujemy-projekty/gdansk/

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	1 October 2020 – 30 June 2021
Type of initiative	Providing counselling (psychological, legal, psychiatric, social and other) to female victims of violence
Main target group	<ol style="list-style-type: none"> 1. Volunteers and activists of the Women’s Rights Foundation in Gdańsk 2. Women experiencing violence who require specialised, holistic and long-term help adjusted to their needs
Indicate level of implementation: Local/Regional/National	Local (the city of Gdańsk)
Brief description (max. 1000 chars)	<p>The programme had two main objectives.</p> <p>First, it aimed at extending the scope of forms of providing help by the Women’s Rights Centre in Gdańsk through the professionalisation of its activities, in particular by harnessing online tools and measures. To achieve this objective, the centre planned to hire a volunteer coordinator (an employee tasked with coordinating the work of volunteers and activists), as well as to purchase certain devices enabling remote working (e.g a display and audio system).</p> <p>Second, most importantly, the programme was supposed to provide effective protection and specialized support to women experiencing domestic violence caused by the COVID-19 pandemic. By conducting preliminary consultations, followed by psychological, legal and social counselling for female victims online, the programme aimed at preventing negative impact of the pandemic.</p>

<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<ul style="list-style-type: none"> - The use of online tools to address the problem of domestic violence against women during the lockdown - Professionalisation of staff due to hiring a coordinator supervising the work of volunteers and activists
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<ul style="list-style-type: none"> - The phenomenon of domestic violence directed at women requires constant scrutiny on the part of the government, as well as the civic sector - The state of the COVID-19 pandemic, which only contributes to the rise of cases of domestic violence as a result of lockdowns, most probably will last for the next months (if not years); such practices will have to be implemented or continued
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The impact of the programme could be measured by the number of cases in which a female victim of domestic violence was provided with particular counselling</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<ul style="list-style-type: none"> - The programme involved activities, measures and tools that are universal and easy to adopt in other settings and Member States - The problem of the on-going pandemic resulting in recurring lockdowns and, as a consequence, the increase in cases of domestic violence is common for all Member States

<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>N/A</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>N/A</p>

Thematic area	Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide one example of a promising practice related to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities.
Title (original language)	<u>No promising practice has been identified for this thematic area.</u>

Annex 2 – Case Law

Thematic area	EQUALITY AND NON-DISCRIMINATION Please provide one high court decision addressing discrimination against EU citizens based on nationality or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
Decision date	9.12.2020
Reference details	Judgement of the Supreme Administrative Court (<i>Naczelny Sąd Administracyjny</i>) of 9 December 2020, case no. II OSK 3320/18
Key facts of the case (max. 500 chars)	A Polish citizen, born in Canada, underwent legal and medical gender reassignment proceedings in accordance with Canadian law and acquired new data on her birth certificate (name, surname and gender). When in 2019 her Polish passport expired, she requested the civil registry office to transcribe her foreign birth certificate. The head of the office refused the transcription of her foreign birth certificate on the basis of the public order clause (due to the alleged ambiguity in the indication of the original and reassigned personal data). On her appeal, the voivod upheld this decision, but the regional administrative court repealed both decisions. However, the voivod filed a cassation appeal to the Supreme Administrative Court, and it was supported by the Prosecutor General who joined the proceedings. The Ombudsman joined the proceedings on the side of the complainant.
Main reasoning/argumentation (max. 500 chars)	In the current state of the law, there are no grounds for holding that the transcription of a birth certificate reflecting the reassigned gender and the resulting change of name and surname is contrary to the fundamental principles of the legal order of the Republic of Poland. Since gender identity is considered a protected personal good, one should not force anyone to play a social role contradictory to the gender assigned to a person at birth / and reflected in the birth certificate.

<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The Court opted for a non-rigorous interpretation of the faithful and literal transcription, in line with the decision of the Supreme Court of 8 May 2015. (case no. III CSK 296/14). It stated that "many times, the failure to take into account the meaning of particular elements of a foreign civil status document presented for transcription may result in an unjustified, premature refusal of transcription". It also held that the resolution of 7 judges of the Supreme Administrative Court of 2 December 2019. (case no. II OPS 1/19), finding that the transcription of a foreign birth certificate of a child, a Polish citizen, indicating persons of the same sex as parents, violates the Polish legal order, does not apply to the case at hand.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The transcription of the foreign birth certificate indicating new data reflecting the situation after a person concerned underwent gender reassignment is permissible under the Polish law.</p>

<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>If a record submitted for transcription includes an additional note, entered on the basis of a foreign court ruling or a ruling of another foreign state authority in a civil case, and the head of the transcription refuses transcription on the grounds that the note itself is contrary to the fundamental principles of the legal order of the Republic of Poland or on the grounds that the foreign court ruling or the ruling of another authority in a civil case has not been recognised, he/she should indicate this in the grounds for the refusal and, in the latter case, also include in the grounds for the decision information about the right to apply under Art. 1148 of the Civil Procedure Code to a common court to decide whether a decision of a foreign state authority is subject to recognition (Article 104 (1) and (2) in connection with Article 108 (2) and (4) of the Civil Procedure Code in connection with Article 1146 of the Civil Procedure Code).</p> <p>O ile w akcie przedstawionym do transkrypcji znajduje się wzmianka dodatkowa, zamieszczona na podstawie orzeczenia sądu państwa obcego lub innego organu państwa obcego wydanego w sprawie cywilnej, a kierownik odmawia transkrypcji ze względu na sprzeczność samej wzmianki z podstawowymi zasadami porządku prawnego Rzeczypospolitej Polskiej lub z powodu nieuznania orzeczenia sądu państwa obcego lub rozstrzygnięcia innego organu w sprawach cywilnych, powinien wskazać to w uzasadnieniu podjętej decyzji odmownej, a w drugim z wymienionych przypadków, także zawrzeć w uzasadnieniu decyzji informację o prawie wystąpienia w trybie art. 1148 K.p.c. do sądu powszechnego o rozstrzygnięcie, czy orzeczenie organu państwa obcego podlega uznaniu (art. 104 ust. 1 i ust. 2 w zw. z art. 108 ust. 2 i ust. 4 P.a.s.c. w zw. z art. 1146 K.p.c.).</p> <p>https://orzeczenia.nsa.gov.pl/doc/BCE549CF8A</p>
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Thematic area	RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide the most relevant <u>high court</u> decision concerning the application of <u>either</u> the Racial Equality Directive or the Framework Decision on racism and xenophobia, addressing racism, xenophobia, and other forms of intolerance more generally.
Decision date	<i><u>No case law has been identified for this thematic area.</u></i>

Thematic area	ROMA EQUALITY AND INCLUSION Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
Decision date	<i><u>No case law has been identified for this thematic area.</u></i>

Thematic area	ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION Please provide the most relevant high court decision – or any court ruling – relating to the implementation of the <u>right to an effective remedy</u> in the context of storing data in national large-scale databases and in EU IT systems (Eurodac, VIS, SIS) delivered in 2021.
Decision date	22 February 2021
Reference details	Voivodship Administrative Court in Warsaw (hereinafter: VAC), case no. IV SA/Wa 2176/20
Key facts of the case (max. 500 chars)	<p>On 31 August 2018, a citizen of Ukraine requested the Polish authority, the Head of the Office for Foreigners (hereinafter: HOF), to withdraw his data from the Schengen Information System and the national registry of unwanted foreigners. A foreigner received a refusal decision on 1 October 2018, submitted an application for reconsideration of the case and as a result, on 20 November 2018 received the decision from HOF on upholding its own decision. A complaint against the final decision was submitted by the foreigner to VAC on 3 January 2019. On 16 April 2019 VAC quashed both decisions of HOF. The VAC obliged the HOF to re-examine the existence of state defence or security or protection of public safety and order or the interests of the Republic of Poland. After re-examining the case, HOF issued on 27 January 2020 and on 30 April 2020 once again similar decisions as before. The final decision of HOF was again contested by a foreigner before the VAC which issued its judgment with justification on 29 January 2021.</p>
Main reasoning/argumentation (max. 500 chars)	<p>The data of the foreigner were put by the Polish authorities in SIS and the national registry of unwanted foreigners due to the existence of state defence or security or protection of public safety and order or the interests of the Republic of Poland in the case. The foreigner indicated in the complaint to VAC against the final decision of HOF that the authority, by refusing to delete his data, did not exhaustively collect the evidence and did not assess the collected material in a correct way, which violated, inter alia, art. 7, art. 77 and art. 80 of the Code of Administrative Procedure.</p>

<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The foreigner, due to the complaints submitted to VAC against the decisions of HOF, twice received positive judgments from the VAC. In both judgments the VAC obliged the HOF to properly collect and assess the material in the case, including classified information which was the initial basis of putting foreigner's data in SIS and the national registry of unwanted foreigners. What is important, on 13 June 2019, the data of the foreigner were deleted from Schengen Information System for the purpose of refusal of entry, because he obtained a residence permit in another Schengen state - Belgium (this permit is valid until 28 May 2024). Due to that, the second judgment of VAC dated 22 February 2021 concerned only data in the registry of unwanted foreigners.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>As a result of the complaint submitted by the foreigner to the VAC, the VAC confirmed in its judgment that during the administrative proceeding initiated by the request on withdrawal of the data from SIS and registry of unwanted foreigners, the authority is obliged to exhaustively collect the evidence and assess the collected material in order to verify whether the data were put in these registries lawfully, that it is not only a formal procedure and the merits have to be fully assessed, including the classified information.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>„Organ ponownie rozpoznający sprawę został zobowiązany przez Sąd do powtórnego przeanalizowania zgromadzonego materiału dowodowego w kontekście zaistnienia przesłanek z art. 435 ust. 1 ustawy o cudzoziemcach i do ewentualnego uzyskania dodatkowych informacji od organu wnoszącego o umieszczenie danych skazającego w wykazie cudzoziemców niepożądanych na terytorium RP i po ich uzyskaniu dokonać dopiero ponownej analizy pod kątem zasadności zgłoszonego żądania.” "The body re-examining the case was obliged by the court to re-examine the collected evidence in the context of the existence of the conditions under Art. 435 paragraph. 1 of the Act on Foreigners and to the possibility of obtaining additional information from the authority requesting the placement of the complainant data in the registry of unwanted foreigners in the territory of the Republic of Poland and after obtaining them, only re-analyze in terms of the legitimacy of the request. "</p>

Thematic area	INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION Please provide the most relevant high court decision related to the topics addressed in the chapter, i.e. data protection, and/or artificial intelligence systems.
Decision date	13 May 2021
Reference details	II SA/WA 2129/20 Provincial Administrative Court in Warsaw
Key facts of the case (max. 500 chars)	On 20 August 2020, the Polish Data Protection Office (DPA) imposed a fine of approximately €11,000 on the Warsaw University of Life Sciences (SGGW) for failing to implement sufficient technical and organizational measures to prevent exposure of over 80000 records about study candidates. The data breach occurred as a result of a theft of a university employee's private laptop, on which the personal data of candidates for studies had been saved. The university argued that it had not been a controller of the data stored on the stolen device. Instead, it was the employee acting without knowledge of SGGW and in violation of internal procedures. The court fully upheld the DPA's decision and stated that the SGGW had violated the GDPR.
Main reasoning/argumentation (max. 500 chars)	A situation in which an employee violates his employee duties, at the same time violates the provisions of the GDPR, does not exclude the employer's liability as the personal data administrator.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Contrary to the university's arguments, the Court held that the University could be classified as a controller, as it determined the purposes and means of the processing of data on the laptop, and the employee was acting on its behalf.

<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Provincial Administrative Court in Warsaw upheld a fine by the Polish DPA of approximately €11,000 (PLN 50,000) on an university that had failed to implement appropriate measures to prevent the disclosure of personal data on an employee laptop.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>“Należy podkreślić, że z istoty stosunku pracy wynika, że w stosunkach wewnętrznych pracownik nie występuje jako odrębny podmiot (...). Z punktu widzenia prawa jego działania są działaniami pracodawcy i pracodawca ponosi za nie odpowiedzialność, zachowując w stosunku do pracownika regres w postaci możliwości egzekwowania od niego odpowiedzialności odszkodowawczej, porządkowej lub dyscyplinarnej(...).Nie zmienia sytuacji prawnej działanie naruszające czy wykraczające poza zakres powierzonych mu przez pracodawcę zadań i obowiązków pracowniczych(...). Wówczas dalej mamy do czynienia z działaniem pracownika (naruszającego swoje obowiązki pracownicze) podlegającym jednak zarachowaniu na rzecz pracodawcy(...). Nie ulega zatem wątpliwości, że w rozpatrywanym przypadku administratorem osobowych była SGGW, a nie jej pracownik (...).W konsekwencji, wbrew zapatrywaniu skarżącej Uczelni, nie ponosi on odpowiedzialności administracyjnej za naruszenie przepisów rozporządzenia RODO.”</p> <p>“It should be emphasized that the essence of the employment relationship shows that in internal relations an employee does not appear as a separate entity (...). From the legal point of view, his actions are the actions of the employer and the employer is responsible for them, retaining the recourse in relation to the employee in the form of the possibility of enforcing damages, order or disciplinary liability (...). Acts that violate or go beyond the scope of the tasks and duties assigned to him by the employer do not change the legal situation (...).In such a case, it is an action of an employee (breaching his employee duties) that is, however, accountable to the employer (...).Therefore, there is no doubt that in this case the personal data controller was SGGW, and not its employee (...).Consequently, contrary to the statement of the complaining University, the employee is not administratively responsible for violation of the provisions of the GDPR.”</p>

Thematic area	RIGHTS OF THE CHILD Please provide the most relevant high court decision related to the topics addressed in the chapter.
Decision date	<u><i>No case law has been identified for this thematic area.</i></u>

Thematic area	ACCESS TO JUSTICE Please provide the most relevant high court decision related to the topics addressed in the chapter.
Decision date	31 March 2021
Reference details	Resolution of the Supreme Court's Criminal Chamber, case no I KZP 7/20

Key facts of the case

(max. 500 chars)

S.K. was accused of maltreating his wife mentally by initiating disturbances at home (while being under the influence of alcohol), during which he insulted her, humiliated her and did not allow her to use certain parts of the house, as well as criticised or ridiculed his wife and threatened her to commit suicide.

In February 2020, the District Court in T. found him guilty of the crime stipulated in Article 207(1) of the Criminal Code (maltreating mentally a person being in a permanent relation of dependence to the perpetrator) and sentenced him to deprivation of liberty. Apart from this penalty, the court has also administered certain penal measures involving the prohibition of contacting and approaching the victim and the order to leave the house occupied together with her, each for the period of two years, on the basis of Article 41a(1) of the Criminal Code.

Article 41a(1) of the Criminal Code reads that the court may impose the prohibition from contacting certain individuals or approaching to certain individuals, or the order to leave, for a determined period of time, the premises occupied together with a harmed party, while sentencing for an intentional crime involving the use of force, especially the force towards an immediate family member.

The convicting judgement was appealed against by, among others, the public prosecutor. As indicated in the appeal, there were two mutually exclusive interpretations of the term "crime involving the use of force" present in the jurisprudence and legal doctrine. According to the first approach, it means a crime whose statutory features (i.e. features described in the provisions of the Criminal Code or other acts) include the use of force, whereas the second meaning is any crime that has been actually committed with the use of force, regardless of its statutory features. Even if the second interpretation was correct, the prosecutor argued, the application of penal measures on the basis of Article 41a(1) still would be unjustified as the prevailing understanding of the term "force" on the ground of Polish criminal law does not cover psychological violence, of which the perpetrator was accused.

In the course of examination of the appeal, the Regional Court in T., while leaning to the second understanding of the term "crime involving the use of force", decided to refer the question to the Supreme Court for resolution.

<p style="text-align: center;">Main reasoning/argumentation</p> <p style="text-align: center;">(max. 500 chars)</p>	<p>The Supreme Court started with observing that the possibility to apply the concerned penal measures with regard to perpetrators of intentional crimes involving the use of force had been introduced in 2005 in order to ensure the proper criminal law's reaction to domestic violence.</p> <p>The court has further indicated that, given the literal wording of the provision of Article 41a(1), it is undisputable that the term "crime involving the use of force" is not limited to a crime whose statutory features include the use of force, but rather means every crime that has been actually committed with the use of force. Therefore, the term refers to the perpetrator's <i>modus operandi</i>, not a feature of crime.</p> <p>Apart from the linguistic interpretation, the court has also used the systemic one, recalling various other legal acts which refer to the notion of violence, such as the Act on counteracting domestic violence of 2005, the Istanbul Convention of 2011 or Directive 2012/29/EU. All of these acts refer to the factual, criminological definition of violence.</p> <p>Moreover, according to the functional interpretation, the protected value (which is the victim's safety) requires that the understanding of the use of force be possibly widest.</p> <p>The Supreme Court has also observed, providing several examples from the Criminal Code, that in those cases where the legislator's intention is to limit the understanding of violence only to the physical one, it is done expressly and precisely (e.g. in Article 280 – "using force towards a person" when committing armed robbery). Thus, it is clear, in the court's view, that the provision in question (Article 41a) refers to both physical and psychological violence. This is supported additionally, again, by the systemic and functional interpretation.</p>
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<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The Supreme Court was asked to clarify whether the term “crime involving the use of force”, as stipulated in Article 41a(1) of the Criminal Code, meant a crime whose statutory features (i.e. features described in the Criminal Code or other acts) include the use of force, or whether it means a crime that has been actually committed with the use of force. The Supreme Court has confirmed the correctness of the second approach.</p> <p>Should the latter be correct, the Supreme Court additionally had to resolve if the understanding of the term “force” was limited only to physical violence, or whether it meant violence in other forms (in particular, psychological violence) as well. According to the Court, the second interpretation should be applied.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Supreme Court was not hearing the very case itself, but was asked by the regional court hearing the defendant’s appeal to deliver a resolution of a juridical question requiring a substantial interpretation of the Criminal Code’s provision.</p> <p>The resolution of the Supreme Court interpreting the wording of Article 41a(1) of the Criminal Code should be binding as to the given question in the case concerned.</p> <p>Moreover, given the Supreme Court’s authority within the Polish judicial system, its argumentation will most probably be also referred to by lower courts adjudicating similar cases, as well as widely utilised by lawyers in their pleadings.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>Przestępstwem z użyciem przemocy w rozumieniu art. 41a § 1 k.k. jest każde przestępstwo, które faktycznie popełnione zostało z użyciem przemocy, przy czym użyte w tym przepisie słowo "przemoc" obejmuje zarówno przemoc fizyczną, jak i psychiczną.</p> <p>A crime involving the use of force within the meaning of Article 41a(1) of the Criminal Code is any crime actually committed with the use of force, whereby the term “force” used in the provision includes both physical and psychological one.</p>

Thematic area	DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD) Please provide the most relevant court judgment, which quoted the CRPD or prominently referred to the CRPD in the reasoning.
Decision date	7 July 2021
Reference details	Decision of the Supreme Court, III CSKP 47/21
Key facts of the case (max. 500 chars)	<p>After being diagnosed with paranoid schizophrenia, the applicant was partially incapacitated by the court, pursuant to Article 16 of the Civil Code, placed in a social assistance centre and appointed a custodian to represent him and administer his property. A few years later, he filed a motion for waiver of this measure as he had difficulties undertaking certain legal acts – divorce with wife and cancelling donation of his house to his daughter.</p> <p>Both courts of the first and the second instance dismissed his motion. The courts have observed unanimously that the man still requires the supervision of a custodian as his condition has not improved since the date on which he was incapacitated.</p> <p>The applicant has filed a cassation appeal to the Supreme Court, raising procedural faults, as well as violation of Article 16, which reads that an adult may be partially incapacitated “due to mental illness, mental retardation or another kind of mental disorders, in particular alcoholism or drug addiction, if that person's state does not justify full incapacitation yet he requires assistance in managing his affairs”.</p>

<p style="text-align: center;">Main reasoning/argumentation</p> <p style="text-align: center;">(max. 500 chars)</p>	<p>The Supreme Court has shared the view of the applicant, stating that the stance taken by the Appellate Court does not allow to assess the applicant’s condition – which is crucial for an incapacitated person (and, as such, unable to decide on their property or being placed in care facility).</p> <p>The Supreme Court has also indicated that the Appellate Court failed to examine properly in which manner the applicant had been placed in the facility (whether it was a necessity). Moreover, the court considered the role of the custodian, coming to a conclusion that such person is not entitled to supervise compulsory treatment of the incapacitated.</p> <p>In particular, the Supreme Court has observed that the Convention on the Rights of Persons with Disabilities (CRPD), ratified by Poland, does not envisage the notion of partial incapacitation. It provides for assistance, which is not, however, tantamount to appointing a custodian pursuant to Polish law.</p>
<p style="text-align: center;">Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The decision of the Supreme Court addresses the issue, already raised by the Ombudsman and NGOs, of the compatibility of partial incapacitation with the CRPD.</p>
<p style="text-align: center;">Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The case has been referred to the court of the second instance for re-examination by the Supreme Court.</p>
<p style="text-align: center;">Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>„(...) w sprawie o uchylenie ubezwłasnowolnienia częściowego właściwy model oceny powinien polegać na sprawdzeniu, czy wnioskodawca nadal potrzebuje pomocy do prowadzenia swoich spraw - czyli czy na datę rozstrzygnięcia sprawy o uchylenie ubezwłasnowolnienia pozostają aktualne, czy też, przeciwnie, ustały określone w art. 16 k.c. przyczyny uzasadniające ubezwłasnowolnienie częściowe.”</p> <p>„(...) in the case concerning the waiver of partial incapacitation, the proper mode of assessment should require establishing whether the applicant still needs help to handle his or her businesses – i.e. whether the grounds for partial incapacitation, as defined in Article 16 of the Civil Code, remain valid or ceased to apply on the date of hearing the motion for waiver of the incapacitation.”</p>

