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Draft report of the Working Group on the Universal Periodic Review*

Poland

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Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its thirteenth session from 21 May to 4 June 2012. The review of Poland was held at the 14th meeting on 30 May 2012. The delegation of Poland was headed by Ms. Grażyna Bernatowicz, Under Secretary of State at the Ministry of Foreign Affairs of Poland. At its 18th meeting held on 04 June 2012, the Working Group adopted the report on Poland.
2. On 3 May 2012, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Poland: Belgium, India and Lybia.
3. In accordance with paragraph 15 of the annex to resolution 5/1 and paragraph 5 of the annex to Human Rights Council resolution 16/21 of 25 March 2011, the following documents were issued for the review of Poland:
 - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/13/POL/1);
 - (b) A compilation prepared by OHCHR in accordance with paragraph 15 (b) (A/HRC/WG.6/13/POL/2);
 - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/13/POL/3).
4. A list of questions prepared in advance by Belarus, Norway, Slovenia, Sweden and United Kingdom was transmitted to Poland through the troika. These questions are available on the extranet of the UPR.

I. Summary of the proceedings of the review process

A. Presentation by the State under review

5. The head of the delegation introduced the national report, highlighting that Poland had engaged in a wide-range consultation process in preparation of the report.
6. The delegation noted that over the last four years, Poland had made progress on the way towards adopting further international human rights instruments. The process of ratification of the United Nations Convention on the Rights of Persons with Disabilities was well advanced and it will be finished by the end of 2012. Furthermore, the legislative works were ongoing, so that Poland could sign the United Nations International Convention for the Protection of All Persons from Enforced Disappearance in 2012. The delegation further indicated that Poland will withdraw the reservations to the Convention on the Rights of the Child.
7. The delegation reaffirmed Poland's commitment to cooperating with the Human Rights Council and all its mechanisms. Poland values the work of the special procedures and therefore, in 2001, it had issued a standing invitation to all mandate holders to visit the country. Since its first review, three special rapporteurs had visited the country.
8. Within Poland's human rights agenda, the rights of members of the most vulnerable groups, including women, children and persons with disabilities, had been given the most attention.
9. With regard to children's rights, the delegation noted the amendment to the Counteracting Domestic Violence Act, adopted in 2010, which completely banned corporal

punishment administered by persons who exercise parental authority or act as guardians or care for minors.

10. In order to promote women's participation in public life, a quota system had been introduced in the electoral law. To further promote gender equality and to improve the work-family life balance, the Labour Code was amended in 2010 to enable fathers, including adoptive fathers, to take paternity leave.

11. Regarding the rights of persons with disabilities, legal regulations that enable their full participation in public and social life, including in democratic processes, were passed.

12. In order to address the challenges, including those reflected in recommendations received from the international monitoring bodies, Poland had put particular emphasis on: the improvement of prison and detention centers' conditions; the decrease in length of court proceedings and pre-trial detentions; the human rights training for law enforcement officials; the fight of discrimination against minorities and; the promotion of gender equality.

13. The delegation thanked countries that had submitted advanced questions and gave answers to some of them.

14. On the question made by the United Kingdom regarding activities to promote equality and inclusion of members of underprivileged groups, including persons with disabilities and LGBT community, Poland had been preparing a National Action Plan for Equal Treatment for the years 2012–2017, which includes measures to counteract intolerance. Since 2011, a project to counteract discrimination on all grounds at all levels of the government administration, and which includes training to public servants and public campaigns had been implemented. Poland had been preparing a series of trainings for media representatives, co-financed by the European Union. It had also engaged in a Council of Europe project "Fighting discrimination based on sexual orientation and gender identity", to be implemented in 2013.

15. Regarding Slovenia's question on the results of programs to encourage participation of women in the labour market, Poland gave priority to actions aimed at providing equal opportunities to men and women, in particular to women belonging of defavourized groups. Programs supporting women's entrepreneurship, facilitating work-family balance and promoting active fatherhood were cited.

16. Responding to questions made by Sweden and the United Kingdom, on measures to ensure that the legal protection of children was commonly known and to tackle domestic violence, the delegation noted that the greatest importance was attached to the protection of victims, especially children, and to the change of behaviors of perpetrators of violence trough information campaigns and corrective and educational programs. Under the amendment to the Act on Countering Domestic Violence of 2010, that introduced the ban on the use of corporal punishment of children, the Ombudsman for Children was obliged to submit to the Parliament a report on the results of the implementation of the Act. The year 2012 was the Year of Janusz Korczak – Polish pre-war promoter of raising children without violence.

17. With regard to Norway's question on measures to review the 1984 Press law, to attune it to the new media reality, the Ministry of Culture and National Heritage had been working on a project to amend the law, which included a number of postulates put forward by journalists.

18. Regarding human rights training for the police and their evaluation, an issue raised by Slovenia, the delegation indicated that even though the exact direct effects of those trainings had not been measured, indirectly, they were reflected in the rate of public trust towards the police which had reached 70 percent.

19. On steps taken to counteract extensive pre-trial detentions and overcrowding of prisons, an issue raised by the United Kingdom, the number of imprisoned had been constantly dropping down to 95 percent of the capacities used, achieved partly as a result of a wider application of alternative punishment and the use of electronic surveillance systems.

20. Regarding Norway's question on measures taken to review article 212 of the Polish Penal Code that criminalizes libel and slander, penal sanctions had already been reduced in June 2010.

21. Norway, Sweden and Slovenia asked about women's access to sexual and reproductive rights. In recent years Poland had introduced a new right of the patient – the right to object to the doctor's opinion or judgment, if it affected the patient's rights or obligations. The Penal Code did not envisage any sanctions for women who had undergone an illegal abortion. Women, who had illegally terminated pregnancy, were offered medical and psychological help.

22. Norway asked about measures taken in order to ratify Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms on Discrimination. The Constitution in its article 32 stipulated that all persons were equal before the law and had the right to equal treatment by public authorities. As a result, no one can be discriminated against in political, social or economic life. More time was necessary for Poland to proceed with inter-ministerial consultations to conclude whether Poland can accede to the Protocol 12.

B. Interactive dialogue and responses by the State under review

23. During the interactive dialogue, 45 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

24. Malaysia remained concerned at the increased incidents of racial violence, abuse and discrimination against minority groups and the lack of attention given to investigating and prosecuting reported cases; and the reports of excessive use of force by law enforcement agencies. Malaysia also noted the continued social marginalization and discrimination of the Roma community. Malaysia made recommendations.

25. Mexico recognised Poland's legislative progress which inter alia related to a better definition of torture, freedom of expression and domestic violence. It also recognised the efforts in relation to the rights of persons with disabilities, the broadening of the scope of human trafficking and the increased protection for children against sexual violence. Mexico made recommendations.

26. Morocco welcomed Poland's ratification of a significant number of human rights instruments since 2008. It expressed satisfaction at the establishment of several human rights institutions, including three offices of the ombudsman. Morocco welcomed the work done by Poland in the Human Rights Council. Morocco made recommendations.

27. The Netherlands asked whether Poland would ensure that bodies such as the Ombudsman and the Office of the Plenipotentiary for Equal Treatment receive adequate funding; could elaborate on its plans to prevent racial incidents and hate crimes; and would consider amending the criminal code by including crimes motivated by homophobic and gender biases.

28. Norway recognised the efforts taken by Poland to fight discrimination. It took note of that concerns had been raised about the existence of article 212 of the Polish Penal Code, which criminalized defamation. Norway made recommendations.

29. Peru stated that Poland had made significant progress in human rights, which was evident by the adoption of measures for persons with disabilities, policies in the labour market, on gender equality, and those providing for greater participation of women in public life and in politics. Peru made recommendations.

30. Philippines noted that Poland increased the mandate of its Ombudsman for Children's Rights; the numerous human rights conventions that had been ratified; the consistent efforts to curb human trafficking; and the assertion that most of the standards for protection of migrant workers were on par with ICRMW. It made a recommendation.

31. The Republic of Korea commended Poland for its record of cooperation with the international human rights mechanisms and welcomed the progress made by Poland on issues that had been raised during its review. It made recommendations.

32. The Republic of Moldova welcomed Poland's efforts in promoting and protecting human rights including the actions taken by the Government Plenipotentiary for Equal Treatment and the extension of the competence of the Ombudsman for Children's Rights; and applauded Poland's progress in combating human trafficking. It made recommendations.

33. Romania stated that the measures presented by Poland demonstrated the commitment to improve the promotion and protection of human rights and that significant progress had been made in many areas. Some of the measures and projects could serve as examples of good practices. Romania made a recommendation.

34. Russian Federation expressed concern at the continued increase of xenophobic and racist attitudes, discrimination against religious and ethnic minorities, women, persons with disabilities, migrants and about the persistent problems relating to the judiciary and penitentiary systems. Russian Federation made recommendations.

35. Slovakia welcomed the mid-term report submitted by Poland during the first cycle. It noted Poland's achievements, the awarding of the "Cristal Balance of Administration of Justice" to the Polish Prison Services, the incorporation of human rights into education curricula, and the human rights programmes for police offices. Slovakia made recommendations.

36. Slovenia expressed its satisfaction with the numerous human rights training courses on prevention and combating of hate crimes provided for the Polish police but remained concerned at the excessive use of force by police officers. Slovenia noted with concern restrictive anti-abortion legislation and the lack of guidelines on threats to a pregnant woman's health or life. Slovenia made recommendations.

37. Spain raised concern that despite the anti-discrimination Law of 1st January 2011 there was widespread social perception that homosexuality was a disease and de facto discrimination in the workplace and educational centers persisted. It inquired whether Poland intended to launch education campaigns on sexual and emotional diversity or plan to grant a legal status to same sex couples. It made recommendations.

38. Sweden noted the 2010 law on legal prohibition of corporal punishment of children that facilitated early response to suspected child abuse from civil servants and social workers and Poland's efforts to address continuing occurrence of violence against children. Sweden noted that legislation did not provide women with the right to health and equal access to health as guaranteed by the Polish Constitution. Sweden made recommendations.

39. Switzerland noted that inquiries on alleged existence of secret detention centers or on secret transfer of prisoners have not yet led to full clarification of Poland's role. It stressed that racism is a universal problem, which must be fought with determination. It

noted that victims of racist's aggressions often belong to ethnic minorities or other vulnerable groups. It made recommendations.

40. Thailand acknowledged the establishment of the office of Plenipotentiary for Equal Treatment, the National Program against Racial Discrimination and the adoption of the Act on Implementation of certain European Provisions on Equal Treatment. It encouraged the government to eliminate discrimination against Muslim, Roma and people of African origin. It commended Poland for steps taken to eliminate discrimination against women especially in areas of employment and access to goods and services. It made recommendations.

41. Ukraine welcomed Poland's achievements in ensuring human rights of vulnerable groups such as women, children, elderly people, persons with disabilities and national minorities including Ukrainians. It commended Poland for its activities to counter discrimination based on racial, national or ethnic reasons.

42. The United Kingdom of Great-Britain and Northern Ireland welcomed the Act of 3rd December 2010 Implementing Certain European Provisions on Equal Treatment. It inquired about the implementation of the principle of equal treatment by the authorities and about the progress with respect to the ratification of CRPD. It noted the lack of hate crime provision in the Criminal Code that include sexual orientation and gender identity as possible ground or aggravating circumstance. It made recommendations.

43. The United States expressed concern that discrimination and violence against LGBT persons were still common and most hate crimes against LGBT persons went unreported. It mentioned the recent anti- Semitic incidents and regretted the halting pace of property restitution to Holocaust victims and their heirs. It made recommendations.

44. Uruguay praised the work of the national human rights institutions and the amendment to the law on domestic violence, among others. It valued the progress achieved in the realization of the economic, social and cultural rights but regretted that Poland considered ICESCR as a programmatic instrument. It expressed concern for the situation of irregular migrants and the vulnerable situation of unregistered children. It made recommendations.

45. Argentina acknowledged the extension of the powers of the children's ombudsman. It also welcomed Poland for amending the Family Code, which expressly prohibited corporal punishment, inflicted on minors by their guardians or people who have parental authority over them. It made recommendations.

46. In response to questions raised by the Netherlands and United Kingdom about changes in the Criminal Code concerning gender xenophobic crimes, the legal system addressed the rights of persons who were discriminated or who had been victim of xenophobic or gender motivated crimes and provide protection. The law provided possibilities of asserting claims against acts of such discrimination and receiving compensation. Poland is studying the possibility of introducing further changes in this area.

47. Addressing questions made by Mexico and Norway regarding defamation (article 212 of the Criminal Code), criminal provisions were changed in 2010 and deprivation of liberty for this offence had been eliminated. After an analysis Poland had found no grounds to eliminate the offence of defamation from the Criminal Code, as freedom of speech had also to be restricted in order to protect the human dignity. Article 212 of the Criminal Code had also been examined by the Constitutional Court and was found constitutional, as well as by the European Court of Human Rights.

48. On the issue of pre-trial detention raised by Spain, administration of excessive pre-trial detention was one of the biggest problems of the justice system and one of the government's priorities. Achievements had been made through legislative measures such as

limiting grounds for prolonging pretrial detention and including the obligation to credit pre-trial detention against future penalty. Over the recent period, awareness of judges had increased when it comes to applying international standards to pre-trial detention.

49. With regard to another issue raised by Spain, the legislative work to sign the International Convention for the Protection of All Persons from Enforced Disappearance is ongoing.

50. Responding to a question raised by the Netherlands about government plans to introduce additional measures to fight racist incidents and hate crimes, in 2011, a Council for Combating Racial Discrimination, Xenophobia and related Intolerance was set up, aiming at developing a plan of action to prevent and combat racial discrimination, xenophobia and related intolerance. The delegation expressed confidence on trainings delivered to the police, prosecutors and judges in fighting hate crimes and incidents. It added that by the end of 2011 38 000 police officers had been trained within the framework of a programme carried out in cooperation with ODIHR. Poland had collected statistics concerning racial crimes and had modified the questionnaire used adding a separate column where racial motivation of the crime was indicated. Poland had also been taking a number of steps to promote tolerance and raise the social awareness of the importance of tolerance, combating racism and xenophobia.

51. On the issue raised by Netherlands and Morocco regarding adequate financing of the institution of the Ombudsman and of the Office of the Government of Plenipotentiary for Equal Treatment, the delegation indicated that the latter was established on the basis of the law on the implementation of EU provisions on equal treatment. It added that the office was financed from the budgetary allocation of the Chancellery of the Prime Minister and had used EU funds in programs dedicated specifically to the elimination of discrimination. The delegation noted, that the Ombudsman and the Ombudsman for children, were independent institutions, with budgets adopted by the Parliament. Moreover, funds available to the Office of the Ombudsman for children, despite the financial difficulties had been increasing by 1 million each year since 2010.

52. Answering the question of Norway, the delegation stated that Poland had begun reflection on signing the European Convention on preventing and combating violence against women and domestic violence. On the question raised by Sweden on raising awareness on the prevention of violence against children, the action had focused on information campaigns, including media campaigns, notably in 2009 and 2011 to sensitize family members, perpetrators and the society in general. Campaigns included articles in the press, training seminars, as well as various actions within the framework of local programmes aiming at preventing violence against women and children.

53. With regard to the status of the process of ratification of the Convention on the Rights of Persons with Disabilities, an issue raised by several delegations, the draft law was being considered by the Parliament and there was a large support in favour of its adoption. Poland had to analyze the situation before considering ratification of the Convention and had taken legal measures to amend relevant national legislation in areas such as education of children, employment, access to labour market, mobility, etc. Poland also held information campaigns to promote the employment of persons with disabilities.

54. On the situation of women in the labour market, a number of programmes, co-financed by the European Union, were implemented. The delegation indicated that there was an increase in professional activity of women, in delaying retirement and in women starting their own business. Studies on the effectiveness of programmes established that professional trainings and guidance were particularly appreciated. Poland had also undertaken actions to incite men to take opportunities to temporarily postpone their professional activity and to take care of children.

55. With regard to the question of Uruguay on the implementation of social rights, the delegation stated that these rights were granted either by direct application of international agreements or through laws adopted by the Parliament. The implementation was under the oversight of the judiciary and there were some case law related to ILO conventions, European Social Charter and the ESCR Covenant.

56. The delegation thanked Norway, Slovenia and Sweden for addressing the issue of a proper implementation of provisions for therapeutic abortion. The Ministry of Health regularly addresses the question of the proper implementation of legally binding provisions to allow women to have abortion, making it clear that the invocation of the conscientious clause is possible solely in conditions when a woman can have a legal abortion from another surgeon. Action in this area, has led to an increase in legal abortions in Poland. This applies in such situations when abortions are conducted at a moment when it is highly probable that a child will be born with an irreversible defect.

57. On the question raised by Thailand on the protection against discrimination and allowing minority representatives, especially the Roma minorities, to participate in Polish public life, the delegation indicated that the Government realized that the Roma minority requires its most attention. Poland has a special program on Roma minority which focuses on education, labor market, legal awareness and culture. In terms of education of the Roma community, Poland has achieved a marked success. In six out of the 16 regions, school attendance in Roma students has increased dramatically to over 90 percent. Their legal awareness can be assessed by the fact that there is also an increase in the number of complaints on the non-compliance with their rights.

58. Responding to a question raised by Switzerland and an advance questions made by Belarus, on the measures to have a thorough review of the investigation of the presence of alleged secret detention centers in Poland, the delegation indicated that the investigation was conducted by prosecutors from the Division for Organized Crime and Corruption of the Krakow Appellate Prosecutor's Office. The investigation was taking place with the inclusion of all information available from international human rights organizations. Poland also responded to another advance question regarding the question on when will the Polish authorities invite the special procedures of the Human Rights Council who are involved in the preparation of the joint study to visit the country in order to examine the matter on-site, and bring the investigation process in conformity with international standards. It indicated that the investigation was carried out with respect to all parties to the procedure, in accordance with international standards. The parties have the right to submit motions and complaints against the procedures, scrutinized by an independent court. Poland also cooperates with international organizations and meetings between Prosecutors and the Council of Europe Commissioner for Human Rights and the Rapporteur of the European Parliament have been recently held in this regard.

59. Regarding an advanced question from Belarus, on whether Poland intends to allow international monitors of the investigation, uncover its results and brief the Human Rights Council on this matter and when, Poland indicated that the prosecutors that run the investigation will inform the general public of the results of this investigation after its closure. The investigation is pending and its deadline cannot be predicted. According to article 156, section 5 of the code of criminal procedure only the prosecutor in charge of the investigation can notify the public about the outcome of the investigation.

60. Australia welcomed the adoption of legislation governing discrimination, differential treatment and the role of the Ombudsperson. It remained concerned by discrimination against LGBT especially transgender persons facing obstacles in accessing health care. It referred to the "conscience clause" for Poland's pharmaceutical law to allow chemists to refuse selling birth control pills on the basis of religious belief. It made recommendations.

61. Austria asked for more information on the application of the domestic violence law that allowed for removal of an accused from premises jointly occupied with the victim. It expressed concerns about reports of excessive use of force by law enforcement officials. Austria also asked Poland to elaborate on the additional measures planned to reduce prison overcrowding and pre-trial detentions. It made recommendations.

62. Iraq praised Poland for the steps taken to promote human rights, including combating human trafficking and strengthening human rights institutions. Iraq asked for further clarifications on the amended Act related to domestic violence put into force in 2010. It made recommendations.

63. Botswana requested clarification on how punishment in the form of electronic surveillance was implemented and for more information on application of the family policy. It noted a decrease in employment in the agricultural sector and an increase in employment in the non-agricultural sectors and inquired whether this was a deliberate policy. It hoped that the Council for racial discrimination, xenophobia and intolerance would be adequately resourced to carry out its mandate.

64. Brazil expressed concern about the acts of discrimination and that the high prevalence of discriminatory attitudes and violence against a large variety of ethnic, national and religious groups were still reported by UNHCR, CERD and the Human Rights Committee. It welcomed the new law on Equal Treatment which came in force in 2011, but was concerned about the safety of LGBT people. Brazil made recommendations.

65. Chile commended Poland for measures taken to shorten legal proceedings length, the improvement of prison conditions, and for approving the law for the care of children under the age of 3. It valued the law on sign language, the rules for people with disabilities and its intention to ratify the Convention on rights of people with disabilities. It made recommendations.

66. China welcomed the positive measures adopted by Poland to promote employment and rights of women and children, and to combat domestic violence. It was concerned about racism and xenophobia. It asked about specific measures Poland had taken to promote the employment of persons with disabilities and youth. China made a recommendation.

67. Cuba noted the prevalence of racism in Poland and that even the police was discriminatory and tended to ignore racial crimes. It was concerned at the excessive use of force by law enforcement officers, failure to improve detention conditions, increase in gender inequality, alarming child poverty, limited measures against child exploitation, and Poland's involvement in extrajudicial renditions. Cuba made recommendations.

68. Egypt remained concerned about the limited nature of the measures undertaken in protecting children from sexual abuse and exploitation. It took note of the efforts at enhancing gender equality and the empowerment of women. Egypt remained concerned about the human rights situation of migrants, and national and religious minorities. It made recommendations.

69. Estonia commended Poland for implementing the recommendations from its first UPR and encouraged Poland to continue its efforts, particularly in combating domestic violence and human trafficking. It recognized the achievement in improving prison conditions and Poland's commitment to the freedom of expression, including liberalisation of relevant legislation. It welcomed the campaigns conducted against incitement to hatred based on ethnicity, religion and sexual orientation. Estonia made a recommendation.

70. France asked what specific measures Poland intended to adopt to address the issue of the refusal of some doctors to carry out abortions even when there were legal grounds for

doing so and whether it would extend the scope of grounds for abortion. It asked why Poland had not ratified the CRPD and the ICCPR-OP 2. France made recommendations.

71. Germany asked how Poland intended to step up the fight against racial discrimination and violence and whether it intended to sign Protocol No. 12 to the ECHR. It also asked how Poland would address the problem of increased resort to unsafe and clandestine abortion due to restrictive legislation against abortion and obstacles in cases of legal entitlement to abortion.

72. Guatemala expressed concern at the lack of a legislative framework to accommodate the principle of gender equality. It invited Poland to formulate an immigration policy to address racial abuse against migrants. It requested further details of domestic legislation and migratory practices, indicating in particular their equivalence to the minimum protection standards contained in the ICRMW. Guatemala made a recommendation.

73. Holy See highlighted the presence of a small number of illegal immigrants who were encountering difficulties in Poland, especially regarding new birth registrations, or the enrolment of their children in school. It warned that, without integration into the educational system, children ended up on the streets, where they easily became victims of trafficking and sexual exploitation. Holy See made recommendations.

74. Hungary noted the progress made by Poland since its first review with the adoption of anti-discriminatory law, and the shortening of court proceeding and pre-trial detention. It welcomed the prohibition of corporal punishment and the legislative initiatives on domestic violence, and noted the high percentage of dismissals of domestic violence cases. Hungary made recommendations.

75. India commended Poland for its achievement in education, including access to education to Roma children. However, it regretted that most children of illegal immigrants were excluded from education. India encouraged Poland to ensure that its draft Government Action Plan paid particular attention to vulnerable groups, including migrants. It highlighted concerns raised on the length of trials and pre-trial detention and on the issue of access to a lawyer by persons under detention. India made recommendations.

76. Indonesia welcomed the introduction of a new curriculum for children and young people with special educational needs, focusing on the need to support social skills and on the rights of persons with disabilities. It noted with appreciation measures adopted to combat racism and xenophobia, including establishing a special council and initiatives to make the Euro 2012 safe. Indonesia made recommendations.

77. Belarus invited Poland to use the review as an opportunity to examine its human rights record and consider its priorities through recommendations made by Belarus. It made recommendations.

78. Ireland welcomed measures adopted to shorten court proceedings, address prison overcrowding and strengthen the human rights infrastructure. It commended measures adopted to address social exclusion, including the phasing out of separate education, but urged further measures to address the problem of low school attendance and high dropouts among Roma children. It noted concerns raised about racial discrimination. Ireland made recommendations.

79. Italy welcomed Poland's comprehensive report which described the institutions and mechanisms in place for human rights protection, progress made in implementing the recommendations from its first UPR and concrete measures adopted. It expressed its confidence that Poland would continue to respect the principles of democracy and promotion of human rights that had allowed its society to achieve extraordinary results so quickly.

80. Liechtenstein welcomed the initiatives taken to improve the education of Roma children. It commended Poland on its adoption of legislation on domestic violence explicitly prohibiting corporal punishment in the home and other forms of care. It acknowledged Poland's commitment to international justice and congratulated it on amending its Criminal Code to comply with the Rome Statute. Liechtenstein made recommendations.

81. Lithuania noted Poland's efforts to maintain an integrated, but at the same multi-ethnic and multicultural society. Lithuania pointed out that the right of Lithuanians in Poland to education in their own language was being undermined because of the gradual closure of small ethnic schools due to underfunding, a lack of textbooks in the Lithuanian language and poorly-translated school examination questions. It was concerned about the rising inter-ethnic tension and violence. Lithuania made recommendations.

82. Uzbekistan noted the concern expressed by the treaty bodies about severe discrimination against women, lack of protection of women's rights and persistent gender inequalities. It also referred to concerns about widespread racial discrimination and violence, including by the police, and the lack of government measures to promote a more tolerant attitude towards foreigners. Uzbekistan made recommendations.

83. Responding to additional questions from Austria, China, Cuba, Egypt, Germany, Indonesia, Belarus, Ireland and Uzbekistan, the delegation indicated that the prosecution paid considerable attention to reports of offenses of racism and xenophobia. In 2011, Poland had addressed 323 such reports at national level, in 2006, 60 and in 2009, 166. In 2011, 85 persons were placed under investigation, and judicial procedures were initiated against 54 persons, resulting in 20 persons being convicted. In 78 cases, it was not possible to identify the offenders. The delegation noted that almost all decisions to dismiss proceedings were subjected to hierarchical review and in 2011, of 178 cases, irregularities were found in 69. Poland noted that 74 were offenses committed via Internet and 22 occurred during sport events. In 2009, one fascist organization was dissolved.

84. Poland addressed questions made by Austria and Iraq on the new preventive measure for victims of domestic violence, by which an accused can be ordered to leave the premises jointly occupied with the victim, and be obliged to restraint from contacting the victim. This measure may be ordered by the Court as an alternative to pre-trial detention. With the last amendment to the law, also the Public Prosecutor is able to issue such an order, if a justified risk exists of the perpetrator committing again the crime. The accused may also be indicated, at his own request, with a place of residence in centers ensuring night accommodation, with the exception that the accused cannot be in a center for victims of domestic violence.

85. Responding to a question from Liechtenstein, as to the implementation of the Rome Statute, the delegation noted that this implementation had already taken place and a new provisions were introduced to the Penal Code.

86. Concerning measures to reduce pretrial detention and overcrowding in detention facilities and alternative forms of punishment, and issue raised by Austria, Poland promoted alternative punishment, including in the form of electronic surveillance in all the territory. Poland comes second in Europe when it comes to number of people serving their sentence under electronic surveillance system. Reference was made to comments made by Slovakia on the recognition by the Council of Europe and the European Union of the Polish Prison Service of the "Cristal Balance of Administration of Justice", and the delegation noted that Poland was now implementing 2000 projects, which involve for example cleaning up cemeteries by convicted persons.

87. Addressing the recommendations made by Lithuania, Poland was deeply concerned with information about crime involving acts of violence or vandalism addressed against

persons who belong to Lithuanian national minority. Information about offenses against places of commemoration of Lithuanian minority was available, however any information on offenses against persons, had to their knowledge, not been made available. The delegation indicated that they would welcome receiving such information, if available in the Embassy of Lithuania in Poland, so that they can adequately address this matter. With regard to the financing of small minority schools, Poland informed, that financing on every pupil in such a school is already higher by 150% than in a regular school and from next year it will rise by another 80%. Poland was also working on regulations to set up textbooks for national minorities.

88. Responding to questions from Austria and Germany on measures to counteract hate crimes on different grounds, Poland referred to a number of measures aimed at increasing the awareness of the police and border guards, both at local and central level. It also provided information on other specific programs.

89. To conclude, Poland thanked delegations for their interventions and recommendations. As indicated in their introductory remarks, Poland intends to communicate their detailed position on all recommendations after holding intergovernmental consultations, and before the September session of the Human Rights Council.

II. Conclusions and/or recommendations

90. **The recommendations formulated during the interactive dialogue and listed below will be examined by Poland who will provide its responses in due time, but no later than the 21st session of the Human Rights Council in September 2012. These responses will be included in the outcome report adopted by the Human Rights Council at its 21st session.**

- 90.1. **Ratify the International Convention for the Protection of all Persons from Enforced Disappearance (Spain);**
- 90.2. **Ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol (Spain);**
- 90.3. **Ratify the Second Optional Protocol to the Covenant on Civil and Political Rights (Spain);**
- 90.4. **Ratify the Protocol to the Covenant on Economic, Social and Cultural Rights (Spain);**
- 90.5. **Ratify the second Optional Protocol to the International Covenant on Civil and Political Rights, abolishing the death penalty (Switzerland);**
- 90.6. **Ratify the Second Optional Protocol to ICCPR (Estonia);**
- 90.7. **Swiftly finalize the ratification of CRPD and its Optional Protocol (Estonia);**
- 90.8. **Ratify the second Optional Protocol to the Covenant on Civil and Political Rights, abolishing the death penalty, signed in 2000 (France);**
- 90.9. **Ratify the second Optional Protocol to ICCPR (Uzbekistan);**
- 90.10. **Reconsider ratifying the International Convention on the Protection of the Rights of all the Migrant Workers and Members of their Families (Mexico);**
- 90.11. **Consider ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (Morocco);**

- 90.12. Consider ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (Peru);
- 90.13. Reiterates the recommendation for Poland to consider ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (Philippines);
- 90.14. Reiterates the recommendation for Poland to consider ratifying ILO Convention 189 on decent work for domestic workers (Philippines);
- 90.15. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Egypt);
- 90.16. Make efforts for early ratification of the Convention on the Rights of Persons with Disabilities (The Republic of Korea);
- 90.17. Ratify the Convention on the Rights of Persons with Disabilities (Slovakia);
- 90.18. Consider new measures to increase respect for the rights of persons with disabilities and continue to strengthen its efforts to ratify the Convention on the Rights of Persons with Disabilities (Argentina);
- 90.19. Sign and ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities (Austria);
- 90.20. Accede to the Convention against Enforced Disappearance (Uruguay);
- 90.21. Recognize the competence of the Convention against Enforced Disappearance's monitoring body to receive and consider communications submitted by individuals claiming to be victims of violations of the provisions of this Convention, in compliance with Article 31 (Uruguay);
- 90.22. Intensify its efforts to ratify the International Convention for the Protection of All Persons from Enforced Disappearances (Argentina);
- 90.23. Re-evaluate the ratification of the Convention for the Protection of All Persons from Enforced Disappearance (Chile);
- 90.24. Sign and ratify the Convention for the Protection of All Persons from Enforced Disappearance (France);
- 90.25. Consider an early ratification of the newest international human rights instrument – the third Optional Protocol to the Convention on the Rights of the Child on communication procedure (Slovakia);
- 90.26. Ratify the Kampala amendment to the Rome Statute, if possible with a view to contributing to the activation of the jurisdiction of the International Criminal Court over the crime of aggression at the beginning of 2017 (Liechtenstein);
- 90.27. Consider signing and ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (Norway);
- 90.28. Sign the Council of Europe Convention on preventing and combating violence against women and domestic violence (Austria);
- 90.29. Take the necessary measures to give full effectiveness to the ICESCR in Poland's domestic legal system (Uruguay);

- 90.30. **Persist with the actions undertaken by the Government Plenipotentiary for Equal Treatment (The Republic of Moldova);**
- 90.31. **Take measures to ensure that current legal protection of children is recognized and commonly known in public (Sweden);**
- 90.32. **Continue to allocate sufficient financial and human resources to the human rights institutions in order for them to be able to fulfil their mandate (Morocco);**
- 90.33. **Provide the Ombudsperson's office, which is responsible under the legislation for assisting alleged victims of discrimination and conducting independent research and issuing recommendations to achieve equal treatment, with the additional financial resources necessary to fulfil its new obligations (Norway);**
- 90.34. **Provide the Ombudsman with the necessary material resources in compliance with the Paris Principles (Spain);**
- 90.35. **Ensure the Office of the Ombudsperson is sufficiently resourced to carry out anti-discrimination functions (Australia);**
- 90.36. **Adopt measures to adapt the migratory policies to the standards established by the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (Mexico);**
- 90.37. **Establish a national plan or programme that favour the full enjoyment of all the human rights by the women (Mexico);**
- 90.38. **Ensure the compliance of the steps which were stipulated by legislation on lustration with the obligation of Poland under the core international human rights instruments (Russian Federation);**
- 90.39. **Take measures to guarantee full access to education and to health to all vulnerable groups, including illegal migrants (Holy See);**
- 90.40. **Take immediate steps in order to assure that acts of interethnic violence will not be repeated and promote understanding between different national groups (Lithuania);**
- 90.41. **Inform the Council on the measures to make the provision prohibiting corporal punishment in all settings widely respected in the country (Hungary);¹**
- 90.42. **Confirm in deed the status of a standing invitation to the special procedures, in particular, issue an invitation for thematic visits of the special rapporteur on torture, working group on arbitrary detention and the working group on disappearances (Belarus);**
- 90.43. **Draft legislation in line with the international standards in the area of combating discrimination against women (Belarus);**
- 90.44. **Develop and start the implementation of the policy on reducing the wage gap between man and women, including in the sector of low paid women jobs (Uzbekistan);\$**

¹ The recommendation as read during the interactive dialogue: Inform the Council in their mid-term report on the measures to make the provision prohibiting corporal punishment in all settings widely respected in the country.

- 90.45. Redouble its efforts to address racially motivated hate crimes by ensuring that all such incidents are thoroughly investigated and that perpetrators are brought to justice, and to continue to raise awareness of its people on this issue (Malaysia);
- 90.46. Adopt additional measures in order to avoid the crime of incitement to hate and to promote the fight against discrimination and racism (Peru);
- 90.47. Strengthen measures to prevent racist violence, hate crimes and discrimination against foreigners, especially Muslims, Roma and the people of African origin (The Republic of Korea);
- 90.48. Continue its efforts to investigate racially motivated crimes and to bring perpetrators to justice so that members of vulnerable groups can live in safety and dignity (Switzerland);
- 90.49. Put in place a legislation to criminalize the promotion of racial hatred and discrimination as well as further promote tolerance through public awareness campaigns and education (Thailand);
- 90.50. Enact public awareness campaigns and government training, as well as increased enforcement of anti-discrimination and hate crime laws, in order to decrease anti-Semitism and discrimination against members of ethnic minority groups (United States);
- 90.51. Take measures to combat de facto and de jure discrimination towards irregular migrants (Uruguay);
- 90.52. Consider establishing in its domestic legal system norms that strengthen the fight against discrimination (Argentina);
- 90.53. Further strengthen its policies and programmes aimed at combating discrimination and intolerance and ensure that incidents are subject to prompt and independent investigation and effective prosecution (Austria);
- 90.54. Strengthen measures to eradicate incitement to ethnic or religious hatred and xenophobia (Iraq);
- 90.55. Adopt strong anti-discrimination policies and address hate crimes by ensuring that such incidents are thoroughly investigated (Brazil);
- 90.56. Make more efforts in law making and law enforcement to combat incitement to racial and religious discrimination in the internet (China);
- 90.57. Take effective measures to combat racism and incitement to racial hatred (Cuba);
- 90.58. Take effective measures to combat police brutality (Cuba);
- 90.59. Take effective measures to combat child poverty (Cuba);
- 90.60. Further adopt and enact legislation to criminalise racial and racially-motivated and hate crimes; to institutionalise national mechanisms for the collection of data on, and monitoring of, incidents of racism, racial discrimination and xenophobia; and to adopt laws and concrete measures to ensure the prompt, impartial and independent investigation, prosecution and punishment of perpetrators of incidents of racial, and racially-motivated hate speech, discrimination, and crimes (Egypt);
- 90.61. Accelerate the finalization of the action plan by the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance

with a view to ensure a well-planned and coordinated approach in combating acts of racism and xenophobia (Indonesia);

90.62. Intensify measures to combat the manifestation of racism and anti-Semitism, including by police officers (Belarus);

90.63. Consider, as necessary, strengthening anti-discrimination policies and measures, paying particular attention to reception centres for asylum seekers and within the national programme against Racial Discrimination, Xenophobia and related intolerance (Ireland);

90.64. Conduct immediate, independent, objective and adequate investigations in all cases of racially motivated crimes and hate crimes in the framework of judicial process (Uzbekistan);

90.65. Implement more effective monitoring of alleged cases of discrimination, ethnic and national hostilities, and racial or ethnic hatred (Uzbekistan);

90.66. Include sexual orientation and gender identity in the hate speech provisions of the national Criminal Code, and adopt appropriate legal measures making sexual orientation and gender identity as possible discrimination grounds in any context (Slovenia);

90.67. Guarantee the full enjoyment of the rights of the LGBT community (Spain);

90.68. Recognize gender identity as possible ground for discrimination and gender identity and sexual orientation as an aggravating circumstance for hate crime (UK);

90.69. Adopt regulations recognising the rights of same-sex couples and of self-defined gender or transgender persons (Australia);

90.70. Strengthen anti-discrimination laws with regard to a better protection of LGBT persons and persons with disabilities (Austria);

90.71. The adoption of policies that safeguard the rights of LGBT people and fight discrimination based on sexual orientation (Brazil);

90.72. Consider the introduction of legislative amendments which permit more efficient indictment for crimes related to torture and other cruel, inhuman or degrading treatments (Peru);

90.73. Conduct, jointly with special procedures of the Human Rights Council, a comprehensive and impartial investigation of all cases of cruel treatment and the use of excessive force by police officers against the participants in demonstrations that were held in Poland in November, 2011 (Belarus);

90.74. Solve the problem of the prison overcrowding and make the detention conditions to meet international standards (Russian Federation);

90.75. Take additional legal and other measures to reduce pre-trial detention and overcrowding in detention facilities through increased resort to alternative forms of punishment (Austria);

90.76. Take effective measures to improve conditions in prisons and reduce overcrowding (Cuba);

- 90.77. Strengthen measures to address overcrowding in detention centres, including through increased resort to alternative forms of punishment and adopt measures to reduce the use of pre-trial detention (Ireland);
- 90.78. Establish a specific and comprehensive plan to combat gender violence and provide it with the necessary resources for its implementation (Spain);
- 90.79. Improve access to justice of the victims of domestic violence (Hungary);
- 90.80. Continue to support the reform of the legislation on domestic violence by conducting public awareness-raising and providing professional training on the provisions of the 2010 Act on the Prevention of Domestic Violence to ensure its effective implementation (Liechtenstein);
- 90.81. Ensure that victims of domestic violence have access to adequate assistance, including legal and psychological counselling, medical help and shelter (Liechtenstein);
- 90.82. Continue to take measures to guarantee the rights of victims of the crime of trafficking, especially in the area of physical and psychological care (Chile);
- 90.83. Continue to reinforce actions aimed at protecting children against violence, cruelty, exploitation, demoralisation, neglect and other forms of maltreatment (The Republic of Moldova);
- 90.84. Bring its domestic legislation relating to the protection of the rights of children, especially in cases of child prostitution, child pornography, and child victims of trafficking, in line with its obligations under the CRC (Thailand);
- 90.85. Adopt and enact laws on the sale of children, child prostitution and child pornography, and other forms of sexual exploitation of children (Egypt);
- 90.86. Adopt immediate measures, including legislative to eradicate sexual exploitation of children and recruitment of adolescents into prostitution. Provide for the relevant legal protection for child victims of human trafficking in the framework of judicial process (Belarus);
- 90.87. Continue making efforts to reform the judicial system with a view to further improving its efficient management including measures to ensure timely due process (The Republic of Korea);
- 90.88. Ensure that the right to fair trial is not affected by the excessive length of the court proceedings and of excessive pre-trial detention (United Kingdom of the Great Britain and Northern Ireland);
- 90.89. Expand the use of technology in order to reduce judiciary delays and improve judicial efficiency (United States of America);
- 90.90. Reform the criminal procedure in order to avoid frequent delays of preventive detention (Spain);
- 90.91. A thorough reform of the current penitentiary system which is obsolete and insufficient (Spain);
- 90.92. Consider a maximum, non-extendable term of pre-trial detention, and use alternative measures to pre-trial detentions and take appropriate measures to deal with concerns and ensuring access to legal services, particularly for those under detention (India);

- 90.93. **Improve the access to lawyers and the level of access of lawyers to documents of the criminal cases in order to ensure the right to fair trial (Uzbekistan);**
- 90.94. **Institute outreach by police and law enforcement to LGBT persons and communities to increase reporting of hate crimes (United States of America);**
- 90.95. **Take more effective steps to eradicate cases of police misconduct including by establishing independent body to investigate police misconduct (Malaysia);**
- 90.96. **Ensure protection of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children (Australia);**
- 90.97. **Pass legislation giving same-sex couples the possibility to enter into a civil union contract (France);**
- 90.98. **Continue its efforts to assure birth registration of all children including the children of undocumented migrants (Holy See)²;**
- 90.99. **Continue to protect the natural family and marriage, formed by a husband and a wife, as the basic cell of society, as well as the right to life (Holy See);**
- 90.100. **Review the article 212 of the Penal Code criminalising defamation, with the aim of removing it from the Penal Code (Norway);**
- 90.101. **Provide access to the means of communication to all groups of society so that they may exercise fully their right to freedom of expression (Holy See);**
- 90.102. **Continue to promote the participation of women in the public and political life of the country (Republic of Moldova);**
- 90.103. **Continue the policy of increasing the number of women in public and political life (Romania);**
- 90.104. **Further enhance and encourage the political participation of women, including through awareness-raising campaigns (Egypt);**
- 90.105. **Implement a variety of measures to strengthen the participation of women in all social areas (Guatemala);**
- 90.106. **Ensure, as a minimum, that women can access lawful abortion by creating clear, legally binding regulations for the implementation of the 1993 Family Planning Act (Norway);**
- 90.107. **Define unambiguously the circumstances under which therapeutic abortion is allowed (Slovenia);**
- 90.108. **Provide women that have been unjustifiably denied access to adequate reproductive health services with an effective redress mechanism (Slovenia);**
- 90.109. **Examine possible ways to make the bureaucratic process required when terminating a pregnancy as quick as possible, and maximize its efforts to make sure that the process is conducted in a professional way (Sweden);**

² The recommendation as read during the interactive dialogue: Continue its efforts to assure birth registration of all children.

- 90.110. **Implement reforms to ensure everyone has a right to the enjoyment of the highest attainable standard of health in Poland (Australia);**
- 90.111. **Adopt measures to guarantee full access to education for all children in the country (India);**
- 90.112. **Continue their efforts in supporting equal educational opportunities for children and young people with special educational needs (Indonesia);**
- 90.113. **Enhance effort towards full integration of the Roma community into the society with a view to improve their overall living condition (Malaysia);**
- 90.114. **Continue to move forward in the promotion and protection of the human rights of the minorities, in particular in the areas of health, employment and housing (Mexico);**
- 90.115. **Strengthen its efforts to fully integrate the Roma into society and to combat discrimination against them, so they can enjoy their economic, social and cultural rights, especially in education, employment and housing (Chile);**
- 90.116. **Continue its efforts to support Roma-children education, including by increasing the availability of bilingual education (Liechtenstein);**
- 90.117. **Ensure full implementation of the right to education of persons belonging to national minorities in particular to refrain from closing schools with minority language of instruction, to provide necessary funding for these schools, also to fully finance publication of textbooks in national minorities languages (Lithuania);**
- 90.118. **Improve the detention conditions of children of foreigners who seek to receive the status of refugees and who live in the territory of Poland in closed facilities (Russian Federation);³**
- 90.119. **Ensure basic services for children of irregular migrants, including education, health and medical care (Uruguay);**
- 90.120. **Pay more attention to solve the problem of birth registration of illegal migrants (Iraq);**
- 90.121. **Take measures to improve detention conditions of migrant- children and ban legally the practice of detaining those children (Belarus);**
- 90.122. **Carry out with more transparency the ongoing investigations concerning the alleged existence of secret detention centers on its territory and the transfer of prisoners in connection with the fight against terrorism (Switzerland);**
- 90.123. **Carry out a thorough, independent and effective inquiry about the participation in the CIA's program of extra-judicial renditions and secret detentions. Make public the findings of the inquiry and bring to justice those found guilty (Cuba);**
- 90.124. **Conduct a comprehensive and transparent investigation into all human rights violations in the context of the fight against terrorism, in particular, the complicity of the Polish authorities with lengthy secret detention of persons,**

³ The recommendation as read during the interactive dialogue: Improve the detention conditions of children of foreigners, who seek to receive the status of refugees and children of refugees, who live in the territory of Poland in closed facilities.

their secret transfer and a possible use of torture against them. To bring to justice the officials involved in such violations (Belarus).

91. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.

Annex

Composition of the delegation

- Head of Delegation: Ms. Grażyna Bernatowicz, Under Secretary of State at the Ministry of Foreign Affairs of Poland;
- Deputy Head of Delegation: Mr. Remigiusz A. Henczel, Ambassador, Permanent Representative of the Republic of Poland to the UN Office at Geneva;
- Ms. Krystyna Żurek, Director of the Department of United Nations and Human Rights, Ministry of Foreign Affairs;
- Mr. Jerzy Bauriski, Deputy Director of the Department of United Nations and Human Rights, Ministry of Foreign Affairs;
- Ms. Dagmara Korbaśńska, Director of the Mother and Child Department, Ministry of Health;
- Mr. Zbigniew Górszczyk, Director of the Department for Organized Crime and Corruption, Prosecution General of the Republic of Poland;
- Mr. Michał Zoń, Director of the Legal Office, Central Board of Prison Service, Ministry of Justice;
- Ms. Agnieszka Dąbrowiecka, Deputy Director, Department of International Cooperation and Human Rights, Ministry of Justice;
- Mr. Grzegorz Błażewicz, Head of the Mental Health Unit, Office of the Ombudsman for Patient's Rights;
- Ms. Marzena Górczyńska, Head of Unit for International Procedures of Human Rights Protection, Department of International Cooperation and Human Rights, Ministry of Justice;
- Ms. Joanna Maciejewska, Counsellor to the Minister, Ministry of Labour and Social Policy;
- Mr. Mariusz Lewicki, Counsellor, Permanent Mission of the Republic of Poland to the UN Office at Geneva;
- Ms. Małgorzata Skórka, Chief Expert, Ministry of National Education;
- Ms. Wirginia Prejs, Chief Expert, Unit for the Protection of Human Rights, Department of Control, Complaints and Requests, Ministry of Interior;
- Ms. Iwona Banackiewicz-Łuszcz, Chief Expert, Office of the Government Plenipotentiary for Equal Treatment, Chancellery of the Prime Minister;
- Ms. Wiesława Kostrzewa-Zorbas, Chief Expert, Office of the Government Plenipotentiary for Equal Treatment, Chancellery of the Prime Minister;
- Mr. Michał Erenz, Chief Expert, Department for Denominations and National and Ethnic Minorities, Ministry, Ministry of Administration and Digitalization;
- Ms. Karolina Marcjanik, Chief Expert, Department for Refugee Procedures, Office for Foreigners;
- Ms. Agata Jaształ, Chief Expert, Office of the Ombudsman for Children's Rights;

- Ms. Monika Strycharz, Senior Expert, Office of the Ombudsman for Patient's Rights;
 - Mr. Piotr Turek, Public Prosecutor, Prosecution General of the Republic of Poland;
 - Ms. Aleksandra Wojtylak, III Secretary, Human Rights Division, Department of the United Nations and Human Rights, Ministry of Foreign Affairs;
 - Ms. Urszula Kozłowska, Expert, Unit for the Prevention of Human Trafficking, Department for the Migration Policy, Ministry of Interior;
 - Ms. Katarzyna Górska-Łazarz, Interpreter;
 - Mr. Marcin Turski, Interpreter.
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