**Input of the Republic of Poland**

**to the report of the Special Rapporteur**

**on the sale and sexual exploitation of children, including child prostitution and child pronography and other child sexual abuse**

**I. Context, awareness and attitudes underpinning the sale and sexual exploitation of children**

Speaking of sexual exploitation of children you may underline few typical factors which are linked to this crime area in Poland. They're as follow:

- Sexual exploitation of children often takes place in family - social circles - it means that abusers/offenders are related with the victims somehow ( i.e. father, grandfather, uncle, etc.) or keep close contacts with the social circle in which the children live in (i.e. godfather, friend of the family),

- It is also characteristic that decided majority of the offenders in Poland are men - this is a tendency for many years. For example in 2018 there were only 89 female suspects among all 1538 perpetrators,

- Although we cannot speak about one, typical psychological profile of the offender - perpetrator sexually exploiting and abusing children come from different social groups both the lowest and the highest - it must be underlined that part of the offenders work with children or have profession that allow them access to minor victims. Among the arrested perpetrators there are relatively teachers, doctors, trainers, tutors, etc.

- Finally, it is also characteristic trend that big number of offenders disseminating, downloading, exchanging and possessing CSAM comes from large cities and agglomerations (i.e. Warsaw, Cracow, Silesian agglomeration with Katowice or Down Silesia with Wrocław). Much smaller number of perpetrators come from small towns and villages as well as from eastern part of Poland.

Training for Police officers is one of the elements to make a progress in combating this crime area. The answer to this question has been given partially also in answer to Question IV., however it must be emphasized that Polish Police conducts various kinds of training on daily basis which are focused on different aspects of THB, CSE and CSAM phenomena. These training include special seminars, workshops, Professional training dedicated mostly to police officers working in criminal service which deal or can deal in the future with cases of children trafficking or sexual crimes against children in different forms. The idea is to organize at least four 5-days planned Professional training annually for 20-30 officers per course (according to National Action Plan on THB) additional training organized in cooperation with different actors such as prosecutors and judges. The training usually focus not only on basic information but concerns various aspects of these crimes including the newest forms and threats also connected to use of ICTs such as live-streaming, child grooming and sexual extortion of children or pedo-bulletin boards in Darknet (in Tor network in particular). Also a pressure on victim identification efforts is put on.

On May 1, 2014 the Border Guard of the Republic of Poland obtained the power to recognize, prevent and detect the crime of trafficking in human beings, including trafficking in children, and prosecute perpetrators of this practice. At that time, the Act of December 12, 2013 entered into force.
The Act on Foreigners introduced, among others, the possibility of the authority entitled to conduct cases of trafficking in human beings to issue certificates for alleged victims of trafficking in human beings confirming the legality of their stay on the territory of the Republic of Poland. This certificate
is issued to children for a period of 4 months (as opposed to persons over 18 years of age
– the certificate is issued for a period of 3 months). This period of time is devoted to support and secure a person in a safe place. The above is implemented as part of the National Crisis Intervention Center (Krajowe Centrum Interwencyjno – Kryzysowe), coordinated by the Ministry of Interior
and Administration. Actions from this area, are introduced for every victim revealed in Poland, regardless of the place of their exploitation in the world.

At the same time, it should be emphasized that in case of disclosure of a child as a person, who might be exploited, the Border Guard functionaries act in accordance with the *"The algorithm for identifying and dealing with a minor victim of human trafficking for Police and Border Guard”.* The algorithm was issued by the Working Group on support for victims of trafficking, led by the Department of Analysis and Migration Policy of the Ministry of Interior and Administration“.

It should also be stated that all procedural actions involving a child, who may be a victim of trafficking in human beings, but also of sexual abuse in general, are carried out in a special mode, specified in the provisions of the Code of Criminal Procedure (Article 185 of the Code of Criminal Procedure and subsequent). Pursuant to these provisions, as a rule, this is one-time action, carried out before a court and with the participation of an expert psychologist. This action is also recorded in an audio-visual form. In practice, the interview is carried out in so-called *"secure rooms".* A guardian appointed by the court for a minor is also appointed each time. As a rule, it is a representative of a specialized, non-governmental assistance organization.

**II. Risk factors, root causes and demand for the sale and sexual exploitation of children.**

In the case of human trafficking in minors, the initial identification of victims is the greatest difficulty.
The child will not identify him/ herself, will not be aware of his/ her rights, and thus will not seek help.
An underage victim may also not be able to blame the perpetrator for the injuries, since they (the child and the perpetrator) may have already established strong emotional ties with each other. Thus, the correct identification (also the initial one) is the Police or Border Guard functionary ‘s responsibility.

The algorithm states that in the framework of human trafficking, the most vulnerable to exploitation minors are:

* foreign children migrating without parental care;
* begging children,
* children with educational problems (eg. “fugitive” children", children - prostitutes), including children in youth care centers,
* children in foster care,
* children, who have experienced any form of violence in the past (physical, sexual, emotional),
* children - witnesses of crime,
* children - witnesses of violence.

From the point of view of the asylum processes and asylum phenomenon in general, migration (especially mixed migration) flows as well as conflicts invariably remain one of the root causes and risk factors of child abuse and sexual exploitation of children. It is worth mentioning in this aspect that climate-related changes may constitute a primary reason for deciding to migrate or the reason of an outbreak of a conflict, at the root of which is economic deprivation or fight for shrinking resources.

**III. Children’s vulnerability to sale and sexual exploitation, including in the context of cross-border challenges, technology and innovation**.

As to the groups of children especially vulnerable to exploitation, unaccompanied minors migrating in seek of asylum or for economic reasons should be indicated as one group (irrespectively of gender but in Poland male minors of Vietnamese and Afghan origin are the most numerous). The other group constitute underage girls from West-African countries (recently Sierra Leone, Guinea) trafficked to Europe for sexual exploitation. It must be added however that in relations to asylum context in Poland the numbers of representatives of the above mentioned groups are very low. Polish Office for Foreigners cooperates closely with Border Guards and Police as well as with NGOs especially on the field of preventing and combating trafficking in human beings.

**IV. The overarching legal-normative framework, commitment and institutional capacity**

Trafficking in human beings, including children, is a crime prosecuted under the international agreements, to which Poland is a party.

In Polish criminal law, the definition of trafficking in human beings under Art. 115 § 22 of the Criminal Code was developed on the basis of international law, in particular: Protocol on the prevention, combating and punishment of trafficking in human beings, in particular women and children, supplementing the United Nations Convention against Transnational Organized Crime - the so-called "Palermo Protocol”, Council of Europe Convention against Trafficking in Human Beings of 16.05.2005 (the so-called "Warsaw Convention") and Council Framework Decision 2002/629 / JHA of 19 July 2002 on combating trafficking in human beings.

It must be emphasized that the provisions of the Optional Protocol to the child prostitution and child pornography (OPSC) especially dedicated to combat trafficking in children, child prostitution, CSE and CSAM have already been implemented to Polish law to the Penal Code and Code of Penal Procedure in particular (i.e definition of THB in article 115, article 189a on THB, and whole chapter XXV of the Penal Code which concern CSE and CSAM) so at the moment all crimes presented in the Protocol are prohibited and prosecuted in Poland.

Poland has also transposed Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and ratified Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (so called Lanzarotte Convention).

In addition to above during the professional training for Law Enforcement Agencies (LEAs) such as Police and prosecutors as well as for judiciary the legal aspects of combating a/m criminal phenomena are also discussed and delivered to the participants. It also concerns new forms of this crime area, new trends, threats and challenges that the LEAs and judicial sector face or can face in their daily work.

Concerning combating child trafficking, child prostitution, sexual abuse of children/child sexual exploitation (CSE) and CSAM Polish Police has developed special structure on national, regional and local levels which are responsible to prevent and fight against a/m crime areas. These structures have been established by the decisions of Police Chief Commander as well as by Regional Police Chief Commanders. At national level there is special Department for Combating Trafficking in Human Beings placed in National Police Headquarters (11 Police officers), at regional level in every Regional Police Headquarters (17) there are dedicated Regional teams for combating THB in the frame of Criminal Departments which consist up to 5 Police officers specially trained in the field of THB, CSE and CSAM. Moreover on local level (which means Municipal Police Headquarters) special coordinators for prevention and fight against a/m crimes have also been established: one coordinator in criminal service and another one in prevention branch.

Polish Police takes advantage of all possible legal ways to delete the child abuse content from Internet, mostly by using „notice & takedown" procedure, frequently in the frame of international police and cooperation. Moreover, the child abuse images seized in particular case (i.e. during the execution of search warrant) are also deleted after closing the case and end of judicial procedure. Such victims can be provided with assistance (psychological, medical, legal, etc.) on the common grounds as victims of child sexual exploitation.

**V. New and innovative strategies to effectively prevent and protect children from sale and sexual exploitation.**

Facing up to the needs of applicants for international protection from vulnerable groups,
in 2010 the Office for Foreigners decided to designate center located in Warsaw for single women and single women with children only.

Moreover, The Office for Foreigners, with a view to the welfare of children particularly, had developed a number of standard safety procedures for employees working both in centers for foreigners and in Headquarters to prevent violence and to establish the way of reaction in extraordinary situations.

* Agreement on Standard Operating Procedures with regard to recognition, counteracting and responding to cases of sexual based violence or gender related violence against foreigners staying in reception centers for asylum seekers (2008) - based on that agreement work Local Co-operation Groups, which aim is monitoring the current situation in the centers, the degree of threat of violence and the situation of families, where violence has been reported. Local Co-operation Groups consist of: social workers, local police officers, medical staff and representative of NGOs.
* Procedure concerning minors who get married or who are planning to get married.
* Procedure of dealing with a threat to the safety of foreigners in the centers for foreigners.
* Procedure of dealing in case of violation law regulations by the foreigner living in the center.
* Procedure of dealing with a foreigner applying for social assistance outside of the center as benefit in cash due to the need to provide security.

Security and safety issues are the priority areas for the Office for Foreigners. This required a creation of the separate division responsible for security issues in the field of reception of applicants for international protection. The unit is especially responsible for cooperation with public order authorities such as: Border Guards, Police and The Internal Security Agency – in extraordinary situations.

In November 2016 the document *Policy on protection of children from harm in the centers for foreigners,* was adopted. It is addressed to all employees and collaborators of the Office and determines standards and procedures of conduct aiming at:

* increase awareness about importance of protection of children against all forms of harm;
* deliver instructions and specify the procedure and scope of responsibility in all actions concerning children's safety;
* ensure safety for children through prophylactic actions.

Regarding preventive actions, Border Guard functionaries, including coordinators for combating and preventing trafficking in human beings from individual Border Guard Units, participate in preventive activities related to preventing trafficking in human beings, participate in training meetings with junior high schools, high schools, universities and with teaching staff. Training was also carried out with the local staff of the National Labour Inspectorate (Państwowa Inspekcja Pracy), Crisis Intervention Centers, MOPS, MOPR and judicial guardians, office workers etc. In recent years, Border Guard has conducted classes with thousands of children. In addition, Border Guard participates in preventive campaigns, e.g. BIG RED BUS (in cooperation with the British Embassy) or #STOPHANDLOWILUDZMI (in cooperation with MS).

Polish Police conducts proactive measures directed to combat sexual abuse of children in travel and tourism and to identify and prosecute Traveling Child Sex Offenders (TCSO). One of the example is active participation in the campaign „Don't look away" (Polish version - „Nie odwracaj wzroku") directed against this crime phenomenon. Polish Police committed to the campaign by signing the agreement of cooperation in this area between Police and special NGO "Nobody's Children" Foundation (now known as Empowering Children Foundation) on 17 of June 2014. The annual agreement was signed by the Police Chief Commander. Next, the decision on prolonging the cooperation for the next year was taken, so on 25 of May 2015 new agreement of cooperation was signed. It was signed by the Deputy Police Chief Commander. Analogically to years 2014- 2015 the Police Chief Commander to the decision to continue the cooperation with Empowering Children Foundation (formerly known as "Nobody's Children" Foundation) in that field. Therefore new annual agreement has been signed on 23 of May 2016 - from the Police side it has been signed by the Deputy Police Chief Commander. The main goal of the cooperation is to increase security of children and youth through strengthening actions that shall prevent sexual abuse of children in tourism. One of the key elements targeting this aim was establishment and launch of a special website www.stopseksturystyce.fdn.pl where suspicions on possible case of "child sex-tourism" can be reported and forwarded to Police directly. The Department for Combating of Trafficking in Human Beings in the National Police HQ is the national coordinator of the project. Therefore the relevant cross checks and verification of these reports have been coordinated by dedicated Police officer of that Department. There was a special report form at the website prepared in Polish and English and by fulfilling the form the users can send information about abused victims, offenders or individuals who offer such services. Next these information are send straight to e-mail boxes created for this purpose in Regional Police HQs/Metropolitan Police HQ where they're checked and verified by the officers of Criminal Department trained in the field of combating sexual exploitation of children.

It must be underlined that the website were have been used by individuals not only to inform about cases of „child sex-tourism" but also or even mainly to report other sexual crimes committed against children. For example among 18 reports sent till April 2016 through the website 5 contained suspicions of sexual abuse of children, 4 contained child grooming, 5 - dissemination of child abuse materials, 3 - prostitution of a minor and 1 which regarded to trafficking in children. What important is, the website has been prepared in the way that any kind of spam, unwanted advertisements or announcements cannot be send to the box. Filling the report form is easy and friendly to the user.

The project was "Don't look away" was ended in October 2015 as soon as the financing in the frame of the grant of the EU was over. The project involved various actors both on national and international level. One of the partners of the project on Poland's side was hotels' network "Accor" and travel agencies active in Poland. At the European level the ECPAT representations from France, Luxembourg, Germany, UK, Estonia, the Netherlands, Austria, Romania, Czech Republic and Belgium participated in the project. They all together create European network to report about such kind of crimes with the use of Internet. Furthermore both Europol and Interpol joined the project. It must be also emphasized that despite the fact that the project was closed officially in October 2015, the cooperation between National Police HQ and the Foundation in this specific area is still continued base on the agreement signed on 23 of May 2016. Analogically Empowering Children Foundation continues the cooperation with "Accor" Hotels company (mainly in the way of training of hotel Staff concerning this topic) as well as with a/m ECPACT representations. Moreover the Foundation is willing to apply for another grant from EU funds to continue the activities expected for realization in the frame of the project. Speaking about Police involvement in the preparation and start of the project, the Prevention Bureau and Criminal Bureau of National Police HQ committed to the project in particular. The Criminal Bureau was also responsible for the merits of the project. In addition there were also consultations with Criminal Departments of Regional Police HQs/Metropolitan Police HQ which concerned both project himself, establishment and function of the website and the form of the report form. The presented remarks and suggestions allowed to create the project in proper way which was fulfilled the expectations of Police officers. Finally, it must be underlined that in the National Plan against Trafficking in Humań Beings for years 2016-2018, there is a point 1.14 regarding to promotion and implementation of special Codę of Conduct aiming on protection of children against commercial sexual exploitation in travel and tourism. One of the indicators of a/m point of the Plan is the number of reports sent through the website www.stopseksturystyce.fdn.pl.

Moreover Polish Police works actively on this issue in the frame of EU priority EMPACT CSE being a part of EU Policy Cycle on serious and organized crime for years 2018-2021. One of the operational action which has to be fulfilled is establishment and strengthen cooperation of EU Member States with relevant partners in the region of South - East Asia which is very of the destination country for TCSOs seeking for new victims. Therefore priority EMPACT CSE attaches great importance to this topic.

**VI. Data and monitoring**

Actions in the area of human trafficking implemented in individual Border Guard Regional Units. Supervision over the implementation of actions is carried out on general principles. All activities concerning a victim are coordinated by trained coordinators for combating and preventing trafficking
in human beings. At the central level, the coordinator for trafficking in human beings is located
in Department I for Fight against Organized Crime of the Operational and Investigative Department
of the Border Guard Headquarters.

Polish Police collects information on sexual crimes committed against children, including crimes concerning child sexual abuse material (CSAM) in special National System of Police Information (KSIP) which is a special data base dedicated to Police. In this System the data regarding to the suspected persons, particular crimes they committed, kinds of preventive measures applied and other relevant information concerning the investigations are stored for the purpose of further use. The System is available for and updated on daily basis by all levels of Police structure - national, regional and local. Polish Police does not collect in this System information on convictions and sanctions applied cause it is gathered in separate data base run by Ministry of Justice.

Moreover, at the moment Police taking efforts to establish a national database on CSAM based on hash values and other techniques in order to avoid having to manually assess each file and to facilitate identification of victims. As part of the creation of a central hash system that collects, inter alia, information about files containing CSAM, it has been subjected to a wide analysis in terms of the possibility of preparing specific Solutions. In 2015 the Central Forensic Laboratory of the Police prepared the project "Construction of a central file information system related to criminal activities." In 2016, a grant application was prepared from the National Security Funds (co-financed from the European Union). The project has been positively evaluated at the national level and is currently being implemented. In 2019, the project is planned to complete the purchase and assembly of 9 system workstations alongwith the necessary software, purchase of the server with database software and development and implementation of specialized training The main effect of the project will be the creation of a database with the assumed target value of 40,000,000 records. It should be noted that the central sen/er has been launched. The access to it is provided by designated provincial coordinators and participants of the trainings.

The database will be extremely important with investigations consider child sexual abuse materials. Using hash values could limit or save time and financial resources. Experts could take time for sophisticated cases and be a support in standard investigations. The database will be useful for placements, prosecutors and Polish hotline staff. Hash values could be distributed to Polish content providers to restrain distribution of illegal content.

In addition so far three divisions in Polish Police have access to International Child Sexual Exploitation Database operating in Interpol (in Criminal Bureau, Cybercrime Bureau and Central Forensic Laboratory of Police). ICSE DB is used on daily basis as its main purpose is the identification of victims and offenders pictured on CSAM as well as avoiding of LEA efforts' duplication in CSE investigations. But it should be underlined, that despite the fact that ICSE Database use various hash values such as MD5, SHA1, ZZ40 and PhotoDNA, the establishment of national hash values database could be effective tool in child abuse and CSAM cases especially in the frame of image recognition.

**VII. Institutional accountability**

In Poland there is no clear obligation for private sector such as Internet Service Providers (ISPs) or Electronic Service Providers (ESPs) to report Police or other Law Enforcement Agencies about suspected CSAM. However, according to our law - Code of Criminal Procedure in article 304 § 1 - „Whoever learns that an offence prosecuted ex officio has been committed, shall be under civic duty to inform the State prosecutor or the Police." It must be underlined that this is a "civic duty7' which has no legal restrictions in a case of not informing /reporting Police about reveal of child sexual abuse material. On the other hand most important ISPs has a special agreement with Cybercrime Bureau of Polish Police concerning reporting Police about indecent use of their services by Internet users including dissemination of CSAM.

In addition there is also Art. 240 of Penal Code which obliges everyone who has reliable information concerning a punishable preparation or attempt, or commission of a prohibited act specified in part of the Code (such as murder, terrorist attack, kidnapping or sexual exploitation/sexual abuse of a minor) to report the proper LEA under the threat of punishment for not doing so (penalty of deprivation of liberty up to 3 years) but revealing of child sexual abuse materials is not one of this crimes.

Additionally, it is necessary to take into account the issues of prevention conducted by the Polish police in a pre-mito issue.

It should be noted that in the Polish law, pursuant to Article 4(1) of the Act of 26 October 1982 on proceedings in juvenile cases (Journal of Laws of 2018, item 969), prostitution of minors (persons up to 18 years of age) is treated as a manifestation of demoralization. Therefore, when carrying out preventive measures, including educational ones, e.g. meetings in schools concerning legal responsibility of minors, police officers take this element into account in their undertakings.

According to the information available to the National Police Headquarters the elements of the programme include learning assertiveness and contact with a stranger are implemented by organizational units of the Police.

Speaking about the best national practices in this area, it is worth mentioning the information and education campaign on the commercial sexual exploitation of children and adolescents carried out by the then Nobody’s Children Foundation (currently the Foundation Gives Children Power) in connection with the 2012 European Football Championship, entitled "Do not lose out, financed, inter alia, under the government programme to reduce crime and antisocial behaviour Together safer from the funds of the then Ministry of the Interior. More information about this initiative, also in English, can be found at <https://fdn.pl/kampania-nie-przegraj> .

Additionally, the aforementioned Foundation We Give Children Strength runs a telephone helpline for children and youth 116 111. At this number children and youth who are in a difficult situation, also related to e.g. sexual exploitation, can find appropriate support. The websites of this linę contain information about sexual exploitation, prostitution and sponsoring ([https://116111.pl/problemy/wykorzystywanie-seksualne,cid,79](https://116111.pl/problemy/wykorzystywanie-seksualne%2Ccid%2C79)).

The issues of cooperation between organizational units of the Police and the Foundation were regulated in the Agreement concluded on November 3, 2008. On the basis of the Agreement, the Foundation's consultants give Children Strength, which operates the National Child and Youth Helpline (116 111), after obtaining information on a situation directly threatening the life or health of a child, immediately forward it to the on-duty regional police station in order to intervene immediately. On-duty officer is obliged to undertake official activities aimed at eliminating a direct threat to the life or health of a child.

Additionally, the Foundation provides informational and preventive materials, including the National Confidence Line for Children and Youth 116 111, which are used in Poland by policemen, especially those who perform social prevention tasks.

It should also be emphasized that the National Action Plan against Trafficking in Human Beings for the years 2016-2018 included point 1.12 concerning the promotion and implementation of the Code of Conduct aimed at protecting children from commercial sexual exploitation in tourism. One of the measures of this point was the number of reports to the Police via the website [www.stopseksturystyce.fdds.pl](http://www.stopseksturystyce.fdds.pl)