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Political participation of third country nationals on a national and local level

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POLAND: COUNTRY REPORT

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EXECUTIVE SUMMARY

- Poland has not ratified and is currently not planning to sign the European Convention on the Participation of Foreigners in Public Life at Local Level.
- Active and passive voting rights in national elections are restricted to Polish citizens. Amendments to the Law on Local Elections, entering into force on 1 May 2004, extended both active and passive rights in local council elections to citizens of EU Member States residing permanently in the given district.
- All foreigners may join existing associations (as long as their statutes allow this), but only permanent residents of Poland may set up such associations. A bill submitted in November 2010 dropped the requirement of having Polish nationals among the founders, but was withdrawn in March 2011.
- The Law on Trade Unions gives the right to form and join trade unions to all “employees regardless of the form of their employment”, while membership in political parties is restricted under the Polish Constitution to nationals.
- Polish Migration Strategy does not appear to promote a multicultural model of migrants’ activities. Instead, it seems to favour some form of assimilation. At the same time it gives some indication of the forms of migrants’ participation in public life which are to be promoted, e.g. increasing the role of diasporas in foreigners’ integration.
- The interviewed politicians of the government coalition saw citizenship as the prerequisite for full participation. They noted the tendency to perceive immigrants as “guests”, especially among local-level politicians and officials, who, in their own words, preferred to “solve local matters on our own”.
- Despite its small budget, the European Fund for the Integration of third Country Nationals is visible as it has generated interest among both NGOs assisting migrants and immigrant associations. Although issues involving migrants are still not among key priorities in the overall activities, the Fund has played an important role as a “laboratory” of various methods of integration.
- The majority of immigrant organizations have been registered relatively recently; in the past they functioned informally. Among these organizations, a greater specialization may be observed, i.e. their actions are orientated towards their own ethnic group, e.g. Vietnamese or Ukrainian.
- Representatives of migrant organizations do not perceive the will of the Polish authorities to promote immigrant activism. In their view, the authorities are not interested in issues associated with integration, only in migration control regulating access to the national labour market and the territory of the country.

- Issues related to political and civic participation are not present in the media, according to respondents. Sports news is where foreigners were mentioned most often. Also, news on the state and host society's attitudes towards newcomers was plentiful. In this news, immigrants were presented as victims of either unclear, overly complicated, and sometimes absurd bureaucratic procedures, or of criminal – mostly racially motivated – acts.

INTRODUCTION

Political participation has been an important part of integration strategies since the nineteen seventies and is increasingly discussed. According to the Migrant Integration Policy Index, most immigrants in the EU have limited opportunities to have an influence on and approve the policies affecting them.

At the same time, the Lisbon Treaty provides the EU with a legal basis to work on immigrant integration, and the European Council has adopted the Stockholm Programme (December 2009), in which member states have agreed that "the successful integration of legally resident third-country nationals remains the key to maximising the benefits of immigration (...) The objective of granting comparable rights, responsibilities, and opportunities for all is at the core of European cooperation."

As various reports point out, Poland, among other countries from Central Europe, still has regulations denying immigrants basic political liberties. This paper has been drawn up in order to answer the following research questions:

- What forms of participation are open to third country nationals? (Right to join/create NGOs, trade unions or a political party, participation rights (voting, standing) in elections, consultation mechanisms or consultative bodies, and state policy promoting immigrants political participation)
- What forms of participation are closed (to third country nationals) and how legitimately?
- Which hidden barriers exist to their participation in social and political life?
- Are participation issues addressed by projects implemented via the European Fund for the Integration of Third-country nationals?

The first chapter is based on secondary data as well as primary research. Interviews were conducted in April 2011 with three representatives of the governing coalition on these committees—two deputies (one from the Civic Platform and one from the Polish People's Party [Polish Peasant Party]) and one senator representing the Civic Platform. In addition, two interviews were held with officials: a specialist managing the EFI fund at the Ministry of Labour and Social Policy and the Head of the Department of Foreigners at the Mazowieckie Province Office.²

The second chapter is based on four interviews. One was conducted with a representative of a Polish NGO that supported and acted on behalf of third country nationals and the remaining three were with representatives of immigrant organizations, out of which two offer assistance to Ukrainian nationals and one to immigrants from Africa. Due to limited information gathered during these interviews, our research was extended to include expert opinions on political and civic participation of immigrants.

¹ <http://www.mipex.eu/download>

² <http://www.mazowieckie.pl/portal/en/25/22/Contact.html>

1. STATE ACTORS, NATIONAL AND EUROPEAN POLICIES

1.1. LEGISLATION

Normative framework

The Polish Constitution ensures to all persons:

- “freedom to express opinions” (Art. 54)
- “freedom of peaceful assembly” (Art. 57)
- “freedom of association” (Art. 58)³

Poland has not ratified and, according to the latest ECRI report, is not planning to sign the European Convention on the Participation of Foreigners in Public Life at Local Level of 5 February 1992. Article 6 of the Convention “grants to every foreign resident” legally residing for at least 5 years in the country “the right to vote and to stand for election in local authority elections.” Moreover, the Convention obliges national authorities to remove all legal or other barriers to setting up consultative bodies which would allow “the discussion and formulation of the opinions, wishes and concerns of foreign residents on matters which particularly affect them in relation to local public life” (Article 5).⁴ The 2010 ECRI report on Poland reiterates earlier recommendations by the Council of Europe for the country to ratify the Convention. It is worth noting in this context that all Scandinavian states and two of Poland’s neighbours (Czech Republic and Lithuania) have either signed or ratified the Convention.⁵ The ECRI report states that the Polish government admitted that “they have already granted all European Union citizens the right to vote and stand in local elections **and are not prepared to go beyond that.**”⁶

Voting rights

Active and passive voting rights in national elections are restricted to Polish citizens.⁷ Amendments to the Law on Local Elections, entering into force on 1 May 2004, have extended both active and passive rights in local council elections to citizens of EU Member States residing permanently in the given district.⁸ This amendment was a minimum requirement for EU accession.

3 Constitution of the Republic of Poland of 2 April 1997, available at: <http://www.senat.gov.pl/k5eng/dok/konstytu/konstytu.htm>

4 Convention on the Participation of Foreigners in Public Life at Local Level of 5 February 1992, available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/144.htm>

5 As of June 2009, the following member states of the Council of Europe have signed or ratified the Convention: Albania, Cyprus, Czech Republic, Denmark, Finland, Iceland, Italy, Lithuania, Netherlands, Norway, Slovenia, Sweden, United Kingdom. The list is available at: <http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=144&CM=2&DF=6/14/2009&CL=ENG>

6 *ECRI Report on Poland (fourth monitoring cycle)*, adopted on 28 April 2010.

7 Articles 6 and 8 of the Law on elections to the Sejm of the Republic of Poland and to the Senate of the Republic of Poland of 12 April 2001 (Journal of Laws No. 190, item 1360 of 2007)

8 Articles 6a and 7 of the Law on elections to councils of communes, powiats and regional parliaments of

Poland might, however, consider the fact that non-EU nationals may vote in local elections in 19 European states.⁹

Even the limited extension of voting rights to some foreigners met with some political opposition. A group of nationalist MPs submitted a query to the Constitutional Court regarding the constitutionality of the extension of the right to take part in elections to the European Parliament to nationals of EU Member States residing in Poland. The Court ruled the extension constitutional in its verdict of 31 May 2004, in which it upheld the right of nationals of EU Member States to take part in EP elections as one of their fundamental rights and rejected the interpretation that the mandates of members of the European Parliament as “representatives of Nations of Member States” implied that “active and passive voting rights in the elections to the European Parliament could only be exercised by EU citizens within the national community, to which they belong as citizens”.¹⁰

Right of association

A constitutional guarantee of freedom of association is enacted by the Law on Associations of 7 April 1989, which defines an association as a “voluntary, self-governed and permanent organization, set up for non-profit purposes” (Art. 2(1)). Under this Law, while all foreigners may join existing associations (as long as their statutes allow this), only permanent residents of Poland may set up such associations.¹¹ Article 4 requires that a non-national be permanently registered in a district on Polish territory prior to establishment of an association. This restriction does not apply in cases of foundations, which may be formed under a separate law by all persons, regardless of their residence status. The only requirement is that the foundation be located in Poland.¹²

However, the term “become members of associations” (*zrzęcać się w stowarzyszeniach*) used in the Law with regard to foreigners is imprecise and could be understood narrowly to mean “participate in” rather than “establish”^{**}. This restriction was criticized for unduly limiting the application of the constitutional norm (Prof. Hubert Izdebski of Warsaw University) and being in contravention of the European Convention of Human Rights (Maciej Bernatt of the Helsinki Foundation of Human Rights).¹³

In his opinion, published in January 2009, Prof. Izdebski noted that this restriction was untenable as it denied a universal human right, and distorted

16 July 1998 (Journal of Laws No. 176, item 1190 of 2010)

9 T. Huddleston, J. Niessen et al. *Migrant Integration Policy Index III*, p. 18, “Political participation”, available at: www.mipex.eu/download

10 Constitutional Court, ruling of 31 May 2004 (K 15/04), *Udział cudzoziemców w wyborach do Parlamentu Europejskiego I*, available at:

http://www.trybunal.gov.pl/omowienia/documents/K_15_04_PL.pdf

11 Article 4 of the Law on Associations of 7 April 1989 (Journal of Laws, No. 20, item 104 of 1989, No. 14, item 86 of 1990)

12 Law on Foundations of 6 April 1984 (Journal of Laws, No. 46 of 1991, item 203).

13 Ewa Grączewska-Ivanova, „Rejestracja stowarzyszeń sprzeczna z prawem Unii”, *Gazeta Prawna*, 27 April 2009, available at:

http://prawo.gazetaprawna.pl/artykuly/313767.rejestracja_stowarzyszen_sprzeczna_z_prawem_unii.html

(accessed on 3 April 2011)

the local “market of non-governmental organizations”, relegating Poland to the status of a location merely of branches of global associations, while posing a barrier to the establishment of genuinely international associations. Prof. Izdebski called for the waiving of Article 4 of the Law and replacing the term “Polish national” with “everyone” in the part defining the founders of associations as well as granting international associations the right to operate in Poland without necessarily seeking separate establishment in Poland.¹⁴

A draft bill of the amended Law on Associations, submitted on 4 November 2010 by a group of senators, led by Civic Platform’s Łukasz Abgarowicz, removed this restriction. The draft makes no distinction between foreigners and nationals, extending the right to all physical and legal persons, in the scope envisioned by the Civil Code.¹⁵ However, following severe criticism from civil society organisations (unrelated to the issue of foreigners’ rights), the draft was withdrawn by its initiators on 3 March 2011.¹⁶

Membership in trade unions and political parties

Article 59 of the Constitution guarantees freedom of membership in trade unions and employers’ associations, stipulating that the scope of this guarantee must not be limited by statutory law other than in cases dictated by international commitments. The Law on Trade Unions grants the right to form and join trade unions to all “employees regardless of the form of their employment”.¹⁷

Membership of political parties is restricted under the Polish Constitution to nationals (Art. 11). This restriction is reiterated in the Law on Political Parties of 27 June 1997, where Article 2 states that “Membership of political parties is open to citizens of the Republic of Poland...”¹⁸ A broader interpretation of this constitutional norm was suggested by Adam Bodnar, the secretary of the Helsinki Foundation for Human Rights, who postulated amending the Law so that it would also allow membership of EU nationals in Polish political parties.¹⁹ At the same time, interviewed politicians did not see the need to open membership to non-naturalized foreigners; however, they were quick to point to the “success stories” of foreign-born Polish citizens who have served as a member of Parliament or a mayor, and are members of their party.²⁰

14 Hubert Izdebski, *Prawne warunki funkcjonowania stowarzyszeń w Polsce. Propozycje zmian legiscyjnych*, Opinie i Ekspertyzy (OE-101), Biuro Informacji i Dokumentacji, Kancelaria Senatu, January 2009, available at: <http://www.isp.org.pl/kompas/files/izdebski.doc>

15 Art. 2 of the draft Law on Associations, Publication No. 1028 of the Senate of the Republic of Poland, 7th term.

16 <http://www.senat.gov.pl/k7/dok/dr/1000/1028w.pdf>

17 Art. 2 of the Law on Trade Unions of 23 May 1991

18 Journal of Laws, No. 98, item 604 of 1997

19 Adam Bodnar, „Piąty raport Komisji Europejskiej o obywatelstwie UE – konieczność zmiany ustawy o partiach politycznych”, [European Commission’s Fifth Report on Citizenship of the Union – the necessity of amending the Law on political parties] posted on 23 June 2008 on the website of the project *Prawa człowieka w orzecznictwie sądów polskich* [Human rights in Polish courts’ rulings], available at: <http://www.prawaczlowieka.edu.pl/index.php?dok=e794a80eb109162d579df51db6d52e223bb0e9be-d3>

20 For instance, Civic Platform’s local councillor John Godson, native of Nigeria, became the first African-born MP in December 2010.

Right of assembly

Constitutional freedom of assembly is enacted in statutory law. Article 1 of the Law on Assemblies grants “everyone” the right of peaceful assembly, defined as a gathering of at least 15 persons, “called up to hold session or make a joint declaration”. Foreigners may also organize such gatherings, as Article 3 of the Law grants the right of organization to all persons with full legal powers.²¹

1.2. NATIONAL STRATEGIES

Strategic documents

Experts have long noted that the national policy towards foreigners has not been guided by a strategic approach. This is evident in the delay in the development of the National Migration Strategy. Although work on the Strategy was started in 2003, the document was only presented on 6 April 2011.²² According to a preliminary public announcement by the Department of Migration Policy of the Ministry of Interior,²³ the Strategy would place significant emphasis on issues of integration of foreigners, including, *inter alia*:

- definition of objective of integration—enabling a migrant to function independently in Poland
- facilitated access to residence upon demonstrating a certain level of integration (e.g. language proficiency)
- complementarity of financing from state budget and the European Fund for Integration of Third Country Nationals
- support for activities familiarizing Polish society with immigrants’ issues and concerns and vice-versa.

The Strategy does not appear to promote a multicultural model of activity of migrants. Instead, it seems to favour some form of assimilation, which is clear from the following objectives of the draft Strategy:

- proficiency in Polish is understood as vital to effective integration
- preferences for foreigners of Polish origin in obtaining residence and work permits
- introducing preferential paths toward naturalization for spouses of Polish nationals and foreigners with command of Polish language.

The Strategy adopts a dichotomous view of immigration, seeing in it, on the

21 Law on assemblies of 5 July 1990 (Journal of Laws, No. 51, item 297 of 1990)

22 Ministry of Internal Affairs and Administration, *Nowa polityka migracyjna Polski*, 6 April 2011, available at: http://www.mswia.gov.pl/portals/pl/2/9071/Nowa_polityka_migracyjna_Polski.html

23 Monika Prus, *Strategia migracyjna dla Polski: stan prac, wyzwania*, Ministry of Interior and Administration

one hand, an opportunity for harnessing migrants' demographic, economic and cultural potential. However, at the same time, the document foresees "potential social tensions and lack of tolerance on the part of the host country's citizens due to cultural distance as well as implicit and explicit competition on the labour market".²⁴

The Strategy gives some indication of the forms of migrants' participation in public life which are to be promoted. Among recommendations pertinent to this issue are the following:

- increasing the role of diasporas in foreigners' integration,
- support for migrant organizations in "active coexistence in civil society", defined, *inter alia*, as interest representation and promotion of own community,
- building "cooperation platforms", enabling migrants' associations and individual migrants to cooperate with Polish associations, foundations and communities on cultural and social issues,
- strengthening the role of the state in providing migrants with information on legal employment and residence in Poland.²⁵

These recommendations stem from the diagnosis provided in the Strategy, which notes the virtual absence of strong migrant diasporas (with the exception of the Vietnamese and Armenians) and identifies as a problem dispersion of migrants, who lack "support or a sense of community" that diasporas provide. However, the Strategy argues that the small scale of permanent immigration so far, the absence of the issue in the political debate and of social awareness of it have not warranted launching integration programmes for migrants other than refugees.²⁶

Migration Strategy in the announced shape does not represent a departure from strategic directions outlined in other mid-term and long-term state planning documents. The current government adopted on 30 December 2008 a revision of the National Development Strategy for 2007-2015²⁷ in which it called for a "rational migration policy" as part of its employment-growth package. It is symptomatic that all the declared measures concentrated on maintaining ties with and the return of Polish migrants residing abroad. The focus on return migration of Poles correlates with the diagnosis given in the original Strategy, adopted in 2006, in which emigration, especially of young Poles, would constitute "draining of human capital". The Strategy forecast "a growing migration to Poland" but viewed it negatively, expecting that it would result in

24 *Nowa polityka migracyjna Polski*, op. cit., p. 12.

25 *Ibid.*, p. 72.

26 *Ibid.*, p. 68.

27 *Założenia aktualizacji "Strategii Rozwoju Kraju 2007-2015"*, available at: http://www.mrr.gov.pl/rozwój_regionalny/poziom_krajowy/strategia_rozwoju_kraju_2007_2015/Documents/Zalozenia_aktualizacji_SRK_przyjete_przez_RM_30_grudnia_2008r.pdf

the “appearance of new legal, social and job market problems.”²⁸ The Strategy of 2006, revised in 2008, underscored the “complementary character” of labour immigration, which would only be admitted upon “analysis of the migration balance” in order to address skill shortages.²⁹

The limited space allotted to immigration in strategic documents, the delay in working out a comprehensive migration strategy and the relatively closed manner in which the latter document was drawn up have been subject to criticism from experts. In an interview in January 2011, Magdalena Lesińska, Deputy Director of Warsaw University’s Centre for Migration Research remarked that the “official migration strategy for Poland is a document that has been prepared for eight years and has not been officially completed”. In her opinion, too much focus was put on issues of emigration with insufficient attention to immigration, and the overall debate suffered from the fact that migration policy is a matter of discussion involving a small circle of stakeholders.³⁰ In turn, Mikołaj Pawlak of Caritas Polska in February 2011 made a plea for dissemination of the Strategy among key non-governmental organizations assisting migrants, so that they could offer comments prior to the launch of formal social consultations.³¹

Integration of migrants

A different - more open to participation - approach was adopted by the Ministry of Labour and Social Policy, which is the central authority responsible for social integration of migrants. In the Social Policy Strategy for 2007-2013, adopted by the government on 13 September 2005, Priority 7 (“Social and professional integration of immigrants”) tackled some issues related to civic and political participation of migrants. One priority is the “ongoing cooperation with a platform of organizations representing or working on behalf of immigrants”. Particular attention was paid to the need to build communities of refugees. It is worth mentioning that the document placed active support for organization of diasporas in the context of unfavourable demographic trends in Poland, suggesting measures to attract younger compatriots to join the existing diasporas.³²

In February 2007, the Interdepartmental Team for Migration was established by the Prime Minister. One of the five Working Groups within the Team is concerned with the integration of foreigners. Headed by the Minister of Labour and Social Policy, the Working Group’s tasks include cooperation with non-

28 Ministry of Regional Development, *National Development Strategy 2007-2015*, Warsaw, November 2006, p.20, available at:

<http://bip.mrr.gov.pl/Strategia%20Rozwoju%20Kraju/Documents/41cc229de0f54a0fb792714f5a362120SRKwangielska0607.zip>

29 *Ibid.*, p. 57.

30 Polish Press Agency release, 17 January 2011, *Konferencja o kryteriach polityki migracyjnej UE*. See also a summary of the *European Fortress? The Future of European Union migration policy* at: http://www.demoseuropa.eu/index.php?option=com_content&view=article&id=614&Itemid=130

31 Mikołaj Pawlak, *Stanowisko w sprawie opublikowanego w dniu 24 lutego 2011 roku projektu założeń do projektu ustawy o cudzoziemcach w ramach konsultacji społecznych*, 14 March 2011, available at: http://grafitstudio.pl/praktyki-integracji/images/stories/aktualnosci/11_03_14%20-%20pismo%20do%20mswia.pdf

32 *Strategia polityki społecznej na lata 2007-2013*, Ministry of Social Policy, 2005, p. 40, available at: http://ec.europa.eu/ewsi/UDRW/images/items/doc1_14681_149716116.pdf

governmental organizations and developing annual and multi-year programmes for the European Fund for Integration of Third Country Nationals.³³ The Group encompasses representatives of state ministries, local governments, international and non-governmental organizations. Following a two-year period of inactivity, the Working Group has met twice this year already, and at its latest session, held on 3 March 2011, it was concluded that the Group's prime objective would be to "fine tune directions for Polish integration policy" through close consultations with the entire NGO community concerned with integration issues in Poland.³⁴

Another sign of the growing openness of the state administration to non-governmental voices in the course of planning Poland's integration policy was the survey that the Ministry of Interior circulated in 2009/2010 among 97 institutions and organizations, including 16 migrant and minority organizations. Unfortunately, only 7 NGOs and 1 immigrant association responded to the survey, making the results indicative primarily of the government position on the question of directions of state integration policy. Analysis of the results of the survey, published in January 2011,³⁵ provides insights relevant to the discussion of the role of migrants' participation in public life in their integration.

When asked whether foreigners ought to adapt, assimilate or integrate into Polish society, most respondents pointed to some form of integration, and some of them underscored the importance of active participation in the process. For instance, the governor of Lublin named "full participation in social and political life" as one of the indicators of integration, while governors of Warsaw and Łódź highlighted the importance of involvement of migrants in integration programmes. The Ministry of Foreign Affairs rejected the option of assimilation, while one of the governors suggested that migrants ought to decide which option of relations with the host society they would be interested in. Assimilation was generally found inappropriate for migrants who "originate from other cultural or religious traditions", in particular the Chechens. Some respondents noted that integration might follow adaptation, and be only of interest to some migrants as many newcomers to Poland are still not interested in staying in Poland, instead treating it as a stepping stone towards departure for more developed destinations. The only immigrant association, that of Armenians, responded that the proposed options represented stages of a long process.

Consultation on local level

In the course of an interview, the Head of the Department of Foreigners of the

33 Paulina Babis, *Integration of immigrants in Poland*, Ministry of Labour and Social Policy, available at: http://www.slovo21.cz/prilohy/PaulinBabis_Integration_of_immigrants_in_Poland-ost.pdf

34 As stated by the head of the Working Group, Paulina Babis, Ministry of Labour and Social Policy. See the summary of the session at: <http://grafitstudio.pl/praktyki-integracji/images/stories/aktualnosci/relacja%20ze%20spotkania%20grupy%20roboczej%20ds.pdf>

35 Ministry of Internal Affairs and Administration, *Analiza ankiety na temat polityki integracyjnej*, January 2011, available at: http://www.forummigracyjne.org/files/171/Analiza_ankiety_integracyjnej.pdf

Mazowieckie Province Office, which processes the bulk of residence legalization applications, discussed initiatives aimed at informing migrants of their rights and methods of consultations with migrants' NGOs. As part of the "Information Centre" project, financed by the European Fund for Integration of Third Country Nationals, the Office tackled some of the problems identified in the course of an independent evaluation, carried out by the Institute of Public Affairs in 2009. A helpdesk was established with boards containing information on procedures in most common languages (starting with Ukrainian and Vietnamese). A series of trainings was run during which the Office staff improved their client service skills and were made aware of multicultural issues.

In collaboration with NGOs specializing in assistance to migrants, the Office launched further initiatives:

- information hotline and website (Polish Migration Forum),
- Information Centre for Foreigners (Association for Legal Intervention)³⁶

The Department of Foreigners' unique initiative for reaching out to migrants and identifying their concerns - the Foreigners' Forum - was set up on 12 March 2008 as one of the platforms for the cooperation of the regional state administration with civil society organisations. In the words of the Head of the Department, the Foreigners' Forum represented a response to criticisms from the non-governmental side and was initially a tool to improve the system of service for legalizing foreigners' residence and sharing opinions and undertaking joint actions to deal with their concerns. Cooperation within the Forum led to "breaking the ice" between the two sides, which culminated in the decision to subject the residence procedure and practices to evaluation by a the non-governmental team.³⁷

1.3. POLITICAL PARTIES

The electoral programmes of the major political parties are silent on issues of immigration. The Civic Platform's programme for the 2007 parliamentary elections proposed instead to offer incentives for the return of Polish migrants who had left the country for other EU Member States in large numbers since 2004.³⁸ In an interview with a representative of a junior member of the governing coalition, it was established that the Polish People's Party shares this view, focusing on opportunities for the return of Polish emigrants rather than viewing immigrants as a solution to the country's economic needs.

A study of the discourse on immigration by Polish parliamentary parties in the period 2001-2005 noted that the presence and activity of foreigners did not

³⁶ Mazowieckie Province Office, *Kierunki zmian w obsłudze migrantów na przykładzie działania Wydziału Spraw Cudzoziemców Mazowieckiego Urzędu Wojewódzkiego*, presentation, 29 March 2010

³⁷ Izabela Szewczyk, *Współpraca Wojewody Mazowieckiego z organizacjami pozarządowymi na przykładzie Forum Cudzoziemców*, presentation, 28 January 2010

³⁸ Civic Platform, *Program PO. Polska zasługuje na cud gospodarczy*, available at: <http://www.platforma.org/pl/program/>

constitute an issue of any significance to the parties' agendas. It is further noteworthy that at the time neither of the two parties currently forming the government (the Civic Platform and the Polish People's Party) nor the largest opposition party (Law and Justice) exhibited any interest in these issues. The only parties that did feature the issue in their agendas were those of the left (the Democratic Left Alliance) and far right (the League of Polish Families).³⁹

Issues related to civic and political participation are in the portfolio of two ministries: Interior and Administration – headed by a minister designated by the Civic Platform (responsible for legalization of residence and relations with NGOs) and Labour and Social Policy, headed by a minister appointed by the Polish People's Party, the junior coalition partner (in charge of the social integration of migrants). Political parties are also represented in parliamentary committees which initiate and review pertinent legislation: the Sejm Committee for Administration and Home Affairs and the Senate Committee for Human Rights, Rule of Law and Petitions.

The interviewed politicians acknowledged that the issue of the presence of migrants in Polish society was still marginal in the political debate in Poland. However, they did not agree on the question of the openness of the Polish political elite towards participation of immigrants in political life – in general, they saw citizenship as a prerequisite for full participation (this was especially pronounced in the case of a representative of the Polish People's Party). They noted the tendency to perceive immigrants as “guests”, especially among local-level politicians and officials, who preferred to “solve local matters on our own”. Politicians of the Civic Platform saw the national level as more promising for the inclusion of naturalized migrants into political life. They referred to the fact of having a naturalized Member of Parliament of African origin as a sign of their own openness to the political participation of immigrants.

In politicians' general opinion, the media do not provide an adequate picture of migrants or opportunities for their greater participation in political life. They agreed that the coverage concentrated on sensational news or individual cases, often highlighting instances of conflict. In their view, the media often took note of individual migrants' problems (especially in cases of procedures of legalization of residence or deportation orders concerning migrants of Polish origin or with established ties to Poland) and were sympathetic towards their plight, but did not look at the issue in a more general, systemic manner. One Member of Parliament found the coverage to be out of touch with the general social mood, claiming that media outlets were often foreign-owned and tended to be more liberal on the issue than the general mood would indicate.

The politicians did not perceive provincial offices, responsible for legalization of migrants' residence, to be sufficiently active in providing guidance to foreigners interested in participation in civic and political activity. One respondent stated that the offices “perform their duties” but do not go beyond

39 M. Trojanowska-Strzęboszewska, *Kształtowanie się stanowisk politycznych na temat imigracji i imigrantów w Polsce w latach 2001-2005* [Formation of political positions on immigration and immigrants in Poland in 2001-2005], Institute of Public Affairs: Warsaw 2010.

that. The low visibility of state structures was confirmed by the fact that none of the respondents could give any specifics about the operation of the European Fund for Integration of Third Country Nationals – one of them had not heard anything about it, while the two others only knew that it existed.

The politicians found their meetings with foreigners to be relevant and primary forms of involving immigrants in enforcing their rights. In fact, they pointed to awareness-raising as a priority activity of the EFI and other funds, as they believed it encouraged individual initiative on the part of migrants to establish themselves in the labour market and society, which they saw as a prerequisite for their political and civic participation. Only one representative of the Civic Platform considered his party to be supportive of granting voting rights to immigrants, while the two other politicians found such a view to be premature.

1.4. EUROPEAN FUND FOR THE INTEGRATION OF THIRD COUNTRY NATIONALS

A recent study on the effectiveness of measures facilitating labour market and social inclusion of migrants in European assistance programmes in Poland notes the key role that the European Fund for the Integration of Third Country Nationals has come to play in stimulating migrants' participation in public life and in building platforms for communication between the state and migrants.⁴⁰ It is a relatively small fund (allocation for Poland was 1,209 thousand EUR in 2007, rising to 2,159 thousand in 2009, scheduled to reach 2,460 thousand in 2011 and 3,311 thousand in 2013). Despite its modest size it is designed to go beyond questions of labour market activation and individual skill upgrading, which are characteristic activities supported by the much-larger European Social Fund. As the study notes:

“Prior to the launch of EFI and Human Capital OP, meetings were held between the Ministry of Labour and Social Policy and the Ministry of Regional Development to ensure that the two programmes were complementary yet did not overlap in terms of areas of support. EFI goes beyond questions of social and economic welfare of migrants, addressing needs of state policy in more comprehensive terms. (...) Many of the projects, approved in the first call of 2007, concentrated on the establishment of foundations of state admission and integration policy and on bringing down cultural barriers between newcomers and the host society. Some project activities were designed to serve as models for future state policies or to build competence of migrant associations for engaging in dialogue.”⁴¹

Significant shifts could be observed in the allocation of resources to various EFI measures in annual programmes. Over 90 per cent of the allocated funds in 2007 went to activities targeting third-country nationals (60%), the host society (18%) and sustaining intercultural dialogue (13%). By 2009 the share of these

⁴⁰ Piotr Kazmierkiewicz, *Country report on ESF measures enhancing the labour market and social inclusion of migrants and minorities*, European Commission 2011 (forthcoming)

⁴¹ *Ibid.*, p. 50.

allocations dropped to 69% and in 2010 it was planned to amount to 54%. In turn, a growing share of resources was diverted to the construction of an institutional system (11% in 2009 and 14% planned in 2010) and research into the situation of migrants and their integration needs (14% in 2009 and 18% in 2010). A new development was the allocation in 2010 of around 10% of resources to strengthening of international cooperation.⁴²

More detailed information on the types of activities financed by the Fund has been provided by the Managing Authority for years 2007 and 2008. The projects in this early period rarely addressed issues of public participation. In 2007 among measures aimed at building intercultural dialogue, two projects had as their objective establishment of platforms of cooperation through meetings between Polish authorities, NGOs and migrants' associations. It was recognized that the primary objective was to "persuade immigrants to take part in organized actions". In 2008, a project establishing the National Platform for Cooperation for integration was established, aiming to ease interaction between migrants and public institutions responsible for providing services to immigrants.⁴³

The shift towards support for institutionalization of relations between migrants and state bodies has been acknowledged in an interview with a Fund officer. In her view, the Fund, despite its small scale, is visible as it has generated interest among both NGOs assisting migrants and immigrant associations. Although issues involving migrants are still not among key priorities in the overall activity of the Ministry of Labour due to the low numbers of migrants, the Fund has played an important role, serving as a "laboratory" of various methods of integration, and in the official's view, it is open to exploratory ideas from applicants. When asked whether a broader debate on immigrant issues would be conducive to integration, the official concluded that it was unrealistic to expect such a debate at a stage which, in the general opinion of experts and officials, was still very early.

2. IMMIGRANTS' POLITICAL PARTICIPATION: THEIR POINT OF VIEW

2.1. ACTIVITIES OF NGOS FOR AND ON BEHALF OF MIGRANTS

The situation of the NGO sector in Poland is unique. Polish non-profit organizations dealing with migration issues have been more active than immigrant ones in representing immigrant interests during the debate on new migration policy and in promoting immigrant activism, while - simultaneously - conducting research on migration and engaging in raising the host society's awareness of migration-related issues. Immigrant organizations focus mostly on providing direct legal and material assistance to their clients and also organize various

42 Eliza Przetak, *Europejski Fundusz na rzecz Integracji Obywateli Państw Trzecich na lata 2007-2013 w ramach programu ogólnego "Solidarność i zarządzanie przepływami migracyjnymi"*, presentation, Ministry of Labour and Social Policy, available at:

http://dialog2008.pl/UserFiles/File/E_Przetak.pps

43 *Final Reports on Implementation of the Annual Programme (EFI) 2007, 2008*, Implementing Authority for European Programmes, Warsaw.

cultural events intended for minorities and host society members.

Polish organizations do not have predefined target groups among third country nationals; many of them focus, however, on refugees, among other reasons, due to the nature of their situation and needs. They cooperate with volunteer migrants, but mostly employ Poles.

The majority of immigrant organizations have been registered relatively recently; in the past they functioned informally. Among these organizations, a greater specialization may be observed, i.e. their actions are orientated towards their own ethnic group, e.g. Vietnamese or Ukrainian.

The small number of immigrant organizations is caused by various factors associated with the specificity of working in the NGO/third sector and the position of immigrants in Poland. Working for an organization was described as very hard, mostly due to a lack of financial resources. It involves investing *“a lot of energy and determination (...) people cannot afford it.”* In the case of immigrants, a complicated legal situation regarding legalizing residence additionally impedes engagement in an NGO. The insecure labour market situation is also a factor. As a result, leaders remain informal and the actions undertaken by many organizations remain part-time (volunteer), carried out in non-working hours. Consequently, it is difficult to break this vicious circle – due to not having stable funding, immigrants cannot devote their time to the organization, which results in a low success rate in raising funds, low effectiveness, and inability to professionalize their activities. This is why the migrant environment is not cohesive - *“everybody acts without regard for others”* - and building any cooperation platform is hindered.

Immigrant organizations have not developed a structure for consulting their target groups. As one of the interviewees said: *“It is an ongoing process;”* it happens through face-to-face contacts. Employees of one of the researched organizations *reach out* to their target group and try to form relationships with migrants, e.g. at bazaars and markets. Attempts to introduce a formalized way of conducting consultations with African immigrants have been made; during meetings an analysis of needs and possible solutions to problems was conducted. The overall self-evaluation of this attempt was not satisfactory, however. As stated by the head of this organization: *“They lack trust and it is not a priority for them. Work is the most important for them. This [civil participation] boils down to individual conversations with those who are more engaged and proactive.”*

The general self-evaluation of the effectiveness of performed actions is positive. Interviewed persons recalled many events undertaken in order to sensitize the host society members to migration issues, petitions signed and demonstrations organized concerning the legalization of residence issues, and participation in public debates. These actions, as stressed by the organizational leaders, do not make use of financial resources and are civic in nature.

2.2. EXPERIENCE WITH AND EFFECTIVENESS OF EFI

One researched immigrant organization independently managed a project supported by funds from the European Fund for Integration of third-country nationals (EFI) and another one participated in a project as a social partner. Although none of the aforementioned projects were in fact focused on political and civic participation, in the case of the organization directing its actions towards immigrants from Africa, carrying out the project by itself has significantly increased its organizational potential to represent the interests of the target group.

The most often recalled positive example of an action aimed at promoting immigrant activism was an EFI grant for the International Organization for Migrations (IOM) for a project titled "Active and competent. Migrants in civic society", aimed at developing civic society competences of members of immigrant organizations, mostly through a cycle of seminars and workshops. Thanks to the support of the IOM, it was possible to establish several migrant organizations.

According to experts involved in EFI evaluation, the majority of projects conducted by immigrant organizations (Armenian, Chinese, and Vietnamese) mention increasing civic participation among their objectives. These objectives do not include forming coalitions or lobby groups - which would be premature according to expert opinions - but rather focus on supporting reaching out from their own minority group and participating in local community activities.

2.3. BARRIERS TO AND INTEREST IN POLITICAL PARTICIPATION

According to the researched organizations, Polish authorities do not see a need to promote immigrant activism. The authorities are not interested in issues associated with integration, only in migration politics understood as labour market access and border control. The organizations' representatives stress, however, that the NGOs/third sector, including immigrant organizations, is being consulted more and more often. During interviews, meetings at the Ministry of Labour and Social Policy, Immigrants Forum, and consultations during the "Multicultural Warsaw" project were given as examples. According to the interviewees, much work is still required so that such a dialogue can have satisfactory outcomes. As stated by a respondent: *They expect us to go to them because they do not look for us. But when you go to them, when you find them... my experience with them is positive.*

Polish administration offices do not provide adequate information about residence and work permit procedures, according to interviewees. The same inadequacy exists regarding information on naturalization procedures - having that information would allow an immigrant to plan their stay in Poland appropriately. That is why, according to one respondent, *"immigrants often miss chances for a better status that guarantees more rights."* No consulting for long-term residence planning is offered.

According to the interviewees, greater civic participation of immigrants is desired

and necessary. Intercultural dialogue and meetings are very effective forms of civic engagement as they allow for exchanging opinions and getting to know each other. Moreover, some immigrants should be granted voting rights (just active, or both active and passive) at least in local elections. Immigrant participation in local elections would draw the attention of political parties to immigrant issues. Voting rights, according to our respondents, should be granted to those who have lived in Poland for an adequately long time and understand the Polish reality.

Alternatively, the NGO sector should be supported in such a way *“that effective actions orientated towards (one’s) own minority group become possible.”* Immigrant organizations, in respondents’ opinions, should have easier access to available funds, similarly to organizations representing ethnic and national minorities in Poland. The immigrant perspective would be better heard then: *“The goal is to be heard; to speak for ourselves in debates, like the one on whether the term “nigger” is ok, (...) These [our] voices are not heard (...) Until a person who is really involved speaks out, the discussion is pointless, i.e. abstract and theoretical.”*

2.4. RELATIONS WITH POLITICAL PARTIES

Due to the total exclusion of immigrants (third-country nationals) from participation in elections, an assessment of the openness of political parties to political participation of immigrants is very limited. In general, according to the respondents, SLD (Democratic Left Alliance) is the most open to migration issues, followed by PO (Civic Platform). *“(…) Certainly, SLD is more open than PIS [Law and Justice], they are the elite that is more tolerant than the others. But PO is also a liberal party that is open.”“(…) We do say that PIS is a bit more closed, but I think that there was just no time to talk to them and present them with some sort of a programme that we want to pursue.”* Politicians with a Ukrainian background have met with immigrants from Ukraine. The President’s Cabinet has also been more interested in migration issues recently.

One meeting with immigrants organized by a political party was recalled. Its objective (as stated in the invitation) was to make contact with the immigrant minority and to present a Democratic Left Alliance presidential candidate with the most pertinent difficulties they face in Poland. The mere fact of organizing such a meeting was viewed positively, even though – as noted by the participants – politicians were not sufficiently familiar with migration issues. As one respondent put it: *“It is not clear why such a meeting was called. Unless they simply wanted to look like a modern European party.”* This superficial interest in migration issues has also been noted by interviewed experts, according to whom these behaviours are ill-thought out copying of European clichés. Another positive example of a dialogue with local authorities provided by immigrants referred to a Warsaw suburb with a high number of Ukrainian inhabitants.

2.5. MIGRANTS IN MEDIA DISCOURSE

Media coverage of migration is mostly limited to extreme crisis stories, for instance, issues related to legalizing stay. All interviewees stressed, however, that the coverage is becoming more objective over time. The results of research on the image of foreigners presented in the Polish media support this opinion. According to the results, 66% of all researched texts from the year 2009 were neutral.

Issues related to political and civic participation are not present in the media, according to the respondents. As one immigrant summarized: "(...) *Has any politician, any party, or any presidential candidate ever presented any ideas on what to do with immigrants? None. (...) immigrants do not exist.*" Sports news is where foreigners were mentioned most often. Also, news on the state and host society's attitudes towards newcomers was plentiful. In this news, immigrants are presented as victims of either unclear, overly complicated, and sometimes absurd bureaucratic procedures, or of criminal - mostly racially motivated - acts⁴⁴.

44 I. Józwiak, J. Konieczna-Salamantin, M. Tudorowski, „*Bez cudzoziemców bylibyśmy ubożsi*”. *Wizerunek obcokrajowców na łamach polskiej prasy*, (*Without foreigners we/society would be poorer. The immigrant image in the Polish media*). Instytut Spraw Publicznych (The Institute of Public Affairs) 2010.

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