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paragraph 5 of the annex to Human Rights Council
resolution 16/21**

Poland*

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, of the Office of the High Commissioner for Human Rights (OHCHR) and from other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* Late submission.

I. Background and framework

A. Scope of international obligations¹

Universal human rights treaties²

| | <i>Status in previous cycle</i> | <i>Action after review</i> | <i>Not ratified/not accepted</i> |
|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-------------------------------------------------------------------------------------|
| <i>Ratification, accession or succession</i> | ICERD (1968) ICESCR (1977) ICCPR (1977) CEDAW (1980) CAT (1989) OP-CAT (2005) CRC (1991) OP-CRC-SC (2005) OP-CRC-AC (2005) | -- | ICCPR-OP 2 (signature only, 2000) CRPD (signature only, 2007) ICRMW CED |
| <i>Reservations, declarations and/or understandings</i> | ICCPR-OP 1 (Reservation art. 5) CAT (Reservation arts. 20 and 30) ICERD (Reservation arts. 17 and 18) CRC (arts. 7, 24 (2) (f), 38 and 12-16) CRPD (Reservations made upon signature in 2007, art. 23 and 25) | -- | -- |
| <i>Complaint procedures³</i> | ICERD, art. 14 (1998) ICCPR-OP 1 (1991) OP-CEDAW (2003) CAT, art. 22 (1993) ICCPR, art. 41 (1990) | -- | OP-ICESCR OP-CRPD CED, art. 31 ICRMW, art. 77 CRC-OPIC |

Other main relevant international instruments⁴

| | <i>Status in previous cycle</i> | <i>Action after review</i> | <i>Not ratified</i> |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------|
| <i>Ratification, accession, succession</i> | Convention on the Prevention and Punishment of the Crime of Genocide | -- | -- |
| | 1949 Geneva Conventions ⁵ Additional Protocols I and II to the 1949 Geneva Conventions ⁶ | Additional Protocol III to the 1949 Geneva Conventions ⁷ | -- |

| <i>Status in previous cycle</i> | <i>Action after review</i> | <i>Not ratified</i> |
|-------------------------------------------------------|----------------------------|---------------------------------------------------------|
| Conventions on Refugees ⁸ | -- | -- |
| ILO Fundamental Conventions ⁹ | -- | Conventions on stateless persons ¹⁰ |
| UNESCO Convention against Discrimination in Education | -- | ILO Convention No. 169 on indigenous and tribal peoples |
| Rome Statute of the International Criminal Court | -- | ILO Convention No. 189 on domestic workers |
| Palermo Protocol ¹¹ | -- | -- |

1. The Special Rapporteur on Trafficking in Persons, especially in women and children recommended that Poland ratify ICRMW.¹² The Committee on Economic, Social and Cultural Rights (CESCR) encouraged Poland to consider ratifying OP-ICESCR, CRPD, ICRMW and CED.¹³ The Committee on Elimination of Racial Discrimination (CERD) made similar recommendations.¹⁴ Furthermore, the Human Rights Committee (HR Committee) invited Poland to ratify the ICCPR-OP 2.¹⁵

2. UNHCR recommended that Poland accede to the 1954 Convention on the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness.¹⁶

B. Constitutional and legislative framework

3. In 2009, CESCR was concerned that Poland still views the Covenant as programmatic, aspirational and not justiciable. It remained concerned that Poland has not yet taken measures to ensure that ICESCR is given full effect in its domestic legal order, especially in the light of the decision of the Supreme Court in 2000 to the effect that ICESCR provisions could not be invoked by individuals before national courts.¹⁷ In 2011, the Special Rapporteur on Toxic Waste made similar observations.¹⁸ CESCR urged Poland to ensure that the provisions of ICESCR are made justiciable and that effective remedies are available to victims of violations of economic, social and cultural rights.¹⁹

C. Institutional and human rights infrastructure and policy measures

| <i>National human rights institution</i> | <i>Status in previous cycle</i> | <i>Status in present cycle</i> |
|--------------------------------------------------------|---------------------------------|--------------------------------|
| Commissioner for Civil Rights Protection ²⁰ | A (2007) | A (2007) |

4. CESCR urged Poland to ensure that the Office of the Commissioner for Civil Rights Protection functions in conformity with the Paris Principles, and monitors the realization of all economic, social and cultural rights.²¹

5. In 2009, the Committee on the Rights of the Child (CRC) recommended that Poland continue to provide the Ombudsman for Children with sufficient financial and human resources to exercise its mandate.²²

6. In 2009, CERD noted with appreciation the establishment, in 2008, of the office of the Plenipotentiary for Equal Treatment, which coordinates Government actions to combat racial discrimination and monitors policy in this area.²³

II. Cooperation with human rights mechanisms

7. Poland prepared and submitted a mid-term review regarding the follow-up to the recommendations put forward during the universal periodic review held in 2011.²⁴

8. UNESCO stated that Poland did not report to UNESCO on the measures taken for the implementation of the Convention against Discrimination in Education for the period of 2000-2005.²⁵

A. Cooperation with treaty bodies²⁶

Status of reporting

| <i>Treaty body</i> | <i>Concluding observations (COBs) included in previous review</i> | <i>Latest report submitted since previous review</i> | <i>Latest COBs</i> | <i>Reporting status</i> |
|--------------------|-------------------------------------------------------------------|------------------------------------------------------|--------------------|------------------------------------------------|
| CERD | March 2003 | 2008 | August 2009 | Twentieth and twenty-first report due 2012 |
| CESCR | November 2002 | 2007 | November 2009 | Sixth report due 2014 |
| HR Committee | November 2004 | 2009 | October 2010 | Seventh report due 2015 |
| CEDAW | January 2007 | -- | -- | Seventh and eighth report overdue since 2010 |
| CAT | May 2007 | -- | -- | Sixth report overdue since 2011 |
| CRC | September 2002 | -- | -- | Third and fourth report overdue since 2008 |
| -- | -- | -- | September 2009 | Initial OPSC and OPAC reports reviewed in 2009 |

Responses to specific follow-up requests by treaty bodies

Concluding observations

| <i>Treaty body</i> | <i>Due in</i> | <i>Subject-matter</i> | <i>Submitted in</i> |
|--------------------|---------------|---------------------------------------------------------------------------|---------------------|
| HR Committee | 2011 | Domestic violence, access to reproductive health, detention of foreigners | Overdue |
| CERD | 2010 | Discrimination against Roma, racially motivated crimes, anti-Semitism | Overdue |

9. CESCR welcomed the submission by Poland of the updated common core document²⁷

B. Cooperation with special procedures²⁸

| | <i>Status during previous cycle</i> | <i>Current status</i> |
|---------------------------------------------------------------|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Standing invitation</i> | Yes | Yes |
| <i>Standing invitation</i> | Yes | Yes |
| <i>Visits undertaken</i> | None | Visit of the Special Rapporteur on the right to health (5 to 11 May 2009); Special Rapporteur on trafficking in persons (24 to 29 May 2009); ²⁹ Special Rapporteur on toxic waste (25 to 31 May 2011) ³⁰ |
| <i>Visits agreed to in principle</i> | None | None |
| <i>Visits requested</i> | None | None |
| <i>Responses to letters of allegations and urgent appeals</i> | .. | During the period under review, one communication was sent. The Government did not reply to this communication. |

C. Cooperation with the Office of the High Commissioner for Human Rights

10. Poland contributed financially to OHCHR in 2008, 2009 and 2011.³¹

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

11. CESCR expressed its concern at the absence of a framework legislation embodying the principle of equal rights of men and women. It urged Poland to promote and incorporate the principle of equal rights of men and women in its legislation and to take effective measures, including temporary special measures where necessary, to ensure equality between men and women.³²

12. CERD remained concerned at the prevalence of racial violence and other acts of racial abuse against members of groups of persons of Arab, Asian and African origin.³³ In 2010, HR Committee remained concerned about persistent manifestations of anti-Semitism,

including physical attacks, desecration of Jewish cemeteries and the dissemination of anti-Semitic propaganda through the Internet and print media.³⁴ CERD made similar observations.³⁵ HR Committee was concerned about a significant rise in cases of racial hatred filed with law enforcement agencies. It also noted with regret the reportedly low investigation and prosecution rate.³⁶

13. UNHCR observed that the local communities show xenophobic and discriminatory attitudes towards persons of concern to UNHCR, especially in terms of accepting the reception centres in their neighbourhoods. It mentioned the closure of the reception centre in Katowice by the Office for Foreigners in 2009 as a result of pressure by the city authorities and of the reception centre in Lomza in 2010 because of pressure exercised by local society. Furthermore, in the period of 2009-2011, several incidents were reported in different locations, such as Lomza, Radom and Bialystok, showing existing tensions between populations of concern and the local society. The growing number of written and oral statements of xenophobic and discriminatory character was observed.³⁷ UNHCR recommended that Poland develop anti-discrimination policies and undertake efforts to respond to discrimination and xenophobia in areas hosting reception centres for asylum-seekers to enhance the reception and integration of persons of concern to UNHCR.³⁸

14. HR Committee recommended that Poland step up efforts to promote tolerance and combat prejudice, particularly within the National Programme against Racial Discrimination, Xenophobia and Related Intolerance, which was extended until 2013.³⁹ CERD urged Poland to expedite the passing of legislation to criminalize the promotion of racial hatred and racial discrimination and the dissemination of racist material and ideology and to take firm measures to prosecute and punish those responsible.⁴⁰ CERD recommended that Poland enhance 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 by continuing to raise awareness of the extent of ethnic discrimination and intolerance among local authorities and the general public.⁴¹

15. In 2010, HR Committee was concerned that the Law on Equal Treatment is not exhaustive and does not cover discrimination based on sexual orientation, disability, religion or age in the fields of education, health care, social protection and housing. Poland should further amend the Law so that the issue of discrimination based on all grounds and in all areas is adequately covered.⁴² Furthermore, CESCR remained concerned at the de facto discrimination experienced by some disadvantaged and marginalized individuals and groups, such as ethnic minorities, persons with disabilities, and lesbian, gay, bisexual and transgender persons in the enjoyment of their economic, social and cultural rights.⁴³

16. HR Committee noted with concern a significant rise in manifestations of hate speech and intolerance directed at lesbian, gay, bisexual and transgender people. It also regretted the absence of a provision in the Penal Code on hate speech and hate crimes based on sexual orientation or gender identity as punishable offences. Poland should ensure that all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity are thoroughly investigated. It should also: legally prohibit discrimination on the grounds of sexual orientation or gender identity; and amend the Penal Code to define hate speech and hate crimes based on sexual orientation or gender identity among the categories of punishable offences.⁴⁴ CESCR recommended that Poland counter homophobic attitudes in educational settings, ensuring that individuals are not discriminated against on the basis of their sexual orientation and identity.⁴⁵

B. Right to life, liberty and security of the person

17. HR Committee was concerned about reports of excessive use of force by law enforcement officials and a rise in the number of investigations of misconduct. Poland

should intensify its efforts to eradicate cases of police misconduct, through, *inter alia*, thorough and impartial investigation and prosecution of those responsible. It should also establish an independent body to investigate police misbehaviour, providing for the possibility of complainants to submit a complaint directly and confidentially to this body.⁴⁶

18. UNHCR noted that the grounds for detention for asylum-seekers and refugees under the legislation are too broad. UNHCR was concerned that the practice of the authorities demonstrated the lack of use of alternatives to detention.⁴⁷ UNHCR recommended the introduction of alternative measures to detention for asylum-seekers and refugees.⁴⁸ Furthermore, HR Committee was concerned about the absence of specific laws concerning the detention of foreigners after the deadline for their expulsion and that some have been detained in transit zones beyond the deadline for their expulsion without a court order.⁴⁹

19. HR Committee noted with concern reports about inadequate medical assistance in some detention centres for asylum-seekers, and about poor conditions in transit zones and deportation detention centres.⁵⁰

20. HR Committee was concerned that children who have run away from foster care centres can allegedly be placed in police custody centres. It recommended that Poland introduce new legislation governing in detail the living conditions to be secured in police custody centres for children and the rules governing children's entry and stay in such facilities. It should also ensure that children who have not committed a punishable act are not placed in such custody centres.⁵¹

21. While welcoming the reduction in the number of persons held in pre-trial detention,⁵² HR Committee was concerned that overcrowding in detention centres and prisons continues to be a problem. Poland should take measures to address overcrowding in detention centres and prisons, including through increased resort to alternative forms of punishment and reduce the use of pre-trial detention.⁵³

22. HR Committee expressed its concern about: the continued problem of domestic violence; the high percentage of dismissals of domestic violence cases at the prosecution level; lengthy prosecution procedures; and an insufficient number of support centres for victims of domestic violence. It also noted that, although the law provides for restraining orders against perpetrators, police officers do not have the authority to issue immediate restraining orders at the scene of an alleged crime. Poland should amend the Law on Domestic Violence to empower police officers to issue immediate restraining orders at the scene.⁵⁴

23. CRC remained concerned that the legislation does not criminalize all the acts constituting offences as per articles 2 and 3 of the OP-CRC-SC. Specifically, CRC regretted the lack of legislation specific to the sale of children and was concerned at the absence of a definition of "child prostitution" and of "sale of children" in the Penal Code and at the lack of explicit protection in the Code for children between age of 15 and 18 from child pornography or child prostitution.⁵⁵ CRC was concerned that preventive measures against the exploitation of children, including prostitution and pornography and measures to identify the causes and extent of the problem, remained limited.⁵⁶

24. Furthermore, CRC recommended that Poland create programmes and provide services for child victims of offences under the OP-CRC-SC to assist recovery and reintegration. In this regard, it urged Poland to ensure that adequate financial resources and trained human resources are allocated for these programmes and services. It also recommended that Poland speed up the adoption of the guidelines on assisting victims of

trafficking, which will serve as a pilot programme in police units, and ensure that the pilot programme is provided with adequate resources for implementation.⁵⁷

25. CESCR was concerned that Poland is a country of origin and destination and a point of transit for trafficking in humans, especially children and women, and for the purpose of sexual exploitation.⁵⁸ In 2009, the Special Rapporteur on Trafficking in Persons recommended the adoption of a definition of trafficking in accordance with the international and regional human rights instruments, and the inclusion in the Criminal Code of a specific provision for child victims of trafficking.⁵⁹ The Special Rapporteur encouraged Poland to improve the identification of victims of trafficking⁶⁰ and recommended that Poland undertake measures, including in legislation, to ensure that a trafficked victim's entitlement to protection from further exploitation and to physical and psychological care shall not be made conditional upon the capacity or willingness of the trafficked person to cooperate in legal proceedings.⁶¹

26. HR Committee recommended that Poland include in its Criminal Code a provision protecting victims of trafficking from prosecution, detention or punishment for activities they were involved in as a direct consequence of their situation as trafficked persons. Poland should ensure that victim protection is not made conditional upon the person's cooperation in legal proceedings.⁶² The Special Rapporteur on Trafficking in persons made similar recommendations.⁶³

27. CRC recommended that Poland establish an identification mechanism for children, including asylum-seeking and refugee children, who may have been involved in armed conflict abroad. It further recommended that Poland take measures to provide these children with appropriate assistance for their physical and psychological recovery and their social reintegration.⁶⁴

C. Administration of justice, including impunity, and the rule of law

28. HR Committee was concerned about reports of poor administration and inadequate staffing of the court system and a continuing backlog of cases. It was also concerned that court orders are frequently not, or belatedly, implemented and are poorly enforced.⁶⁵

29. HR Committee was concerned that the length of pre-trial detention can last up to two years, contributing to the problem of overcrowding and that, in practice, the two-year limit continues to be exceeded. Poland should reduce the period of pre-trial detention and ensure that it is only used as an exceptional measure for a limited period of time. Poland should also consider a maximum, non-extendible term of pre-trial detention, and use alternative measures to pre-trial detention.⁶⁶

30. HR Committee reiterated its concern that persons detained cannot enjoy their right to legal aid from the beginning of their detention. It noted with concern that prosecutors are allowed to be present at meetings between a suspect and his/her counsel, and that prosecutors can order that a suspect's correspondence with counsel be inspected. It noted with concern that correspondence between a detained suspect and his/her counsel is routed through the administration of the pre-trial detention centre, resulting in some cases in a delivery time of between four and six weeks.⁶⁷

31. UNHCR expressed concerns over access to legal assistance for asylum-seekers, especially those in detention. There is no State system for free legal aid in such cases and therefore the majority of the burden lies on NGOs providing legal assistance. Those NGOs

are dependent on financial grants typically provided on a yearly basis, which limits the scope of assistance provided.⁶⁸

32. HR Committee noted with concern that the 2006 Lustration Law Act and the Criminal Procedure Code restricted access by a person against whom lustration proceedings have been initiated to classified archive documentation and case files, in the period leading up to the court proceedings. Poland should amend the Lustration Law Act to ensure that persons against whom lustration proceedings have been initiated have full and unhindered access to all case files and classified archive documentation.⁶⁹

33. The Special Rapporteur on Trafficking in persons, while noting existing legal provisions providing for compensation for victims of crimes, recommended that a compensation fund for victims of trafficking be established. The Special Rapporteur also recommended that delays in judicial proceedings related to trafficking in persons be reduced.⁷⁰

D. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

34. HR Committee was concerned that the offence of slander is still penalized with deprivation of liberty for one year. Poland should abolish imprisonment for press offences.⁷¹ UNESCO, noting that defamation law is still employed, which may result in self-censorship, recommended the decriminalization of defamation.⁷²

35. UNESCO reported that the Supreme Court decided that the electronic press must be registered and that media which publish stories before sources cited had a chance to reread them will be liable for fines.⁷³ Furthermore, UNESCO stated that the National Broadcasting Council has the power to impose fines on broadcasters and that the criteria for penalties are not clearly spelled out.⁷⁴ It noted with concern the politicization of the National Broadcasting Council and its extensive competences. UNESCO called on Poland to reinforce the independence of the National Broadcasting Council.⁷⁵

36. HR Committee was concerned that the length of the appeals procedure against a prohibition to hold an assembly may jeopardize the enjoyment of the right of peaceful assembly. Poland should introduce legislative amendments to ensure that appeals against a ban to hold a peaceful assembly are not unnecessarily protracted and are dealt with before the planned date.⁷⁶

37. CESCR recommended that Poland take effective measures to ensure that trade union leaders and employees participating or persons seeking to join trade unions are protected from any retaliatory actions and that they are able to exercise freely their rights under the Covenant.⁷⁷ In 2011, the ILO Committee of Experts on the Application of Conventions and Recommendations urged Poland to ensure effective application of the legal sanctions for all cases of anti-union discrimination. The ILO Committee of Experts considered that the length of compensation proceedings provided for an illegal dismissal of a trade union activist is excessive and that the amount of compensation in cases of anti-union discrimination is insufficient, and therefore has no dissuasive nature. It requested Poland to take the necessary measures to ensure the effective implementation of the means of full compensation of workers dismissed because of their trade union affiliation or activities.⁷⁸ It also requested Poland to give consideration to the establishment of prompt and impartial procedures to ensure that trade union officials and members have the right to an effective remedy by the competent national tribunals for acts of anti-union discrimination.⁷⁹

38. In 2009 and 2011, the ILO Committee of Experts requested the Government to amend legislation so as to ensure that public servants may exercise their trade union functions at all levels, and to ensure that prohibition of the right to strike is limited to public servants exercising authority in the name of the State.⁸⁰

39. While welcoming efforts to increase the proportion of women in the public and private sector, HR Committee remained concerned about the continued underrepresentation of women in senior positions in the public and political sphere.⁸¹

E. Right to work and to just and favourable conditions of work

40. CESCR noted that unemployment is high. It was particularly concerned at the higher unemployment among certain disadvantaged and marginalized groups, including persons with disabilities, long-term unemployed persons, persons of Roma origin, and both young and older persons.⁸²

41. CESCR was concerned about continuing inequality in the wages earned by men and women.⁸³ HR Committee expressed a similar concern.⁸⁴ CESCR reiterated the recommendation calling on Poland to enforce existing legal provisions and regulations guaranteeing equal remuneration for women and men. It called on Poland to incorporate in legislation a specific provision on equal pay for equal work of equal value.⁸⁵

42. CESCR recommended that Poland ensure the effective application of labour legislation protecting the rights of employees to just and favourable conditions of work, particularly for those working in the private sector. It called on Poland to fully investigate allegations of violations of the labour law and to take action against those found to be in breach of the law.⁸⁶

43. CESCR noted with concern that a number of collective agreements have been suspended and that the renegotiation of those agreements has been subsequently disadvantageous to employees. It urged Poland to combat the practice of suspending collective agreements.⁸⁷

F. Right to social security and to an adequate standard of living

44. CESCR was concerned that the reform of the pension scheme has not addressed its recommendation to correct the difference in retirement age between women and men. It urged Poland to adopt the same age of retirement for men and women.⁸⁸

G. Right to health

45. In 2009, the Special Rapporteur on the Right to Health noted that the budgetary allocations for health were insufficient to meet the growing needs of the population. The long waiting lists, sometimes resulting in complications and avoidable deaths, were, at least in part, indicative of the insufficiency of funding available to the public health system.⁸⁹ CESCR recommended that Poland increase its budget allocation for health to meet the growing number of emerging health-care issues and ensure that privatization of the health system does not impede the enjoyment of the right to health, in particular for disadvantaged and marginalized individuals and groups.⁹⁰

46. The Special Rapporteur on the Right to Health noted with concern that access to certain reproductive health services, such as contraception, prenatal testing and legal abortion, is seriously impeded. Even though some methods of contraception are available over the counter, they are often too expensive and inaccessible to many women.⁹¹ CESCR⁹² and HR Committee⁹³ expressed similar concerns. CESCR regretted the decision of Poland not to include family planning services in the State budget.⁹⁴ The Special Rapporteur on the Right to Health recommended that Poland adopt a comprehensive strategy for the promotion of rights to sexual and reproductive health and increase investments from the national budget to improve sexual and reproductive health services; and improve accessibility and affordability of all forms of contraception by subsidizing contraceptives to underserved groups such as youth and the unemployed.⁹⁵ HR Committee⁹⁶ and CESCR⁹⁷ made similar recommendations.

47. The Special Rapporteur on the Right to Health noted with regret that women faced numerous obstacles in accessing abortion services; even they are legally entitled to an abortion. The Special Rapporteur also noted that the Family Planning Act has restricted access to legal terminations of pregnancies by revoking the grounds for abortion for economic and social reasons, resulting in an increase in unsafe, clandestine abortions.⁹⁸ Similarly, HR Committee was concerned that illegal abortions are reportedly common and that unsafe abortions have, in some cases, caused women's deaths.⁹⁹ CESCR noted with concern that women resort to clandestine and unsafe abortion because of the refusal of physicians and clinics to perform legal operations on the basis of conscientious objection.¹⁰⁰

48. CESCR was concerned at the increasing incidence of mental health illness, particularly among women, which is compounded by the limited availability and accessibility of mental health services, especially by those living in rural areas.¹⁰¹

49. CESCR was concerned at reports that only a small number of drug users have access to substitute drug dependence treatment, and that such treatment is even more limited for those in detention.¹⁰²

50. The Special Rapporteur on the Right to Health stated that issues regarding HIV and harm reduction raise concern. In particular, The Special Rapporteur was concerned that the Law on Counteracting Drug Addiction penalizes possession of very small amounts of drugs, making it difficult for people to receive necessary substitution treatment.¹⁰³ The Special Rapporteur recommended that Poland amend the Law to avoid penalization of the possession of minute quantities of drugs, in order to foster access to substitution therapy for people using drugs.¹⁰⁴

51. Furthermore, the Special Rapporteur on the Right to Health stated that there was a gap in funding and work on HIV prevention, which in turn impacts the availability of prevention services, including harm reduction measures.¹⁰⁵ CESCR recommended that Poland ensure that treatment and care be available to and accessible by persons living with HIV/AIDS.¹⁰⁶

H. Right to education

52. CESCR was concerned that higher education in State-run universities is not completely free, although it is guaranteed by the Constitution. Such a situation has a disproportional negative effect on disadvantaged and marginalized groups, especially in rural areas. It recommended that Poland implement the constitutional provision of free higher education and ensure that it be accessible to all, especially to disadvantaged and marginalized groups, on the basis of ability.¹⁰⁷

53. UNESCO noted the incorporation of human rights issues into the New Core Curricula for General Education.¹⁰⁸ CESCR called on Poland to ensure that human rights education is provided in schools at all levels, and that it covers the economic, social and cultural rights contained in the Covenant.¹⁰⁹

I. Persons with disabilities

54. CESCR called upon Poland to ensure that persons with disabilities have equal opportunities for productive and gainful employment.¹¹⁰

J. Minorities and indigenous peoples

55. CESCR was concerned that the distinction between “national minorities” and “ethnic minorities” in legislation was discriminatory towards some minorities, and that some minorities are excluded from the definition of these two groups. It called on Poland to review the criteria used to identify minorities so that all sizeable communities are officially recognized under legislation.¹¹¹

56. CERD remained concerned about the continued social marginalization and discrimination faced by Roma, particularly in the fields of education, employment and housing.¹¹² HR Committee reiterated those concerns.¹¹³ CERD recommended that Poland: enhance efforts towards the full integration of Roma into the society and combat discrimination against Roma by improving the enjoyment of economic, social and cultural rights, particularly in education, employment and housing and develop and implement poverty eradication programmes to combat poverty among Roma.¹¹⁴ HR Committee and CESCR made similar recommendations.¹¹⁵

57. While welcoming the innovative approach by Poland to the education of Roma children, including the introduction of Roma Teaching Assistants and the gradual phasing-out of separate education, CERD noted with concern that many Roma children do not attend or remain in school and do not pursue higher education.¹¹⁶

K. Migrants, refugees and asylum-seekers

58. UNHCR reported that: there are no obstacles concerning access to the refugee status determination procedures (RSDP) at the border or within the country; the principle of non-refoulement is observed and that the reception conditions and RSDP standards have improved.¹¹⁷

59. UNHCR noted that persons granted refugee status or subsidiary protection have the same rights as Polish nationals. However, UNHCR mentioned that many of them have no effective opportunity to exercise their rights to adequate housing and face de facto discrimination in access to housing.¹¹⁸ UNHCR referred to the 2010 research findings indicating that the number of homeless refugees varies between 20 per cent and 30 per cent of the total refugee population. It also referred to views claiming that refugees are at risk of housing exclusion and homelessness as integration support does not sufficiently help them to become independent economically and their participation in the integration programme does not reduce the risk of homelessness. Large families and single mothers are particularly at risk of homelessness, as they face the prejudice of landlords reluctant to rent flats to them.¹¹⁹

L. Environmental issues

60. In 2011, the Special Rapporteur on Toxic Waste stated that the municipal waste management system needs significant improvements.¹²⁰ The Special Rapporteur recommended that Poland adopt measures, including the use of appropriate economic incentives, such as annual charges on landfilled waste, to discourage landfilling of waste in favour of safer and more environmentally sound methods of management of municipal waste. In particular, the Special Rapporteur urged Poland to reduce, as a matter of priority, the amount of biodegradable waste deposited in landfills by developing appropriate selective collection schemes to increase its recycling or recovery for energy production.¹²¹

61. The Special Rapporteur on Toxic Waste stated, regarding the proposed construction of a nuclear power plant, that it is of vital importance that any decision in this regard be taken on the basis of a wide consultation at the national level and that public authorities should provide adequate information to the public to ensure meaningful participation of the public in decision-making processes.¹²² The Special Rapporteur encouraged the authorities to take all necessary steps to ensure that the population participates in an informed, transparent and fair manner to any decision concerning the construction of the proposed nuclear power plant.¹²³

M. Human rights and counter-terrorism

62. HR Committee was concerned that the definition of a terrorist crime in the Penal Code was broad and does not adequately define the nature and consequences of the terrorist acts. Poland should ensure that the Penal Code not only defines terrorist crimes in terms of their purpose, but also narrowly defines the nature of those acts.¹²⁴

63. In the joint study on global practices in relation to secret detention in the context of countering terrorism (joint study on secret detention), several Special Rapporteurs and the Working Groups on Arbitrary Detention and on Enforced or Involuntary Disappearances, while appreciating the fact that an investigation had been opened into the existence of places of secret detention in Poland, were concerned about the lack of transparency in the investigation. It was noted in the joint study on secret detention that after 18 months, still nothing was known about the exact scope of the investigation.¹²⁵ In 2010, HR Committee was concerned that a secret detention centre reportedly existed at a military base located near Szymany airport, and that renditions of suspects allegedly took place to and from that airport between 2003 and 2005. It noted with concern that the investigation conducted by the Fifth Department for Organized Crime and Corruption of the Appellate Prosecution Authority has not yet been concluded. HR Committee recommended that Poland initiate a prompt, thorough, independent and effective inquiry, to require the attendance of persons and the production of documents, to investigate allegations of the involvement of Polish officials in renditions and secret detentions and to hold those found guilty accountable, including through the criminal justice system. It should make the findings of the investigation public.¹²⁶

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection

database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations Compilation from the previous cycle (A/HRC/WG.6/1/POL/2).

² The following abbreviations have been used for this document:

| | |
|------------|---------------------------------------------------------------------------------------------------------------|
| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| OP-ICESCR | Optional Protocol to ICESCR |
| ICCPR | International Covenant on Civil and Political Rights |
| ICCPR-OP 1 | Optional Protocol to ICCPR |
| ICCPR-OP 2 | Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| OP-CEDAW | Optional Protocol to CEDAW |
| CAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| OP-CAT | Optional Protocol to CAT |
| CRC | Convention on the Rights of the Child |
| OP-CRC-AC | Optional Protocol to CRC on the involvement of children in armed conflict |
| OP-CRC-SC | Optional Protocol to CRC on the sale of children, child prostitution and child pornography |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| CRPD | Convention on the Rights of Persons with Disabilities |
| OP-CRPD | Optional Protocol to CRPD |
| CED | International Convention for the Protection of All Persons from Enforced Disappearance |

³ In the previous compilation a table contained information on Recognition of specific competences of treaty bodies, namely, Individual complaints: ICERD, art. 14, CAT, art. 22, ICRMW, art. 77, and CED, art. 31; Inquiry procedure: OP-CEDAW, arts. 8 and 9; CAT, art. 20; OP-CRPD, arts. 6 and 7; Inter-State complaints: ICCPR, art. 41, ICRMW, art. 76, and CED, art. 32.

⁴ Information relating to other relevant international human rights instruments, including regional instruments, may be found in the pledges and commitments undertaken by Poland before the Human Rights Council, as contained in the note verbale dated April, 2006 sent by the Permanent Mission of Poland to the United Nations addressed to the President of the General Assembly. See at <http://www.un.org/ga/60/elect/hrc/poland.pdf>.

⁵ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

⁶ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

- ⁷ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- ⁸ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- ⁹ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ¹⁰ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- ¹¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ¹² A/HRC/14/32/Add.3, para. 85.
- ¹³ E/C.12/POL/CO/5, paras. 36 and 37.
- ¹⁴ CERD/C/POL/CO/19, para. 12.
- ¹⁵ CCPR/C/POL/CO/6, para. 11.
- ¹⁶ UNHCR submission to the UPR on Poland, 2011, p. 6.
- ¹⁷ E/C.12/POL/CO/5, para. 8.
- ¹⁸ A/HRC/18/31/Add.2, paras. 66-67.
- ¹⁹ E/C.12/POL/CO/5, para. 8.
- ²⁰ For the list of national human rights institutions with accreditation status granted by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/16/77, annex.
- ²¹ E/C.12/POL/CO/5, para. 11.
- ²² CRC/C/OPSC/POL/CO/1, paras. 18 and 19.
- ²³ CERD/C/POL/CO/19, para. 3 (c).
- ²⁴ See http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/PL/Poland_mid-term_report.pdf
- ²⁵ UNESCO submission to the UPR on Poland, 2011, p. 3.
- ²⁶ The following abbreviations have been used for this document:
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| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| CRC | Committee on the Rights of the Child |
| CMW | Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| CRPD | Committee on the Rights of Persons with Disabilities |
| CED | Committee on Enforced Disappearance |
- ²⁷ E/C.12/POL/CO/5, para. 6.
- ²⁸ Abbreviations used follow those contained in the Communications Report of Special Procedures, A/HRC/18/51 and Corr.1.
- ²⁹ A/HRC/14/32/Add.3.
- ³⁰ A/HRC/18/31/Add.2.

- ³¹ OHCHR 2008 Annual Report, Activities and Results, p. 174, 179 and 201; OHCHR 2009 Annual Report, Activities and Results, p. 190, 195, 198 and 212; OHCHR 2011 Annual Report, Activities and Results (forthcoming).
- ³² E/C.12/POL/CO/5, para. 15.
- ³³ CERD/C/POL/CO/19, para. 6.
- ³⁴ CCPR/C/POL/CO/6, para. 6.
- ³⁵ CERD/C/POL/CO/19, para. 7.
- ³⁶ CCPR/C/POL/CO/6, para. 6.
- ³⁷ UNHCR submission to the UPR on Poland, 2011, p. 4.
- ³⁸ *Ibid.*, p. 6.
- ³⁹ CCPR/C/POL/CO/6, para. 6.
- ⁴⁰ CERD/C/POL/CO/19, para. 9.
- ⁴¹ *Ibid.*, para. 6.
- ⁴² CCPR/C/POL/CO/6, para. 5.
- ⁴³ E/C.12/POL/CO/5, para. 12.
- ⁴⁴ CCPR/C/POL/CO/6, para. 8.
- ⁴⁵ E/C.12/POL/CO/5, para. 32.
- ⁴⁶ CCPR/C/POL/CO/6, para. 13.
- ⁴⁷ UNHCR submission to the UPR on Poland, 2011, p. 3.
- ⁴⁸ *Ibid.*, p. 5.
- ⁴⁹ CCPR/C/POL/CO/6, para. 18.
- ⁵⁰ *Ibid.*, para. 18.
- ⁵¹ *Ibid.*, para. 24.
- ⁵² *Ibid.*, para. 3 (c).
- ⁵³ *Ibid.*, para. 17.
- ⁵⁴ *Ibid.*, para. 10.
- ⁵⁵ CRC/C/OPSC/POL/CO/1, para. 28.
- ⁵⁶ *Ibid.*, para. 23.
- ⁵⁷ *Ibid.*, para. 39.
- ⁵⁸ E/C.12/POL/CO/5, para. 23.
- ⁵⁹ A/HRC/14/32/Add.3, paras. 85 (a) and (b).
- ⁶⁰ *Ibid.*, para. 89.
- ⁶¹ *Ibid.*, para. 93.
- ⁶² CCPR/C/POL/CO/6, para. 14.
- ⁶³ A/HRC/14/32/Add.3, para. 86.
- ⁶⁴ CRC/C/OPAC/POL/CO/1, para. 17.
- ⁶⁵ CCPR/C/POL/CO/6, para. 19.
- ⁶⁶ *Ibid.*, para. 16.
- ⁶⁷ *Ibid.*, para. 20.
- ⁶⁸ UNHCR submission to the UPR on Poland, 2011, p. 3.
- ⁶⁹ CCPR/C/POL/CO/6, para. 21.
- ⁷⁰ A/HRC/14/32/Add.3, paras. 97 and 98.
- ⁷¹ CCPR/C/POL/CO/6, para. 22.
- ⁷² UNESCO submission to the UPR on Poland, 2011, pp. 5-6.
- ⁷³ *Ibid.*, p. 5.
- ⁷⁴ *Ibid.*, p. 5.
- ⁷⁵ *Ibid.*, pp. 5-6.
- ⁷⁶ CCPR/C/POL/CO/6, para. 23.
- ⁷⁷ E/C.12/POL/CO/5, para. 20.
- ⁷⁸ ILO Committee of Experts on the Application of Conventions and Recommendations Individual Observation concerning Right to Organise and Collective Bargaining Convention, 1957 (No. 98), 2011, Geneva, doc. No. (ILOLEX) 062011POL098, 3rd to 5th paras.
- ⁷⁹ ILO Committee of Experts on the Application of Conventions and Recommendations Individual Observation concerning Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 2009, Geneva, doc. No. (ILOLEX) 062009POL098, 2nd para.

- ⁸⁰ ILO Committee of Experts on the Application of Conventions and Recommendations Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1957 (No. 87), 2009, Geneva, doc. No. (ILOLEX) 062009POL087, 2nd and 3rd paras.; and ILO Committee of Experts on the Application of Conventions and Recommendations Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), 2011, Geneva, doc. No. (ILOLEX) 062011POL087, 3rd para.
- ⁸¹ CCPR/C/POL/CO/6, para. 9.
- ⁸² E/C.12/POL/CO/5, para. 16.
- ⁸³ Ibid., para. 17.
- ⁸⁴ CCPR/C/POL/CO/6, para. 9.
- ⁸⁵ E/C.12/POL/CO/5, para. 17.
- ⁸⁶ Ibid., para. 18.
- ⁸⁷ Ibid., para. 19.
- ⁸⁸ Ibid., para. 21.
- ⁸⁹ A/HRC/14/20/Add.3, para. 15.
- ⁹⁰ E/C.12/POL/CO/5, para. 29.
- ⁹¹ A/HRC/14/20/Add.3, paras. 24 and 27.
- ⁹² E/C.12/POL/CO/5, para. 27.
- ⁹³ CCPR/C/POL/CO/6, para. 12.
- ⁹⁴ E/C.12/POL/CO/5, para. 27.
- ⁹⁵ A/HRC/14/20/Add.3, paras. 85(a) and (h).
- ⁹⁶ CCPR/C/POL/CO/6, para. 12.
- ⁹⁷ E/C.12/POL/CO/5, para. 27.
- ⁹⁸ A/HRC/14/20/Add.3, paras. 38 and p. 2.
- ⁹⁹ CCPR/C/POL/CO/6, para. 12.
- ¹⁰⁰ E/C.12/POL/CO/5, para. 28.
- ¹⁰¹ Ibid., para. 24.
- ¹⁰² E/C.12/POL/CO/5, para. 26.
- ¹⁰³ A/HRC/14/20/Add.3, paras. 82 and 84.
- ¹⁰⁴ Ibid., para. 86 (c).
- ¹⁰⁵ Ibid., p. 2.
- ¹⁰⁶ E/C.12/POL/CO/5, para. 30.
- ¹⁰⁷ Ibid., para. 33.
- ¹⁰⁸ UNESCO submission to the UPR on Poland, 2011, p. 3, see also CERD/C/POL/CO/19, para. 11.
- ¹⁰⁹ E/C.12/POL/CO/5, para. 10.
- ¹¹⁰ Ibid., para. 16.
- ¹¹¹ Ibid., para. 13.
- ¹¹² CERD/C/POL/CO/19, para. 4.
- ¹¹³ CCPR/C/POL/CO/6, para. 7.
- ¹¹⁴ CERD/C/POL/CO/19, para. 4.
- ¹¹⁵ CCPR/C/POL/CO/6, para. 7, E/C.12/POL/CO/5, para. 14.
- ¹¹⁶ CERD/C/POL/CO/19, para. 5.
- ¹¹⁷ UNHCR submission to the UPR on Poland, 2011, p. 1.
- ¹¹⁸ Ibid., 2011, p. 4.
- ¹¹⁹ Ibid., 2011, p. 4.
- ¹²⁰ A/HRC/18/31/Add.2, para. 81.
- ¹²¹ Ibid., para. 84.
- ¹²² Ibid., para. 106.
- ¹²³ Ibid., para. 107.
- ¹²⁴ CCPR/C/POL/CO/6, para. 4.
- ¹²⁵ A/HRC/13/42, para. 118.
- ¹²⁶ CCPR/C/POL/CO/6, para. 15.