**Appendix to**

**The Seventh Periodic Report of the Government of the Republic of Poland**

**on the implementation of the provisions of**

**The International Covenant of Civil and Political Rights**

**Re: Para. 12**

**Selected court rulings containing references to the Covenant**

* The Supreme Court in its ruling of 4 October 2012 (file no. I CSK 124/12) quoted e.g. Art. 19 section 3 of the Covenant when determining the limitation of the freedom of expressing an opinion.
* The Appellate Court in Warsaw in its ruling of 21 November 2012 (file no. II AKa 335/12) quoted Art. 14 section 3 of the Covenant when considering the question of the minimum right to due process available to the defendant.
* The Supreme Court in its resolution of 30 April 2014 (file no. I KZP 3/14) quoted Art. 15 section 1 of the Covenant when referring to the principles of adopting a joint sentence. At the same time the Court recalled the resolution of the Supreme Court of 17 October 1991 (file no. II KRN 274/91), where it had observed that the prohibition defined under Art. 15 of the Covenant may be applied directly in domestic law (self-executing norms).
* The Appellate Court in Rzeszów in its ruling of 16 June 2014 (file no. II AKa 111/13) quoted Art. 14 section 3 letter b. of the Covenant when reflecting on the right to defence and other procedural guarantees.

**Re: Para. 40**

**Proceedings conducted by the Prosecution Authority in the period 2009–2014[[1]](#footnote-1)**

* **2009**

A total of 166 proceedings were pending, including 124 new ones, with 42 proceedings continued from an earlier period. A total of 146 cases were concluded and 20 cases were pending.

Out of all the concluded 146 cases:

* in 28 cases indictments were brought in against 46 individuals;
* 73 cases were discontinued;
* in 37 cases preliminary proceedings were refused;
* 3 cases were transferred to the jurisdiction of another prosecution authority, 2 cases were transferred to the jurisdiction of Juvenile and Family Courts and 2 cases were in conjunction with other proceedings;
* 1 case was suspended.

27 court rulings were adopted in cases with indictments brought in:

- in 24 cases the courts convicted the defendants;

- in 1 case the court conditionally discontinued the proceedings;

- in 2 cases the court convicted some of the defendants and acquitted others.

* **2010**

A total of 182 proceedings were pending, including 146 new ones, with 36 proceedings continued from an earlier period. A total of 163 cases were concluded and 19 cases were pending.

Out of all the concluded 163 cases:

* in 30 cases indictments were brought in against 38 individuals;
* 72 cases were discontinued;
* in 54 cases preliminary proceedings were refused;
* 6 cases were suspended;
* 1 case was transferred to the jurisdiction of Juvenile and Family Courts.

30 court rulings were adopted in cases with indictments brought in, including:

- in 23 cases the courts convicted the defendants;

- in 4 the court conditionally discontinued the proceedings;

- in 1 case the court convicted some of the defendants (3 individuals) and acquitted one defendant;

- in 1 case the court acquitted the defendant;

- in 1 case the court discontinued proceedings for lack of evidence of an offence.

* **2011**

A total of 322 proceedings were pending, including 272 new ones, with 51 proceedings continued from an earlier period. At end of 2011 a total of 279 cases were concluded and 44 cases were pending.

Out of all the concluded 279 cases:

* in 40 cases indictments were brought in against 54 individuals;
* 134 cases were discontinued;
* in 91 cases preliminary proceedings were refused;
* 7 cases were suspended;
* 4 cases were concluded in another way (3 were transferred to another jurisdiction and 1 was joined with another proceeding);
* in 3 cases motions were filed for a conditional discontinuation of proceedings against 5 individuals.

28 court rulings were adopted in cases with indictments brought in, including:

- in 20 cases the courts convicted the defendants;

- 4 cases were conditionally discontinued;

- in 2 cases the court acquitted the defendants;

- in 1 case the court discontinued the proceedings due to low public nuisance of the act;

- in 1 case the court discontinued the proceedings for lack of evidence of an offence.

* **2012**

A total of 473 proceedings were pending, including 362 new ones, with 111 proceedings continued from an earlier period.

At end of 2012:

- 65 cases were pending;

- a total of 408 cases were concluded, including:

- in 75 cases indictments were brought in against 139 individuals;

- in 103 cases preliminary proceedings were refused;

- 14 cases were suspended;

- 6 cases were concluded in another way (they were transferred to the jurisdiction of the Juvenile Section of the National Council of the Prosecution Authority, Juvenile and Family Courts, and connected with another case);

- in 1 case a motion was filed for a conditional discontinuation of proceedings against 2 individuals;

- in 1 case a motion was filed with the court for discontinuing proceedings against 1 person due to mental incapacity under Art. 324 § 1 CCP;

- a total of 208 cases were discontinued.

In general, preliminary proceedings were discontinued against 35 suspects.

50 court rulings were adopted in cases with indictments brought in, including:

- in 34 cases the courts convicted 59 defendants;

- 5 cases were conditionally discontinued against 6 people;

- in 7 cases the courts acquitted 7 people;

- in 1 case the court discontinued the proceedings against 1 person due to low public nuisance of the act;

- in 2 cases the courts discontinued the proceedings for lack of evidence of an offence with respect to 19 people;

- in 1 case the court acquitted 1 person and discontinued the proceedings with respect to 1 person due to low public nuisance of the act.

* **2013**

A total of 835 proceedings were pending, including 719 new ones, with 116 proceedings continued from an earlier period.

At the end of 2013:

- 128 cases were pending;

- a total of 707 cases were concluded, including:

- in 111 cases indictments were brought in against 174 individuals;

- in 5 cases motions were filed with courts for discontinuing proceedings against 6 individuals;

- in 126 cases preliminary proceedings were refused;

- 17 cases were suspended;

- 4 cases were concluded in another way (transferred to the proper jurisdiction);

- in 1 case a motion was filed with the court for discontinuing proceedings against 1 person due to mental incapacity at the moment of committing an offence under Art. 324 § 1 CCP;

- 443 cases were discontinued.

In general, preliminary proceedings were discontinued against 37 suspects.

61 court rulings were adopted in cases with indictments brought in, including:

- in 53 cases courts convicted 87 people;

- cases were conditionally discontinued against 9 people;

- 7 people were acquitted.

* **2014**

- 205 were pending;

- a total of 1,160 cases were concluded, including:

- in 154 cases indictments were brought in against 228 individuals;

- in 25 cases motions were filed with courts for discontinuing proceedings against 28 individuals;

- in 299 cases preliminary proceedings were refused;

- 53 cases were suspended;

- 33 cases were concluded in another way (transferred to the jurisdiction of the Juvenile and Family Court, to another prosecution authority, joined with other proceedings);

- 596 cases were discontinued.

In general, preliminary proceedings were discontinued against 62 suspects.

137 court rulings were adopted in cases with indictments brought in, including:

- in 107 cases courts convicted 147 people;

- 19 cases were conditionally discontinued against 24 people;

- in 6 cases the courts acquitted 10 people;

- in 1 case the court discontinued the proceedings against 1 person due to low public nuisance of the act;

- in 1 the court discontinuing proceedings against 1 person due to mental incapacity at the moment of committing an offence;

- in 1 the court discontinuing proceedings against 1 defendant due to his death.

**Valid and final convictions (hate crimes)**

|  |  |
| --- | --- |
| ***Item*** | YEARS |
| 2009 | 2010 | 2011 | 2012 | 2013 |
|
|
|
| in absolute terms |
| Art. 118 CC  | – | – | – | – | – |
| Art. 118a CC  | – | – | – | – | – |
| Art. 119 §1 CC | 17 | 10 | 4 | 10 | 8 |
| Art. 256 CC  | 17 | 7 | – | – | – |
| Art. 256 §1 CC | – | 2 | 9 | 19 | 24 |
| Art. 256 §2 CC | – | – | – | 2 | 1 |
| Art.257 CC  | 22 | 16 | 14 | 22 | 26 |

***Penal Code***

**Art. 118.** § 1. Whoever, acting with an intent to destroy in full or in part, any national, ethnic, racial, political or religious group, or a group with a different perspective on life, commits homicide or causes a serious detriment to the health of a person belonging to such a group, shall be subject to the penalty of the deprivation of liberty for a minimum term of 12 years, the penalty of deprivation of liberty for 25 years or the penalty of deprivation of liberty for life.

§ 2. Whoever, with the intent specified under § 1, creates, for persons belonging to such a group, living conditions threatening its biological destruction, applies means aimed at preventing births within this group, or forcibly removes children from the persons constituting it, shall be subject to the penalty of the deprivation of liberty for a minimum term of 5 years or the penalty of deprivation of liberty for 25 years.

§ 3. Whoever makes preparation to commit the offence specified under § 1 or 2, shall be subject to the penalty of the deprivation of liberty for a minimum term of 3 years.

**Art. 118a.** § 1. Whoever taking part in a mass attack, or at least in one of a series of attacks directed against a group of persons, launched in order to implement or support the policy of a state or an organisation:

1) commits homicide,

2) causes a serious detriment to the health of a person,

3) imposes on persons belonging to a part of population living conditions threatening their biological existence, in particular depriving them of access to food and medicine, calculated to bring about their annihilation,

shall be subject to the penalty of deprivation of liberty for a minimum term of 12 years, the penalty of deprivation of liberty for 25 years or penalty of deprivation of liberty for life.

§ 2. Whoever taking part in a mass attack, or at least in one of a series of attacks directed against a group of persons, launched in order to implement or support the policy of a state or an organisation:

1) causes the state of enslavement of a person or maintains him or her in such a state,

2) deprive a person of liberty for a period exceeding 7 days or in particular torment,

3) employs torture or subjects a person to cruel or inhumane treatment,

4) commits a rape, or using violence, unlawful threat or deceit, otherwise violates the sexual freedom of a person,

5) using violence or unlawful threat, makes a woman pregnant with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law,

6) deprives a person of liberty and refuses to give information on his or her fate or whereabouts or gives untrue information on his or her fate or whereabouts, with the intent of removing that person from the protection of the law for a prolonged period of time,

shall be subject to the penalty of deprivation of liberty for a minimum of 5 years or to the penalty of deprivation of liberty for 25 years.

§ 3. Whoever taking part in a mass attack, or at least in one of a series of attacks directed against a group of persons, launched in order to implement or support the policy of a state or an organisation:

1) in violation of international law forces persons to change their lawful place of residence,

2) gravely persecutes a group of persons on grounds recognised as impermissible under international law, in particular on political, racial, national, ethnic, cultural, religious, ideological, gender grounds or because of religious indifference, causing deprivation of fundamental rights, shall be subject to the penalty of deprivation of liberty for a minimum of 3 years.

**Art. 119.** § 1. Whoever uses violence or makes unlawful threat towards a group of persons or a particular individual because or their national, ethnic, political or religious affiliation, or because of their lack of religious beliefs, shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.

**Art. 256.** § 1. Whoever publicly promotes a fascist or other totalitarian system of state or incites hatred based on national, ethnic, race or religious differences or for reason of lack of any religious denomination, shall be subject to a fine, the penalty of restriction of liberty, or the penalty of deprivation of liberty for up to 2 years.

§ 2.6) The same penalty shall be imposed on whoever, for the purpose of dissemination, produces, records or imports, purchases, preserves, possesses, presents, transfers or sends printed material, recording or another object containing the content under § 1 or being a carrier of fascist, communist or other totalitarian symbols.

§ 3. An offence is not committed by a person committing a punishable act under § 2, if the act was a part of artistic, educational, collection, or scientific activity.

§ 4. In the event of a conviction for the offence under § 2, the court shall enter a judgement of forfeiture of the objects defined under § 2, even if they may not be the property of the perpetrator.

**Art. 257.** Whoever publicly insults a group within the population or a particular person because of their national, ethnic, race or religious affiliation or because of a lack of any religious denomination or for these reasons breaches the personal inviolability of another individual, shall be subject to the penalty of deprivation of liberty for up to 3 years.

**Cases monitored by the Human Rights Protection Team of the Ministry of the Interior**

- In 2011, 85 cases were monitored;

- in 2012, 89 cases were monitored;

- in 2013, 175 cases were monitored;

- in 2014, 315 cases were monitored.

**Re: Para. 61**

**Valid and final convictions**

|  |  |
| --- | --- |
| ***Item*** | **YEARS** |
| **2009** | **2010** | **2011** | **2012** | **2013** |
|
|
|
| *in absolute terms* |
| Art. 207 §1 CC  | 14 025 | 13 485 | 13 153 | 12 318 | 11 601 |
| Art. 207 §2 CC  | 36 | 29 | 18 | 29 | 22 |
| Art. 207 §3 CC  | 38 | 32 | 27 | 25 | 35 |
| Art. 207 §3 CC in conj. with §1  | 17 | 24 | 16 | 16 | 21 |
| Art. 207 §3 CC in conj. with §2  | – | 1 | – | – | – |

**Ordering of vacating premises occupied jointly with the victim (Art. 275a CCP) – application of the measure**

|  |  |  |
| --- | --- | --- |
| **Years** | **2013** | **2014** |
| **No. of measures adopted** | 1477 | 2341 |

***Penal Code***

**Art. 207.** § 1. Whoever mentally or physically mistreats a person close to him, or another person being in a permanent or temporary state of dependence to the perpetrator, a minor or a person who is vulnerable because or his mental or physical condition, shall be subject to the penalty of deprivation of liberty for a term of between 3

months and 5 years.

§ 2. If the act specified in § 1 is compounded with particular cruelty, the perpetrator shall be subject to the penalty of deprivation of liberty for a term of between 1 and 10 years.

§ 3. If the act specified in § 1 or 2 leads to attempted suicide of the injured person, the perpetrator shall be subject to the penalty of deprivation of liberty for a term of between 2 and 12 years.

*Code of Criminal Procedure*

**Art. 275a** § 1. By way of a preventive measure, the defendant accused of an offence committed with the use of violence against a person living together with them may be ordered to vacate for a specific period of time the premises occupied together with the victim, if there is a reasonable risk that the defendant will once again commit an offence with the use of violence against this person, especially if the defendant has threatened to commit such an offence.

**Re: Para. 77**

**Valid and final convictions**

|  |  |
| --- | --- |
| ***Item*** | **YEARS** |
| **2009** | **2010** | **2011** | **2012** | **2013** |
|
|
|
| *in absolute terms* |
| Art.152 §1 CC  | 11 | 6 | 11 | 8 | 9 |
| Art.152 §2 CC  | 8 | 21 | 19 | 12 | 9 |
| Art.152 §3 CC | 2 | 2 | – | 1 |   |
| Art.153 §1 CC  | 3 | 7 | 4 | 1 | 2 |
| Art.153 §2 CC  | 2 | 1 | – | – | 1 |

***Penal Code***

**Art. 152.** § 1. Whoever, with the consent of the woman, terminates her pregnancy in violation of the law, shall be subject to the penalty of deprivation of liberty for up to 3 years.

§ 2. The same punishment shall be imposed on anyone, who renders assistance to a pregnant woman in terminating her pregnancy in violation of the law or persuades her to do so.

§ 3. Whoever commits the act specified in § 1 or 2, after the foetus has became capable of living outside the pregnant woman’s body, shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

**Art. 153.** § 1. Whoever, through the use of force against a pregnant woman or by other means, without her consent, terminates her pregnancy or induces a pregnant woman by force, illicit threat or deceit to terminate the pregnancy, shall be subject to the penalty of deprivation of liberty for a term of between 6 months and 8 years.

§ 2. Whoever commits the act specified in § 1, after the foetus has became capable of living outside the pregnant woman’s body, shall be subject to the penalty of the deprivation of liberty for a term of between one year and 10 years.

**Re: Para. 99**

**Data related to the Police**

In 2012, 43 Police officers were charged with 60 offences concerning the use of violence or professional negligence consisting in failing to take action to prevent the use of violence by another Police officer. That very year 2 valid and final judgments were issued convicting 5 Police officers (including 1 conviction of 4 Police officers to penalties of suspended deprivation of liberty and a ban on practicing the profession and 1 conditionally suspending proceedings with respect to 1 Police officer).

The data for 2013 indicate that in cases involving Police officers’ use of violence on duty, the following were identified:

* 531 cases of filing notifications of a commission of an offence;
* 33 refusals of instituting an investigation;
* 498 investigations;
* 291 decisions on discontinuing proceedings;
* a total of 57 charges were pressed in 20 investigations against 42 suspected Police officers;
* 26 indictments were filed (concerning incidents from 2012 and 2013) against a total of 47 Police officers accused of 57 offences;
* 5 convictions where courts found 6 Police officers guilty (including 3 sentences of conditional suspension of deprivation of liberty for 4 Police officers, fine and prohibition of carrying out the profession and 2 conditional suspensions for 2 Police officers).

According to the Police statistics, in the first half of 2014 the following were identified:

* 314 notifications of a commission of an offence;
* 20 refusals of instituting an investigation;
* 294 investigations;
* 162 decisions on discontinuing proceedings;
* a total of 57 charges were pressed in 16 investigations against 25 suspected Police officers,
* 13 indictments were filed (concerning incidents from the period 2012–2014) against a total of 20 Police officers accused of 26 offences;
* 1 sentence where the court found 1 Police officer guilty of an offence (at the same time conditionally suspending the proceedings).

**Data concerning the Prison Service**

**Statistics on the number of allegations included in the complaints considered by individual Prison Service authorities, filed by prisoners and concerning** **mistreatment by Prison Service officers and staff**

* **In 2009** the individuals lodging complaints alleged the following: failure to take appropriate action (1,014, including 7 justified), verbal abuse (680, including 1 justified), filing a motion for a disciplinary penalty (595, no justified one), manner of conduct of a body search/search of a residential cell (488, including 2 justified), provision of safety and security (278, including 1 justified), physical assault (164, no justified one), use of direct coercion measures (68, no justified one). The allegations included in the complaints claiming improper treatment by Prison Service officers and staff, there were moreover 7 allegations of racial and ethnic discrimination, 69 allegations of discrimination on grounds of religion and 52 allegations of discrimination on grounds of sexual orientation. A total of 128 allegations were filed concerning racial and ethnic discrimination, discrimination on grounds of religion and sexual orientation, including 5 complaints filed by members of the Roma minority. One of the complaints, concerning food, was found to be justified (Central Administration of Prison Service). Furthermore, Prison Service authorities provided explanations and information in 42 cases concerning racial and ethnic discrimination (11), discrimination of grounds of religion (16) and sexual orientation (15).
* **In 2010** the individuals lodging complaints alleging mistreatment by Prison Service officers and staff brought the charges of: failure to take appropriate action (843, including 11 justified), verbal abuse (846, with no allegation fund to be justified), filing a motion for a disciplinary penalty (753, including 2 justified), manner of conduct of a body search/search of a residential cell (680, no justified one), provision of safety and security (293, no justified one), physical assault (231, including 1 justified), use of direct coercion measures (124, no justified one). Among the allegations included in the complaints concerning the mistreatment by Prison Service officers and staff, there were also 20 allegations of racial and ethnic discrimination (no justified one), 37 allegations of discrimination on grounds of religion (one justified) and 8 allegations of discrimination on grounds of sexual orientation (no justified allegations).
* **In 2011** prisoners brought in: 106 allegations concerning the use of direct coercion measures, 1 of which was found to be justified, 277 allegations of physical assault, none of which was found to be justified, 656 allegations of verbal abuse, 1 of which was found to be justified. 787 allegations concerned failure by Prison Service officers and staff to take appropriate action, 3 of which were found to be justified, 828 allegations concerned filing a motion for a disciplinary penalty (where one allegation was justified), 491 provision of safety and security – none was deemed justified, 675 were connected with the manner of conduct of a body search/search of a residential cell, 1 of which was found to be justified. Allegations of other instances of improper treatment were raised 3,792 times. Prisoners filed 15 complaints as to racial and ethnic discrimination, 41 complaints about discrimination on grounds of religion, 14 – about discrimination on grounds of sexual orientation; no allegation in this respect was found to be justified.
* Allegations concerning mistreatment by Prison Service officers and staff filed **in 2012** were as follows: use of direct coercion measures – 78 (including 1 justified), physical assault – 290, verbal abuse – 636, failure to take appropriate action – 821 (where 7 allegations were found to be justified), filing a motion for a disciplinary penalty – 788 (including 6 allegations were found to be justified), provision of safety and security – 553, manner of conduct of a body search/search of a residential cell – 684 (where one allegation was found to be justified), racial and ethnic discrimination – 14, discrimination on grounds of religion – 51, discrimination on grounds of sexual orientation – 6, other instances of improper treatment – 4494 (where 5 allegations were found to be justified). Furthermore, Prison Service authorities provided explanations and information regarding 1,521 allegations of mistreatment of prisoners by Prison Service officers and staff, e.g. use of direct coercion measures (44), physical assault (80), verbal assault (107), failure to take appropriate action (121), filing a motion for a disciplinary penalty (240), provision of safety and security (90), manner of conduct of a body search/search of a residential cell (98), racial and ethnic discrimination (4), discrimination on grounds of religion (11), other instances of improper treatment (72).
* Among the complaints looked into **in 2013** by heads of organisational units of the Prison Service concerning allegations of mistreatment by Prison Service officers and staff, the following factors were examined: use of direct coercion measures – 70 (no allegation was found to be justified), physical assault – 215 (1 allegation was found to be justified), verbal abuse – 791 (2 allegations were found to be justified), failure to take appropriate action – 1,336 (where 8 allegations were found to be justified), filing a motion for a disciplinary penalty – 785 (including 3 allegations were found to be justified), failure to provide safety and security – 514 (1 allegation was found to be justified), manner of conduct of a body search/search of a residential cell – 764 (where 2 allegations were found to be justified), racial and ethnic discrimination – 17, discrimination on grounds of religion – 45, discrimination on grounds of sexual orientation – 5, other instances of improper treatment – 4,750 (where 4 allegations were found to be justified).
* **2014** sawthe largest number of complaints filed by prisoners and detainees in detention centres alleging mistreatment by Prison Service officers and staff – 1,048 (11.28% more relative to 2013). Among the complaints considered by heads of organisational units of the Prison Service there were as follows: use of direct coercion measures – 84 (no allegation was found to be justified), physical assault – 261 (no allegation was found to be justified), verbal assault – 816 (3 allegations were found to be justified), failure to take appropriate action – 1,739 (where 10 allegations were found to be justified), filing a motion for a disciplinary penalty – 908 (where 2 allegations were found to be justified), provision of safety and security – 628 (no allegation was found to be justified), manner of conduct of a body search/search of a residential cell – 854 (where 1 allegation was found to be justified), racial and ethnic discrimination – 18 (no allegation was found to be justified), discrimination on grounds of religion – 41 (where 2 allegations were found to be justified), discrimination on grounds of sexual orientation – 8 (no allegation was found to be justified), other instances of improper treatment – 4,983 (where 3 allegations were found to be justified).

**Re: Para. 103**

***Penal Code***

**Art. 93a**. § 1. Preventive measures include the following:

1) electronic supervision of place of stay,

2) therapy,

3) addiction therapy,

4) stay in a psychiatric facility.

§ 2. If the law provides for it, preventive measures may include the conjunction and prohibitions under Art. 39 sections 2–3.

**Art. 93b**. §1. The court may decide on a preventive measure when it is necessary to prevent a re-commission of an offence by the perpetrator and other legal measures under this code or adjudicated on the basis of other laws are insufficient. The preventive measure under Art. 93a § 1 section 4, may be adjudicated solely to

prevent a re-commission of an offence of grave social harm.

§ 2. The court repeals a preventive measure when its further use is no longer necessary.

§ 3. The preventive measure and the manner of its application should correspond to the degree of social harm of the offence, which the perpetrator may commit and to the probability of its commission, as well as take into account the needs and progress in therapy and addiction therapy. The court may change the preventive measure and the manner of its application with respect to the perpetrator if the previously adjudicated measure has proved inadequate or its application is no longer possible.

§ 4. More than one preventive measure may be adjudicated with respect to the same perpetrator; provisions of § 1 and 3 apply taking into account all the adjudicated preventive measures.

§ 5. The court decides on placing a person in a psychiatric facility only when the law so provides.

**Art. 93c**. Preventive measures may be adjudicated with respect to the perpetrator:

1) with respect to whom proceedings have been discontinued about an offence committed in a state of diminished mental capacity under Art. 31 § 1,

2) in the event of a conviction for an offence committed in a state of diminished mental capacity under Art. 31 § 2,

3) in the event of a conviction for an offence under Art. 148, Art. 156, Art. 197, Art. 198, Art. 199 § 2 or Art. 200 § 1, committed in connection with a disorder of sexual preferences,

4) in the event of a conviction to the penalty of deprivation of liberty without its conditional suspension for a premeditated offence under Chapters XIX, XXIII, XXV or XXVI, committed in a state of identity disorder whose nature and intensity make highly possible the commission of an offence with the use of violence or a threat of its use,

5) in the event of a conviction for an offence committed in connection with an addiction to alcohol, intoxicants or another substance of a similar effect.

**Art. 93d**. § 1. The duration of applying preventive measures is not determined in advance.

§ 2. Repealing the preventive measure consisting in a stay in a psychiatric facility, the court may adjudicate on one or more of the preventive measures under Art. 93a § 1 sections 1–3.

§ 3. The court determines the need and possibility of executing the preventive measure adjudicated no earlier than 6 months prior to the envisaged parole or prior to the serving of the penalty of deprivation of liberty.

§ 4. If the penalty of deprivation of liberty is applied to the perpetrator, the preventive measures under Art. 93a § 1 sections 1–3, may be adjudicated also until the time of executing this penalty, no earlier than 6 months prior to the parole or prior to the serving of the penalty of deprivation of liberty.

§ 5. If the perpetrator has been sentenced to the penalty of deprivation of liberty without a conditional suspension of its execution, the penalty of deprivation of liberty for 25 years or the penalty of a life sentence, the preventive measure adjudicated is used after the serving of the penalty or parole, unless the law stipulates otherwise.

§ 6. If the conduct of the perpetrator upon repealing the preventive measure indicates that there is a need to use preventive measures, the court, no later than within 3 years of repealing the measure, may once again decide on the same preventive measure or another measure under Art. 93a § 1 sections 1–3.

**Art. 93e.** The perpetrator to whom electronic supervision of place of stay has been adjudicated is obliged to continuously have his or her place of stay supervised by technical devices, including a transmitter worn on their person.

**Art. 93f**. § 1. The perpetrator to whom therapy has been adjudicated is obliged to appear in the facility indicated by the court on dates assigned by the psychiatrist, sex therapist or therapist and to be subject to a pharmacological therapy aiming at reducing the intensity of the sexual drive, psychotherapy or psycho-education in order to improve his or her functioning in the society.

§ 2. The perpetrator to whom addiction therapy has been adjudicated is obliged to appear in the addiction facility indicated by the court on dates assigned by the physician and to be subject to therapy eliminating the addiction to alcohol, intoxicant or another means of a similar effect.

**Art. 93g**. § 1. The court adjudicates a stay in an appropriate psychiatric facility with respect to the perpetrator under Art. 93c section 1 if it is highly probable that the perpetrator will re-commit an offence of grievous social harm due to a mental illness or disorder.

§ 2. Sentencing the perpetrator defined under Art. 93c section 2 to the penalty of deprivation of liberty without its conditional suspension, to the penalty of deprivation of liberty for a period of 25 years or to the penalty of deprivation of liberty for life, the court adjudicates a stay in an appropriate psychiatric facility, if it is highly probable that the perpetrator will commit an offence of grievous social harm due to a mental illness or disorder.

§ 3. Sentencing the perpetrator defined under Art. 93c section 3 to the penalty of deprivation of liberty without its conditional suspension, to the penalty of deprivation of liberty for a period of 25 years or to the penalty of deprivation of liberty for life, the court adjudicates a stay in an appropriate psychiatric facility, if it is highly probable that the perpetrator will commit an offence against life, health or sexual freedom due to a disorder of sexual preferences.

**Re: Para. 110**

**Data concerning the activity of the Police**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | Offences identified  | Suspects | Victims | including victims - Polish nationals | including victims - foreign nationals |
| 2009 | 52 | 31 | 59 | 48 | 11 |
| 2010 | 39 | 14 | 24 | 15 | 9 |
| 2011 | 427 | 13 | 166 | 165 | 1 |
| 2012 | 61 | 23 | 18 | 16 | 2 |
| 2013 | 186 | 23 | 141 | 133 | 8 |
| Total | 765 | 104 | 408 | 377 | 31 |

**Data of the General Prosecution Authority**

|  |
| --- |
| Results of preliminary proceedings in cases of human trafficking in the period 2009–2013 |
| Year | No. of instituted preliminary proceedings[[2]](#footnote-2) | No. of concluded proceedings | No. of proceedings concluded with an indictment | No. of discontinued proceedings  | No. of  |
| Defendants  | Victims |
| 2009 | no data | 109 | 39 | 1 | 79 | 611 |
| 2010 | no data | 117 | 40 | 37 | 78 | 323 |
| 2011 | 52[[3]](#footnote-3) | 52 | 11 | 24 | 22 | 590 |
| 2012 | 65[[4]](#footnote-4) | 68 | 23 | 20 | 32 | 230 |
| 2013 | 57[[5]](#footnote-5) | 76 | 26 | 23 | 47 | 135 |

***Penal Code***

**Art. 189a.** § 1. Whoever takes part in trafficking in human beings shall be subject to the penalty of deprivation of liberty for a minimum period of 3 years.

§ 2. Whoever carries out preparations for the commission of an offence under § 1, shall be subject to the penalty of deprivation of liberty for a period from 3 months to 5 years.

**Valid and final convictions**

|  |  |
| --- | --- |
| ***Item*** | **YEARS** |
| **2010** | **2011** | **2012** | **2013** | **2014** |
|
|
|
| *in absolute terms* |
| **Art.189a §1 CC** |  6  |  15  |  16  |  12  |  9  |
| **Art.189a §2 CC** |  -  |  1  |  -  |  -  |  -  |

**Re: Para. 130**

**Convictions in the first instance in provincial courts by offence type**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Years | Convictions discontinuations total | Life sentences | Deprivation of liberty | Inne skazania |
| total | incl. conditional sentence suspension | up to 2 yrs | incl. conditional sentence suspension | above 2 years up to 3 yrs | incl. conditional sentence suspension | 3 yrs | incl. conditional sentence suspension | above 3 years up to 5 yrs | incl. conditional sentence suspension | 5 yrs | incl. conditional sentence suspension | above 5 years up to 8 yrs | 8 lat | above 8 years up to 15 yrs | 15 yrs | 25 yrs |
|
|
| **2010** | 7 880 | 36 | 7 659 | 3 777 | 4 661 | 3 554 | 348 | 74 | 721 | 50 | 757 | 34 | 235 | 16 | 302 | 125 | 263 | 114 | 133 | 185 |
| **2011** | 8 359 | 27 | 8 080 | 3 920 | 5 009 | 3 844 | 376 | 75 | 725 | 63 | 872 | 37 | 252 | 8 | 264 | 130 | 224 | 96 | 132 | 252 |
| **2012** | 8 043 | 31 | 7 804 | 3 813 | 4 982 | 3 672 | 329 | 52 | 651 | 58 | 846 | 25 | 203 | 8 | 229 | 109 | 238 | 100 | 117 | 202 |
| **2013** | 7 898 | 33 | 7 654 | 3 531 | 4 818 | 3 569 | 350 | 74 | 663 | 48 | 786 | 32 | 224 | 8 | 258 | 126 | 235 | 87 | 98 | 220 |
| **2014** | 7 423 | 17 | 7 210 | 3 623 | 4 600 | 3 499 | 364 | 60 | 574 | 41 | 707 | 29 | 207 | 2 | 235 | 116 | 237 | 74 | 96 | 196 |

**Re: Para. 154**

**No. of adjudicating judges**

|  |  |
| --- | --- |
| **Year**  | **No. of judges** |
| 2009 | 9921 |
| 2010 | 9924 |
| 2011 | 9944 |
| 2012 | 9958 |
| 2013 | 9908 |
| 2014 | 9962 |

**Re: Para. 180**

|  |  |
| --- | --- |
| ***Item*** | YEARS |
| 2009 | 2010 | 2011 | 2012 | 2013 |
|
|
|
| in absolute terms |
| Art.212 §1 CC  | 131 | 143 | 180 | 179 | 20 |
| Art.212 §2 CC  | 33 | 44 | 52 | 60 | 11 |
| Art.212 §3 CC  | – | 1 | 2 | 4 | – |

*Penal Code*

**Art. 212.** § 1. Whoever imputes to another person, a group of persons, an institution, a legal person or an organisational unit not having the status of a legal person, such conduct or characteristics that may discredit them in the face of public opinion or result in a loss of confidence necessary for a given position, occupation or type of activity, shall be subject to a fine or the penalty of restriction of liberty.

§ 2. If the perpetrator commits the act specified in § 1 through the mass media, they shall be subject to a fine, the penalty of restriction of liberty or deprivation of liberty for up to one year.

§ 3. When sentencing for an offence specified in §1 or 2, the court may adjudge a supplementary payment for the injured party, the Polish Red Cross or for another social purpose designated by the injured person.

§ 4. The prosecution of the offence under § 1 or 2 shall occur upon a private charge.

1. The number of cases concerning offences on grounds of race, nationality, ethnicity, a particular religion or a lack of it (irrespective of the legal qualification of the offence). The data relate to offences against representatives of diverse groups. [↑](#footnote-ref-1)
2. The number of preliminary proceedings initiated in a given calendar year. [↑](#footnote-ref-2)
3. In 2011 the number of recorded offences under Art. 189 a § 1 CC was 51, under Art. 189 a § 2 CC – 1. [↑](#footnote-ref-3)
4. In 2012 the number of recorded offences under Art. 189 a § 1 CC was 62, under Art. 189 a § 2 CC – 3. [↑](#footnote-ref-4)
5. In 2013 the number of recorded offences under Art. 189 a § 1 CC was 54, under Art. 189 a § 2 CC – 3. [↑](#footnote-ref-5)