

# HR HELSINKI FOUNDATION for HUMAN RIGHTS

January 31, 2014

## **SUBMISSION TO THE 84th SESSION OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION**

Comments of the Helsinki Foundation for Human Rights on Information on the Implementation of the recommendations of the Committee on the Elimination of Racial Discrimination issued following the examination of the 19<sup>th</sup> report submitted by Poland (CERD/C/POL/CO/19) to be taken up in connection with the consideration of the twenty and twenty first periodic report on Poland (CERD/C/POL/20-21).

### **INTRODUCTION**

The Helsinki Foundation for Human Rights (HFHR) is a non-governmental organization established in 1989 based in Warsaw, Poland. Its creation was preceded by the Helsinki Committee in Poland, which was an active underground movement for seven years starting in 1982. Nowadays, the HFHR is one of the most experienced, professional and influential non-governmental organizations operating in the field of human rights in Poland and Eastern and Central Europe.

HFHR's objective is the promotion of human rights in Poland and countries of the post-Soviet region. Its main activity areas include:

- domestic education in the field of human rights;
- international activities: programs promoting democracy, constitutionalism, rule of law and human rights in the countries of the Commonwealth of Independent States;
- public interest activities aimed at increasing the standards of human rights protection in Poland, implemented through monitoring, intervention and strategic litigation before domestic and regional courts. Since 2007, the Foundation has held consultancy status at the United Nations Economic and Social Council (ECOSOC). The HFHR is also a member of FRA networks within the European Union Agency for Fundamental Rights and the National Focal Point within the FRA's research network FRANET.

The HFHR is submitting written comments to the UN Committee on the Elimination of Racial Discrimination in view of its forthcoming examination on the 84<sup>th</sup> Session during the period from February 3 – 21 2014. In order to provide information on the most recent developments in Poland, the HFHR presents the following comments relating to the content of information provided by the Government of Poland with a division on the following sections:

1. Contextual information
2. Legal developments in the field of elimination of racial discrimination
  - 2.1. New Act on Foreigners
  - 2.2. Changes in the Criminal Code
3. Institutional developments in the field of elimination of racial discrimination
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4. Main issues aroused during the reporting period
  - 4.1. Racial discrimination
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    - 4.3.1. Hate speech in the internet
    - 4.3.2. Victims of hate crimes and support system for victims of crimes
  - 4.4. The developments in the field of enhancing the far-rights movements

## 1. Contextual information

Numerous studies conducted by independent academic centres and/or non-governmental organisations show that the phenomena of racial discrimination remains a visible and serious problem in Poland.

In 2010, Poland was classified as 24<sup>th</sup> out of 31 countries on the Migrant Integration Policy Index (MIPEX). Despite certain recent improvements, Poland still does not offer its residents fully effective protection against discrimination and it is, in fact, well below the European average.<sup>1</sup> Furthermore, polls suggest that racial prejudice and stereotypes are strongly rooted in the Polish society. The annual research conducted by the Centre of Public Opinion Research for the last four years shows that four national and ethnic groups (Roma, Romanian, Russian, Arabs) are most frequently indicated as least-liked groups.<sup>2</sup> What is more, the recent poll shows that two-thirds of Poles thinks that Poland should not encourage migrants from Africa, Asia or Eastern Europe to come.<sup>3</sup>

Moreover, numerous research conducted by non-governmental organisations, e.g. Association of Legal Intervention, Institute of Public Affairs, Foundation of Development Without Borders, Local Knowledge Foundation and Helsinki Foundation for Human Rights shows that there are still many unsolved problems when it comes to racial discrimination in Poland (the main findings of the research will be elaborated further). Among the most crucial problems related to the phenomena of racial discrimination in Poland, there are problems related to the practical use of anti-discrimination law and the rule of equal treatment, inefficient procedures for combating hate crimes, Roma discrimination and significant development of far-right movements.

## 2. Legal developments

### 2.1. New Act on Foreigners

At the end of December 2013 the President signed the new Foreigners Act. The law does not materially change the Polish model of migration policy but several measures proposed by the legislators can be assessed positively. The new Act extends the period of a temporary residence permit from two to three years, introduces a uniform procedure for the obtaining of a residence and work permit, abolishes the 45-day period for applying for a temporary residence permit, and establishes a system of non-custodial measures applied to foreigners who stay in Poland illegally. **Despite that the new Act introduces many significant changes, there are still some problems which are not recognised by this law.** It is likely that the Foreigners Act will have to be soon amended because of the necessity to implement the Convention on Preventing and Combating Violence against Women and Domestic Violence into Polish law.

### 2.2 Changes in the Criminal Code

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<sup>1</sup> See more: [www.mipex.eu/poland](http://www.mipex.eu/poland)

<sup>2</sup> CBOS, *Stosunek Polaków do innych narodów*.

<sup>3</sup> Suchecka J., Urzędowska M., Pacewicz P., Polska dla Polaków. Dwie trzecie Polaków nie chce u nas więcej imigrantów, available at: [wyborcza.pl/1,75478,14839180,Polska\\_dla\\_Polakow\\_\\_Dwie\\_trzecie\\_Polakow\\_nie\\_chce.html#ixzz2ru4pjVze](http://wyborcza.pl/1,75478,14839180,Polska_dla_Polakow__Dwie_trzecie_Polakow_nie_chce.html#ixzz2ru4pjVze)

In 2010, the Article 256 of the Criminal Code (penalising the incitement to hatred on the grounds of racial, national and ethnic origin and belief or lack of belief, and promoting totalitarian system) was amended. The new law introduced penalisation of producing, selling and transferring products, which are carriers of content which promotes the totalitarian system or incitement to hatred.

Currently, the Sejm is proceeding on three draft acts amending the Criminal Code<sup>4</sup> in the scope of hate crimes, particularly with emphasis on the Article 256 of the Criminal Code. The drafts were submitted to the Sejm in 2012 by the MPs' Club Ruch Palikota, MPs' Club Democratic Left Alliance and MPs' Club Civic Platform. There are significant differences between the drafts in reference to the catalogue of grounds to incitement to hatred.

The draft submitted by the MPs' Club Ruch Palikota postulate that the catalogue of grounds to incite to hatred shall also include the grounds like gender, gender identity, age, disability and sexual orientation. However, since August 2012 when the government presented its opinion on this act, no further developments have taken place in relation to this draft act.

The draft act submitted by the MPs' Club Democratic Left Alliance postulates also widening the catalogue of grounds in purpose to include gender, gender identity, disability, sexual orientation.

In 2013, the developments occurred only in reference to the third draft submitted by the MPs' Club Civic Platform. The draft, which caused serious concerns and was widely criticized, postulates the extension of the catalogue of grounds inciting hatred contained in Article 256 of the Criminal Code to include 'political affiliation, social origin, natural or acquired personal features or convictions'. The grounds of 'natural or acquired personal features' attracted the attention of the National Judiciary Council and the Prosecutor General who submitted their opinions on this draft. Both institutions found these grounds ambiguous. Furthermore, this project raised serious concerns among non-governmental organisations dealing with the monitoring of hate crimes. In December 2012, Helsinki Foundation for Human Rights presented its opinion regarding this project. The Foundation stated that introducing the term 'political affiliation, social origin, natural or acquired personal features or convictions' might have influence on decreasing the level of protection of persons exposed to discrimination.<sup>5</sup>

When it comes to the court's obligation to assess the motivation while deciding on punishment, **point 98 of the report submitted by the Polish government requires some clarifications**. Article 52 § 2 of the Criminal Code states that the court should take into consideration the perpetrator's motivation, however this Article does not explicitly state that it refers to racist motivation. Furthermore, the practice shows that courts deciding in the cases concerning hate crimes focus mainly on the aspect whether some behavior or acting fulfills the provisions of the crimes described in the Criminal Code.

### **3. Institutional developments**

#### **3.1. Human Rights Defender**

In 2011, the Law on the implementation of certain European Union regulations in the area of equal treatment passed in 2010 (further: the Law) entered into force. The Law sets forth the

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<sup>4</sup> Poland, Criminal Code (*Ustawa z dnia 6 czerwca 1997 Kodeks karny*), 6 June 1997.

<sup>5</sup> Helsinki Foundation for Human Rights, statement dated on 21 December 2012, available at: <http://www.hfhrpol.waw.pl/dyskryminacja/files/skan%20stanowiska.pdf>

areas and methods of preventing violations of the equal treatment principle, among others, on the grounds of race, ethnic origin and nationality. The Law (see point 4.1) vested the implementation of tasks related to enforcement of the equal treatment principle in the Human Rights Defender and the Government Plenipotentiary for Equal Treatment. It is important to note certain practical difficulties related to the appointment of the Human Rights Defender as the equality body which is to “safeguard the principle of equal treatment.” The Law provides that the Human Rights Defender should, among others, carry out analysis, monitoring and support of equal treatment, conduct independent research on discrimination, and prepare and publish reports and guidelines on problems related to discrimination. The full implementation of these new tasks could encounter obstacles of both financial and legal nature.

For once, experts point out that the imposition of new tasks was not followed by the attribution of dedicated financial resources.<sup>6</sup> In the 2011 information on the activity of the Human Rights Defender in the area of equal treatment, the Human Rights Defender noted that in the course of legislative works the financial impact analysis of the regulation was not carried out. It was assumed that the costs of new tasks would be covered from the Human Rights Defender’s budget. As a result, no additional funds were assigned to the Human Rights Defender in 2011 and the Office did not have sufficient staff and resources at its disposal to implement the new tasks to the fullest degree.<sup>7</sup> In the 2012 annual information, the Human Rights Defender noted that additional resources for the implementation of new tasks were assigned, however the amount is not specified.<sup>8</sup> Given the above, the need to properly endow equality bodies with funds for performance of tasks in the area of equality should constantly be emphasized.

What is more, the legal basis for Human Rights Defender’s actions was not adjusted for it to be able to fully react to infringements of the equal treatment principle in relations between individuals.<sup>9</sup> As a rule, the Human Rights Defender intervenes in vertical relations between individuals and bodies, organizations and institutions obliged to abide by and enforce human rights and fundamental freedoms.<sup>10</sup> The Human Rights Defender usually engages in cases of systemic importance which concern pressing ‘issues’ rather than individuals. Pursuant to Article 11 (2) of the Law on the Human Rights Defender (added by the Anti-discrimination Law), in the implementation of the principle of equal treatment between private individuals, the Defender can undertake one kind of actions, namely it can “limit itself to pointing the measures available to the applicant.” It seems justified to express concerns that safeguarding the principle of equal treatment in relations between private individuals may be impeded in

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<sup>6</sup> Szulecka M., *Niefunkcjonowanie prawa antydyskryminacyjnego w odniesieniu do cudzoziemców w praktyce*, [in:] Klaus W. (ed.), *Różni ale równi. Prawo a równe traktowanie cudzoziemców w Polsce*, Warsaw 2013, p. 59, available at: <http://interwencjaprawna.pl/wp-content/uploads/rozni-ale-rowni.pdf>

<sup>7</sup> Human Rights Defender, Informacja o działalności Rzecznika Praw Obywatelskich w obszarze równego traktowania w roku 2011 oraz o przestrzeganiu zasady równego traktowania w Rzeczypospolitej Polskiej, available at: <http://www.brpo.gov.pl/sites/default/files/Biuletyn%20Rzecznika%20Praw%20obywatelskich%202012%2C%20nr%202%20C5%B9r%20C3%B3d%20C5%82a.pdf>

<sup>8</sup> Human Rights Defender, Informacja o działalności Rzecznika Praw Obywatelskich w obszarze równego traktowania w roku 2011 oraz o przestrzeganiu zasady równego traktowania w Rzeczypospolitej Polskiej, available at:

<sup>9</sup> Szulecka M., *Niefunkcjonowanie prawa antydyskryminacyjnego w odniesieniu do cudzoziemców w praktyce*, [in:] Klaus W. (ed.), *Różni ale równi. Prawo a równe traktowanie cudzoziemców w Polsce*, Warsaw 2013, p. 59, available at: <http://interwencjaprawna.pl/wp-content/uploads/rozni-ale-rowni.pdf>

<sup>10</sup> Human Rights Defender, Letter of 28 May 2012 to the Government Plenipotentiary for Equal Treatment, N<sup>o</sup> RPO-687085-I/12/KW/MW, available at: <http://www.sprawy-generalne.brpo.gov.pl/pdf/2011/10/687085/1647153.pdf>

the face of limited available measures in that particular dimension. This raises even more concerns in the light of such incidents as the one in Łódź in 2011 where three young people were not allowed to enter the club by a bouncer who justified his decision by saying ‘You’ll not enter because, honestly, you look like Jews’<sup>11</sup>. In the reporting period there were several similar cases. For example in November 2009 a Roma was asked to leave in one of clubs in Poznań. The man decided to sue the owner of the club. In 2012, the court decided that such an incident infringed the man’s personal interests<sup>12</sup>.

### **3.2. Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance**

In February 2013, the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance was established.<sup>13</sup> The Council is a subsidiary body of the Council of Ministers. It coordinates the activity of governmental administration and its cooperation with local governmental units within the field of preventing racial discrimination, xenophobia and related discrimination. The Council is also responsible for, among others: monitoring and analysing the areas of racism’s and xenophobia’s occurrence. The Council is composed of representatives of 28 central authorities and 14 ministers. In November 2013, the Council adopted the Framework Programme of Actions<sup>14</sup>. For example, in reference to its monitoring activities, the Council will be collecting information about the events which are associated with a high level of risk in the context of intolerance directed against the representatives of national and ethnic minorities.

## **4. Main issues aroused during the reporting period**

### **4.1. Racial discrimination**

Firstly, it should be noted that the prohibition of racial discrimination is fully enforced by the Labour Code (Chapter IIa of the Labour Code). These provisions can be the basis of complaints.

As noted above, in 2011, the Law on the implementation of certain European Union regulations in the area of equal treatment passed in 2010 (further: the Law) entered into force. The Law sets forth the areas and methods of preventing violations of the equal treatment principle, including on the grounds of race, ethnic origin and nationality. It introduces prohibitions of discrimination in, among others, access to social security, services, healthcare or education. Despite criticism directed towards the Law by non-governmental organizations and institutions, e.g. different application dependent on the protected feature,<sup>15</sup> it extends the protection against discrimination and fulfils the country’s international obligations.

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<sup>11</sup> Dziennik Łódzki, *Nie wpuścili ich do klubu, bo wyglądali na Żydów*, available at: <http://www.dzienniklodzki.pl/artukul/425674,nie-wpuscili-ich-do-klubu-bo-wygladali-na-zydow,id,t.html?cookie=1>

<sup>12</sup> Helsinki Foundation for Human Rights, Judgment rendered in the case of a Roma denied entry to a club, available at: <http://www.hfhr.pl/en/wyrok-w-sprawie-niewpuszczenia-roma-do-klubu-2/>

<sup>13</sup> Poland, Order no. 6 of the President of the Council of Ministers (*Zarządzenie nr 6 Prezesa Rady Ministrów*), 13 February 2013.

<sup>14</sup> Poland, The Council of the Prevention of Racial Discrimination, Xenophobia and Related Intolerance Framework Programme (*Ramowy Program Działań Rady ds. Dyskryminacji Rasowej, Ksenofobii i związanej z nimi nietolerancji*), 6 November 2013, available at: [mac.gov.pl/wp-content/uploads/2013/11/Ramowy-program-dzialań-Rady-ds-ksenofobii\\_en.pdf](http://mac.gov.pl/wp-content/uploads/2013/11/Ramowy-program-dzialań-Rady-ds-ksenofobii_en.pdf)

<sup>15</sup> See for example: Klaus W. (ed.), *Różni ale równi. Prawo a równe traktowanie cudzoziemców w Polsce*, Warsaw 2013, p. 44, available at: <http://interwencjaprawna.pl/wp-content/uploads/rozni-ale-rowni.pdf>; Human

The analysis of the Law proves that race, national and ethnic origin are afforded the most extensive protection. Prior to the implementation of the Anti-discrimination Law, foreigners enjoyed protection against discrimination on the basis of race, national or ethnic origin only in the area of employment and under criminal law against hate crimes.<sup>16</sup> In this sense, had it been operative in practice, **the Law could constitute an opportunity to improve the situation of foreigners who, for example, work outside the employment contract on the basis of various civil law agreements.**<sup>17</sup> However, since the Law does not function well with respect to the general population, **it is hard to expect that its application in cases of foreigners will be somehow easier.**<sup>18</sup>

In Article 13 (1) the Law introduces a possibility to lodge a complaint for damages. The Human Rights Defender in its letter to the Government Plenipotentiary for Equal Treatment presents statistics of the Ministry of Justice which confirm the ineffective character of the Law in this respect. Thus in 2011, the year of the Law's entry into force, district and regional courts received altogether 30 complaints on the basis of Article 13 (1) of the Law. For example, out of 13 cases which ended in district courts, 6 were dismissed, 2 returned, 1 rejected and 2 discontinued.<sup>19</sup> It seems that since 2011 the situation has not improved visibly. In the first half of 2013, only 8 complaints were lodged with courts on the basis of the Anti-discrimination Law and the research suggests that, after almost 3 years of the Law's functioning, there practically is no related case law.<sup>20</sup>

Furthermore, the statistical data kept by the Human Rights Defender and the Government Plenipotentiary for Equal Treatment show that cases concerning racial discrimination are just a tiny part of all the cases submitted to both of these organs.

<b>Institution</b>		<b>2012</b>	<b>2013<sup>21</sup></b>
Human Rights Defender	<b>Race</b>	<b>16</b> (0,8% of all cases concerning discrimination)	<b>62</b> (8,7%)
	<b>Nationality</b>	<b>54</b> (2,8%)	
Government	<b>Race</b>	<b>7</b>	<b>1</b>

Rights Defender, Letter of 28 May 2012 to the Government Plenipotentiary for Equal Treatment, N° RPO-687085-I/12/KW/MW, available at: <http://www.sprawy-generalne.brpo.gov.pl/pdf/2011/10/687085/1647153.pdf>

<sup>16</sup> Szulecka M., *Niefunkcjonowanie prawa antydyskryminacyjnego w odniesieniu do cudzoziemców w praktyce*, [in:] Klaus W. (ed.), *Różni ale równi. Prawo a równe traktowanie cudzoziemców w Polsce*, Warsaw 2013, p. 81-2, available at: <http://interwencjaprawna.pl/wp-content/uploads/rozni-ale-rowni.pdf>

<sup>17</sup> Szulecka M., *Niefunkcjonowanie prawa antydyskryminacyjnego w odniesieniu do cudzoziemców w praktyce*, [in:] Klaus W. (ed.), *Różni ale równi. Prawo a równe traktowanie cudzoziemców w Polsce*, Warsaw 2013, p. 83, available at: <http://interwencjaprawna.pl/wp-content/uploads/rozni-ale-rowni.pdf>

<sup>18</sup> Klaus W. (ed.), *Różni ale równi. Prawo a równe traktowanie cudzoziemców w Polsce*, Warsaw 2013, p. 44, available at: <http://interwencjaprawna.pl/wp-content/uploads/rozni-ale-rowni.pdf>; Human Rights Defender, Letter of 28 May 2012 to the Government Plenipotentiary for Equal Treatment, N° RPO-687085-I/12/KW/MW, available at: <http://www.sprawy-generalne.brpo.gov.pl/pdf/2011/10/687085/1647153.pdf>

<sup>19</sup> Human Rights Defender, Letter of 28 May 2012 to the Government Plenipotentiary for Equal Treatment, N° RPO-687085-I/12/KW/MW, available at: <http://www.sprawy-generalne.brpo.gov.pl/pdf/2011/10/687085/1647153.pdf>

<sup>20</sup> Klaus W. (ed.), *Różni ale równi. Prawo a równe traktowanie cudzoziemców w Polsce*, Warsaw 2013, p. 44, available at: <http://interwencjaprawna.pl/wp-content/uploads/rozni-ale-rowni.pdf>

<sup>21</sup> Data covers the period from 1st January to 1st October 2013.

Plenipotentiary for Equal Treatment		(2,9% of all cases concerning discrimination)	(0,2%)
	<b>Ethnic origin</b> (or ethnic and national origin)	<b>8</b> (3,4%)	<b>18</b> (3,8%)

#### 4.2. Situation of Roma

Since 2001, the government has undertaken a series of initiatives to alleviate and eradicate social exclusion of Roma through actions in various areas, such as education, employment, health, living conditions, political and social awareness, culture, etc. It has implemented such programmes as the Pilot governmental programme for the Roma community in the Małopolskie province for the years 2001-2003 and the Programme for the Roma community in Poland for the years 2004-2013, and the Roma component within the Operational Programme Human Capital financed from the European Social Fund. It cannot be argued that these actions have led to a tangible improvement in the situation of Roma in Poland. Various indicators for the community are on the increase, however they are still visibly below those for the general population.

The above-described state of affairs can be illustrated, for example, by data in the area of education. In the National Census of 2002, 0.14% of Roma population had higher education, 2.62% of Roma completed secondary education, 4.93% vocational education and 39.80% primary education. For the general population of Poland, these figures were: 9.88% (higher), 28.32% (secondary), 23.25% (vocational) and 29.76% (primary).<sup>22</sup> According to the National Census of 2011, within the Roma minority 2.03% completed higher education, 6.97% secondary education with 82.32% attaining sub-secondary education. In the general population the figures were: 16.99% (higher), 31.56% (secondary) and 46.27% (finished at sub-secondary level).<sup>23</sup> The presented data show a general progress in the scholarisation rate of Roma, but still indicate a gap in comparison with the general population. The data on pre-school education, which is crucial for bridging the educational gap, is also revealing. On average 72% of children attend pre-schools,<sup>24</sup> while in the Roma community this percentage can be estimated – for lack of definitive statistical data – at 40%.<sup>25</sup> Various studies and available but inconsistent statistics in the area of education still show low school attendance of Roma children, low average grades and relatively high rate of dropping out of school.

<sup>22</sup> Ministry of Administration and Digitalization, General characteristics of national and ethnic minorities as well as the community using the regional language, Annex 2 to the 3rd Report for the Secretary-General of the Council of Europe on the implementation by the Republic of Poland of the provision of the Framework Convention for the Protection of National Minorities, p.5-7, available at: [mac.gov.pl/wp-content/uploads/2011/12/III-Raport-Za%C2%B3%C2%B9cznik-nr-2-ANG.pdf](http://mac.gov.pl/wp-content/uploads/2011/12/III-Raport-Za%C2%B3%C2%B9cznik-nr-2-ANG.pdf)

<sup>23</sup> Poland, Central Statistical Office [Główny Urząd Statystyczny] (2013), Wyniki Narodowego Spisu Powszechnego Ludności i Mieszkań 2011 w zakresie problematyki narodowo-etnicznej oraz języka, ze szczególnym uwzględnieniem mniejszości narodowych i etnicznych oraz społeczności regionalnej. Notatka na posiedzenie Sejmowej Komisji Mniejszości Narodowych i Etnicznych w dniu 21 marca 2011.

<sup>24</sup> Ministry of Education, *Współczynnik skolaryzacji netto w latach 2005-2011*, available at: [www.men.gov.pl/index.php?option=com\\_content&view=article&id=1822&Itemid=320](http://www.men.gov.pl/index.php?option=com_content&view=article&id=1822&Itemid=320)

<sup>25</sup> Biuro Obsługi Ruchu Inicjatyw Społecznych, *Raport końcowy z Badania ewaluacyjnego „Programu na rzecz społeczności romskiej w Polsce” realizowanego w ramach projektu „Q jakości – poprawa jakości funkcjonowania Programu Romskiego*, p. 116, available at: [mac.gov.pl/wp-content/uploads/2011/12/Raport-z-badania-ewaluacyjnego-Programu-na-rzecz-spolecznosci-romskiej-w-Polsce.pdf](http://mac.gov.pl/wp-content/uploads/2011/12/Raport-z-badania-ewaluacyjnego-Programu-na-rzecz-spolecznosci-romskiej-w-Polsce.pdf)



The progress that has already been achieved can serve as motivation for future actions which seem necessary in the light of lower indicators of the Roma community when compared with the general population. In that context, the necessity to finish the works on and implement the Programme of integration of Roma in Poland for the years 2014-2020 becomes urgent.

One of the problems that come up when preparing policies and programmes for the Roma community is the insufficient statistical data. According to the national census of 2011, there are 16 830 Roma in Poland. However, local government authorities estimated for the purpose of the Programme for Roma community in Poland that the number of Roma living in Poland ranges between 20-25 000. There are no statistical data concerning Roma migrants. There are no specific statistical data about the number of Roma children subject to compulsory school attendance and actually fulfilling the obligation. Approximate, and divergent, data in this area come from two sources: the Education Information System (EIS) (*System Informacji Oświatowej*, SIO) and provincial local government authorities.

Various projects are carried out which target the Roma community and aim at the improvement of its status. However, in the face of research results on the perception of minorities by the general population and the deterioration in the attitude of the society towards Roma, it seems justified to undertake actions which target that general population and aim at the improvement of its understanding and knowledge of this ethnic minority.

Two incidents can serve as a measure of lingering attitudes towards the Roma. At the moment there are two identified Roma encampments in Poland, in the area od Wrocław.<sup>26</sup> One is inhabited by a group of 60-80 persons, while the other by about 20.<sup>27</sup> On 26 March 2013, Wrocław authorities ordered the Roma to leave the first encampment within 14 days. This decision received a lot of social attention and media coverage. The Amnesty International, supported by other NGOs, initiated an “urgent action” against the forced displacement of Roma without the provision of alternative housing.<sup>28</sup> At the same time, the National Rebirth of Poland (*Narodowe Odrodzenie Polski*) started “an event” on Facebook titled End the Gipsy Encampment (*Likwidacja cygańskiego koczowiska*) which was to take place on 20 April 2013, but eventually did not go beyond Facebook. On 7 May 2013, the second group of Romanian Roma staying in Wrocław also received an order to leave their encampment. The situation of Roma in Wrocław drew the attention of Human Rights Defender. In January 2014, the Human Rights Defender organised a meeting between representatives of local and central authorities dedicated to the situation of Roma in Wrocław.<sup>29</sup>

In September 2013 in Andrychów there was an escalation of the conflict between the Roma and Polish citizens. The inhabitants of Andrychów accused the Roma of theft, stalking and begging. Over 2000 Internet users wanted to “clean the city of the Roma.” The mayor of the

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<sup>26</sup> Nomada, *Tabor romski we Wrocławiu*, available at: [nomada.info.pl/tabor-romski-we-wroclawiu/](http://nomada.info.pl/tabor-romski-we-wroclawiu/) and Amnesty International, *Pilna akcja. Rodziny rumuńskich Romów we Wrocławiu zagrożone przymusowym wysiedleniem!*, available at: [amnesty.org.pl/no\\_cache/aktualnosci/strona/article/7859.html](http://amnesty.org.pl/no_cache/aktualnosci/strona/article/7859.html), Amnesty International Poland, *Pilna akcja. Społeczność rumuńskich Romów we Wrocławiu wciąż zagrożona przymusowym wysiedleniem!*, available at: [amnesty.org.pl/no\\_cache/aktualnosci/strona/article/7894.html](http://amnesty.org.pl/no_cache/aktualnosci/strona/article/7894.html)

<sup>27</sup> Nomada, *Tabor romski we Wrocławiu*, available at: [nomada.info.pl/tabor-romski-we-wroclawiu/](http://nomada.info.pl/tabor-romski-we-wroclawiu/) and Poland, Amnesty International Poland, *Pilna akcja. Rodziny rumuńskich Romów we Wrocławiu zagrożone przymusowym wysiedleniem!*, available at: [amnesty.org.pl/no\\_cache/aktualnosci/strona/article/7859.html](http://amnesty.org.pl/no_cache/aktualnosci/strona/article/7859.html), Amnesty International Poland, *Pilna akcja. Społeczność rumuńskich Romów we Wrocławiu wciąż zagrożona przymusowym wysiedleniem!*, available at: [amnesty.org.pl/no\\_cache/aktualnosci/strona/article/7894.html](http://amnesty.org.pl/no_cache/aktualnosci/strona/article/7894.html)

<sup>28</sup> Amnesty International Poland, *Pilna akcja. Rodziny rumuńskich Romów we Wrocławiu zagrożone przymusowym wysiedleniem!*, available at: [amnesty.org.pl/no\\_cache/aktualnosci/strona/article/7859.html](http://amnesty.org.pl/no_cache/aktualnosci/strona/article/7859.html),

<sup>29</sup> Human Rights Defender, *Sytuacja Romów we Wrocławiu*, available at: <http://rpo.gov.pl/pl/content/sytuacja-rom%C3%B3w-we-wroc%C5%82awiu>

city declared that the solution to the situation would be to transfer a part of Roma families from the downtown to the suburbs.<sup>30</sup>

#### Ad. 4.3 Hate crimes

In reference to point 6 of the Concluding observations of the Committee on the Elimination of Racial Discrimination it should be stated that despite the justice system's effort, the issues of combating hate crimes in Poland still remain a serious problem. The data collected by the Never Again Association shows that only in 2011-2012 there were almost 600 incidents on the grounds of racism, xenophobia, discrimination or hate crimes in Poland. The authors of the report 'Brown book' alarm that there was a substantial increase in aggression by extreme nationalists in last two years<sup>31</sup>.

In accordance with the General Prosecutor Office's information, the number of notifications about the incidents of racist and bias-motivated crimes and violence grows systematically (in 2006 there were 48 notifications, in 2007 – 41, in 2010 – 146, in 2011 – 272 and in 2012 – 272). Despite the fact that the number of charges submitted to the courts grows systematically (28 in 2009, 30 in 2010, 40 in 2011 and 75 in 2012), the rate of detection of perpetrators is still low (in 2010 it was 21%, in 2011 – 17% and in 2012 – 26%)<sup>32</sup>. In comparison, according to the Ministry of Justice statistical data in 2009 56 persons were sentenced for hate crimes (Articles 119, 256 and 257 of the Criminal Code), in 2010 – 35 persons and in 2011 – 30 persons<sup>33</sup>.

At the beginning of 2011, the Prosecutor General issued guidelines on conducting investigations in cases of hate crimes to all prosecutors. The Prosecutor General urged the prosecutors to conduct investigations in this type of crimes more meticulously. In 2013, the Prosecutor General instructed appellate prosecutors to choose, within the jurisdiction of each regional prosecution, one (or two) district prosecution bureaus which will be responsible for conducting preparatory proceedings in cases of hate crimes. Within these prosecutions, two prosecutors should be appointed to conduct criminal proceedings in hate crime cases. As part of this initiative, on 24 and 26 September 2013, the Prosecution General organised training for prosecutors on violations of the rights of individuals based on their national and ethnic origins or religious belief, promoting fascism and other totalitarian systems and hate speech.

Despite those efforts the lack of effectiveness in investigating bias-motivated crimes is still a persisting problem. For example in 2012 many concerns were raised as to the competence of the law enforcement bodies after discontinuing parts of investigations dealing with a series of racist and xenophobic incidents in the Podlaskie region which took place in August and September 2011. Cases were dismissed because perpetrators could not be determined.<sup>34</sup>

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<sup>30</sup> TVN24, Andrychów nie chce Romów w centrum miasta, available at: <http://www.tvn24.pl/wiadomosci-z-kraju,3/andrychow-nie-chce-romow-w-centrum-miasta,352008.html>

<sup>31</sup> Stowarzyszenie Nigdy Więcej, *Rasizm i przemoc – rosnące zagrożenie!*, available at: [www.nigdywiecej.org/1094](http://www.nigdywiecej.org/1094)

<sup>32</sup> Prosecutor General Office, *Prokurator Generalny o przestępstwach z nienawiści*, available at: [www.pg.gov.pl/aktualnosci-prokuratury-generalnej/prokurator-generalny-o-przestepstwach-z-nienawisci-2-730.html](http://www.pg.gov.pl/aktualnosci-prokuratury-generalnej/prokurator-generalny-o-przestepstwach-z-nienawisci-2-730.html)

<sup>33</sup> Ministry of Justice, *Przestępstwa z nienawiści 2001-2011*, available at: [bip.ms.gov.pl/pl/dzialalnosc/statystyki/statystyki-2012/](http://bip.ms.gov.pl/pl/dzialalnosc/statystyki/statystyki-2012/)

<sup>34</sup> For example the investigation was discontinued in following cases: setting on fire the apartment door of Polish-Pakistani couple in August 2011, rearranging the boxwood Star of David on Jewish cemetery into swastika in September 2011, painting over Lithuanian village names in Puńsk district in August 2011 and

Another disturbing tendency, which can be observed in the reporting period, is to discontinue an investigation in cases of hate crimes on the grounds that the victim of the crime does not belong to one of the minorities against which the crime was directed. For example, in 2010 the Regional Prosecutor in Lublin opened an investigation in a case of Tomasz Pietrasiewicz, an activist well-known for promoting the Jewish culture in Lublin. In December 2010, unknown perpetrators threw bricks with painted swastika into Pietrasiewicz's house. The Prosecutor initially classified this incident as a violation of private property and direct exposure to danger of loss of life or serious injury. The Prosecutor did not classify this incident as an unlawful threat on the grounds of ethnic or national bias (Article 119 of the Criminal Code) since Tomasz Pietrasiewicz had testified that he was not a Jew. After appeals of the Helsinki Foundation for Human Rights and Mr Pietrasiewicz's attorney the Prosecutor decided that this incident fulfilled the provisions of the crime described in Article 119 of the Criminal Code<sup>35</sup>. Moreover, in January 2014, the Prosecutor in Poznań discontinued an investigation in a case of anti-Semitic shouts of football fans. During a football game in September 2013, the fans of the Lech Poznań Football Club shouted "Down with Jews". The shouts were addressed against fans of the Łódź Widzew Football Club. The Prosecutor decided to discontinue the investigation since the fans of Łódź Widzew were not Jews. The Appellate Prosecutor's Office in Poznań reviewed this decision and ordered re-examination of the case<sup>36</sup>. It should be underlined that this particular tendency was described several times by the Open Republic Association. For example, during the conference 'Victims of hate crimes' organised by the Prosecutor General, the representatives of the Open Republic Association said "In our skirmishes with the justice system the issue whether someone has to be a Jew to be insulted by anti-Semitic statement or publication often occurs. It should be clearly stated that we live in a country where there are no Jews, but there is anti-Semitism and the anti-Semitism is directed against people who are not Jews."

Furthermore, in the reporting period there were several judgments or prosecutors decisions issued in cases of hate crimes which raised serious concerns. By way of example, in July 2013 the District Court in Białystok decided on case of the Border Guard officer who had insulted Chechen migrants via the Internet by using the words such as 'Caucasian lazy', 'followers of the pedophile' and 'parasitic scum'. The court decided that the officer did not commit a crime, and used words which were under protection of freedom of speech<sup>37</sup>. Furthermore, in June 2013 the Regional Prosecutor in Białystok refused to open an investigation concerning the swastika on the wall of a building. 'The swastika is a symbol of happiness in Asia' – the prosecutor justified his decision<sup>38</sup>.

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painting anti-Semitic graffiti, swastikas and neo-Nazi symbols on the monument commemorating the massacre of Jews in Jedwabne in August 2011.

<sup>35</sup> Helsinki Foundation for Human Rights, *Sprawa T. Pietrasiewicza - wniosek o zmianę opisu i kwalifikacji prawnej czynu* available at: [www.hfhrpol.waw.pl/dyskryminacja/program/aktualnosci/sprawa-t-pietrasiewicz-wniosek-o-zmiane-opisu-i-kwalifikacji-prawnej-czynu](http://www.hfhrpol.waw.pl/dyskryminacja/program/aktualnosci/sprawa-t-pietrasiewicz-wniosek-o-zmiane-opisu-i-kwalifikacji-prawnej-czynu)

<sup>36</sup> Polskie Radio,

Okrzyki kibiców - śledztwo powtórnie?, available at: [www.radiomerkury.pl/informacje/pozostale/okrzyki-kibicow-sledztwo-powtornie.html](http://www.radiomerkury.pl/informacje/pozostale/okrzyki-kibicow-sledztwo-powtornie.html)

<sup>37</sup> Gazeta.pl, *Zdaniem sądu "pasożytnicze ścierwo" Czeczenów nie znieważa*, available at: [bialystok.gazeta.pl/bialystok/1,35241,14318056,Zdaniem\\_sadu\\_pasozytnicze\\_scierwo\\_Czeczenow\\_nie.html](http://bialystok.gazeta.pl/bialystok/1,35241,14318056,Zdaniem_sadu_pasozytnicze_scierwo_Czeczenow_nie.html)

<sup>38</sup> Gazeta.pl, *Prokurator: "Swastyka to symbol szczęścia w Azji". Seremet: "Brak rozumu". Będzie kara?*, available at: [wiadomosci.gazeta.pl/wiadomosci/1,114871,14190380,Prokurator\\_\\_Swastyka\\_to\\_symbol\\_szczescia\\_w\\_Azji\\_.html](http://wiadomosci.gazeta.pl/wiadomosci/1,114871,14190380,Prokurator__Swastyka_to_symbol_szczescia_w_Azji_.html)

The international community highlighted this lack of effectiveness in investigating bias-motivated crimes and many States recommended strengthening the efforts of the Police in combating hate crimes during the Universal Periodic Review of Poland in 9 July 2012.<sup>39</sup>

Furthermore, the issue of football fans' racist behaviour remains a serious problem e.g. in October 2012 one of the football players of Jagiellonia Białystok team Ugo Ukah, who is a Nigerian national was spat on and verbally abused by opposite team supporters<sup>40</sup>; in October 2012 another non-white football player Jeffrey Nwokeji was physically attacked during the match (the player was hit with a banana thrown by an unknown perpetrator)<sup>41</sup>. Furthermore, some racist incidents during the Euro 2012 finals in Warsaw should be underlined. Most of the incidents regarded Polish and Russian supporters and happened when Polish and Russian national football teams were playing a match in Warsaw. The incidents started when Polish supporters tried to disturb the Russian football team fans' march to the Stadium. Later on, right before the match Russian supporters presented a provocative flag with Dmitry Pozharsky, a Russian military commander responsible for clearing Polish-Lithuanian armies out of Moscow in the 17<sup>th</sup> century.<sup>42</sup> In 2013, in reference to combating hate speech in stadiums and the Deputy Minister of Internal Affairs, Marcin Jabłoński declared that there would be no liberalisation of the Act on mass events<sup>43</sup>. **“We still have a problem with very serious incidents on Polish stadiums. The behaviour full of aggression, xenophobia and hate speech”** – said the Deputy Minister<sup>44</sup>.

#### 4.2.1 Victims of hate crimes and support system

In Poland there is no developed specific support system addressed to victims of hate crimes. In general, the police do not offer psycho-social assistance to victims of hate crimes. There is no targeted support service provision available to those victims or, if such service exists, it is insufficient. Support services for victims of hate crime are provided by a few NGOs (which do not receive long-term support from the state) or by social assistance institutions such as the City Family Support Centres and the Social Care Centres. The lack of such a system becomes even more disturbing when the low rate of notification about hate crimes is considered. The research conducted by the Helsinki Foundation for Human Rights in 2010 shows that victims of hate crimes unwillingly notify hate crimes to the Police or prosecutors. The victims are convinced that the justice system's organs are not efficient enough in this matter, furthermore the respondents involved in this research pointed at the law enforcement officers' low

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<sup>39</sup> Recommendations no. 90.40 (Lithuania), 90.45 (Malaysia), 9.46 (Peru), 90.47(Republic of Korea), 90.48(Switzerland), 90.49 (United States of America), 90.53(Austria), 90.54 (Iraq), 90.55 (Brazil), 90.56(China), 90.57(Cuba), 90.60 (Egypt) , 90.61(Indonesia) , 90.62 (Belarus), 90.64 (Uzbekistan), Report of the Working Group on Universal Periodic Review Poland, dated 9.07.2012, available at: [www.ohchr.org/EN/HRBodies/UPR/Pages/PLSession13.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/PLSession13.aspx)

<sup>40</sup> Poranny.pl, *Ugo Ukah i rasistowski atak. Zawodnik Jagielloni opluty i zwyzywany.*

<sup>41</sup> Poranny.pl, *Jeffrey Nwokeji znieważony. Kibole z Sokółki rzucali w bananami w piłkarza.*

<sup>42</sup> Gazeta Wyborcza, *Euro 2012. Prowokacyjne flagi rosyjskich kibiców, skarga do UEFA.*

<sup>43</sup> Act on the security of mass events (*Ustawa z dnia 20 marca 2009 o bezpieczeństwie imprez masowych*), 20 March 2009.

<sup>44</sup> Ministry of Internal Affairs, *Nie będzie liberalizacji przepisów dotyczących bezpieczeństwa imprez masowych*, available at: [www.msw.gov.pl/pl/aktualnosci/11533,Nie-bedzie-liberalizacji-przepisow-dotyczacych-bezpieczenstwa-imprez-masowych.html](http://www.msw.gov.pl/pl/aktualnosci/11533,Nie-bedzie-liberalizacji-przepisow-dotyczacych-bezpieczenstwa-imprez-masowych.html)

awareness of issues related to racism and xenophobia, lack of the interpreter's assistance at the Police stations and law enforcement officers' disrespectful approach towards foreigners<sup>45</sup>.

#### 4.2.2 Hate speech on the Internet

In the reporting period the phenomena of hate speech on the Internet has become a serious and vivid problem. Within the frames of the research 'The Minority Report' conducted by the Local Knowledge Foundation the experts collected 10 000 000 comments and opinions published on three main Polish information web sites. 123 000 comments were classified as a language of hostility or hate speech. The report shows that the majority of hateful content is addressed to Jews (35 500 comments), Russian (21 6000 comments) and German (21 500 comments)<sup>46</sup>.

In 2012, the Prosecutor General issued an official statement concerning hate speech on the Web. "The duty of legal bodies, prosecutors and the judiciary is to take appropriate measures to prevent the swelling problem of racism and anti-Semitism, including the occurrence of this phenomenon on the internet. Combating this extremely harmful social problem requires a long-term strategy of state bodies, in particular, appropriate actions by law enforcement and justice bodies." – stated Andrzej Seremet, Prosecutor General<sup>47</sup>. According to the Prosecutor General, the problem of low effectiveness of investigations in such cases does not emerge from the negligence of public prosecutors, but is caused by improper application of relevant provisions.<sup>48</sup>

#### Ad. 4.4 The developments in the field of enhancing the far-right movements

In reference to point 9 of the Concluding observations of the Committee on the Elimination of Racial Discrimination it should be noted that there are still **at least four far-right organisations or group which remain active.**

In the reporting period several significant developments occurred in reference to the growth of the far-right groups in Poland. It should be underlined that the far-right groups in Poland are not very active publicly, they do not organize regular media events or protests. Their activity concentrates mainly on the celebration of the Independence Day (11 November). The Independent Marches were organised till 2010 by the All-Polish Youth and the National-Radical Camp, and since 2011 by the Association Independent March. The significant growth in the number of the Marches' participant can be observed in the reporting period. In 2009 there were ca. 300 participants, and then in 2010 – 2 000 participants, and in 2011 – 20 000 participants. Since 2010 in Warsaw, during each Independent Marches there were street riots and clashes between the participants of the March with Police.

On 11 November 2012 at the end of the Independence March in Warsaw, two of its leaders, Robert Winnicki (All-Polish Youth) and Przemysław Holocher (The National-Radical Camp), proclaimed the creation of the National Movement. The Movement is a social initiative (not registered as a party or association, etc.) composed mainly of the representatives and

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<sup>45</sup> Mikulska A., *Rasizm w Polsce. Raport z badań wśród osób, które doświadczyły przemocy ze względu na swoje pochodzenie etniczne, rasowe lub narodowe*, available at: [www.hfhrpol.waw.pl/pliki/HFPC\\_Rasizm\\_w\\_Polsce.pdf](http://www.hfhrpol.waw.pl/pliki/HFPC_Rasizm_w_Polsce.pdf)

<sup>46</sup> Polskie Radio, "Język wrogości, mowa nienawiści w internecie", available at: [www.polskieradio.pl/5/3/Artykul/387999,Jezyk-wrogosci-mowa-nienawisci-w-internecie](http://www.polskieradio.pl/5/3/Artykul/387999,Jezyk-wrogosci-mowa-nienawisci-w-internecie)

<sup>47</sup> Bychawska-Sinairska D., Głowacka D., *Mowa nienawiści w internecie*, available at: [www.obserwatorium.org/images/Mowa%20nienawisci%20w%20internecie%20-%20NA%20STRONE.pdf](http://www.obserwatorium.org/images/Mowa%20nienawisci%20w%20internecie%20-%20NA%20STRONE.pdf)

<sup>48</sup> Prosecutor General, *Prokurator Generalny odpowiada sygnatariuszom listu "Tygodnika Powszechnego"*, available at: [www.pg.gov.pl/index.php?0,821,1,533](http://www.pg.gov.pl/index.php?0,821,1,533)

members of two organisations – All-Polish Youth and National-Radical Camp. In March 2013, the leaders of the Movement proclaimed its Ideological Declaration. In accordance with the first point of the Declaration, the Movement's main aim is to protect and strengthen the Polish national identity. "We face the challenge of continuing the Polish identity, built on the grounds of Christianity, in all its historical and regional richness" – reads the Declaration. Furthermore, the Declaration underlines the role of the family and describes it as a "fundament of community life".

The National Movement openly declares its anti-migration approach. In June 2013, the Maltese daily 'Malta Independent' wrote that by the end of 2013 approx. 50 migrants from North Africa would come to Poland. In response to this information, the National Movement started a campaign titled "We don't want a migrant, we want a repatriate"<sup>49</sup>.

On 8 June 2013, the First Congress of the National Movement took place in Warsaw. According to the organisers, more than 1 000 people attended the Congress, among them representatives of the far-right Hungarian Jobbik party as well as veterans and members of nationalist organisations (All-Polish Youth, National-Radical Camp, Real Politics Union, Association Independent March). The main subjects discussed during the Congress were the necessary changes in the system of the state, the economic system and Polish foreign policy. In January 2014, the leader of the National Movement declared that its members will participate in the upcoming elections to the European Parliament (May 2014).

Beside the National Movement, the National Revival of Poland is also quite active. The members of the organisation openly present their anti-Roma approach. Only in 2013, they organised several actions and protests against Roma such as protest against Roma living in Wrocław's suburban area (April 2013) or protest against "Gypsy criminality" in Zabrze (December 2013)<sup>50</sup>. The National Revival of Poland also supports nationalist groups in other EU countries. For example, in August 2013 the members of the National Revival of Poland took part in an assembly against Roma in Ostrava (Czech Republic)<sup>51</sup>. Furthermore, the representatives of the National Revival of Poland incited to hatred and publicly approved crimes, for example after the Independent March in November 2012 when the group of masked people attacked a squat in Wrocław and set it on fire<sup>52</sup>.

In the reporting period courts issued several decisions concerning legal grounds for the activity of far-right movements. In October 2009, the court in Brzeg found that the regional branch of the National-Radical Camp in this town promoted fascism and totalitarian state regime, and decided to delegalize its activity. Furthermore, in December 2010 the Regional Court in Wrocław sentenced for 1,5 year deprivation of liberty three persons responsible for launching the web site Red Watch. On the web site indicated names and address of LGBT persons, persons of nationality different than Polish and persons acting in non-governmental organisations operating for the rule of equal treatment. Despite the fact that the founders of the web site were convicted, the site is still operating. In March 2010, the Regional Court in

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<sup>49</sup> Narodowcy.net, *Robert Winnicki o akcji "Nie chcemy imigranta - chcemy repatrianta!"*, available at: [narodowcy.net/polska/3096-robert-winnicki-o-akcji-nie-chcemy-imigranta-chcemy-repatrianta](http://narodowcy.net/polska/3096-robert-winnicki-o-akcji-nie-chcemy-imigranta-chcemy-repatrianta)

<sup>50</sup> Gazeta.pl, *Narodowcy mimo zakazu manifestowali przeciwko Romom*, available at: [wiadomosci.gazeta.pl/wiadomosci/1,114871,15176489,Narodowcy\\_mimo\\_zakazu\\_manifestowali\\_przeciwko\\_Romom.html](http://wiadomosci.gazeta.pl/wiadomosci/1,114871,15176489,Narodowcy_mimo_zakazu_manifestowali_przeciwko_Romom.html)

<sup>51</sup> Kokot M., Gawlik P., *Z maczetami szli na osiedle Romów: demonstracje nacjonalistów w Czechach. Co tam robili Polacy?*, available at: [wyborcza.pl/1,76842,14491118,Z\\_maczetami\\_szli\\_na\\_osiedle\\_Romow\\_demonstracje\\_nacjonalistow.html](http://wyborcza.pl/1,76842,14491118,Z_maczetami_szli_na_osiedle_Romow_demonstracje_nacjonalistow.html)

<sup>52</sup> TVN24, *Prezes NOP o ataku na squat: "Dziękuję im za to. Nie ustawajcie!"*, available at: [www.tvn24.pl/wroclaw,44/prezes-nop-o-ataku-na-squat-dziekuje-im-za-to-nie-ustawajcie,288895.html](http://www.tvn24.pl/wroclaw,44/prezes-nop-o-ataku-na-squat-dziekuje-im-za-to-nie-ustawajcie,288895.html)

Warsaw submitted a motion to the Constitutional Tribunal to examine if the symbols and activity of the National Revival of Poland comply with the provision of the Constitution. The Constitutional Tribunal did not issue a decision on the merits, since the motion had formal defects<sup>53</sup>. This judgment raised serious concerns in the public debate, it should also be notated that there were 5 dissenting opinions.

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<sup>53</sup> Constitutional Tribunal, decision no. Pp 1/10 dated on 6 April 2011.