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Helsinki Foundation for Human Rights
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**OBSERVATIONS OF THE HELSINKI FOUNDATION FOR HUMAN RIGHTS
REGARDING THE UPR REPORT ISSUED BY THE GOVERNMENT OF
POLAND**

I.

The Helsinki Foundation for Human Rights would like to express **its satisfaction** with the fact the the Polish government has accepted most of the recommendations made by representatives of governments of other countries. Of all the issues that were raised in these recommendations, we are especially glad that the recommendations concerning the use of pre-trial detention, the overcrowding of prisons and the prevention of discrimination were addressed.

USE OF PRE-TRIAL DETENTION

The use of pre-trial detention is one of the major human rights problems in Poland. We were astonished that this issue was not referred to in the Polish report. The European Court of Human Rights (ECtHR) has found over seventy violations of art. 5 para. 3 of the Convention resulting from Poland's excessive use of pre-trial detention. The ECtHR is now considering cases in order to determine whether there is a systemic problem with the use of pre-trial detention in Poland. The Government insists pre-trial detention is not a systemic problem. Nonetheless, the Government has proposed certain legal changes to address the issue. The changes proposed by the Government are – in our opinion – insufficient. Serious measures are necessary to resolve this problem, and we hope the government will address this issue.

OVERCROWDING OF PRISONS

The overcrowding of prisons is another serious human rights problem in Poland. On 26 May 2008, the Polish Constitutional Court declared that provisions "legalizing" the overcrowding of Polish prisons are unconstitutional. Prisons are currently running at approximately 112% capacity (86,000 prisoners and detainees, for 77,000 places). In addition, there are over 40,000 people waiting for the enforcement of their prison sentence. Under the judgment of the Constitutional Court, the Government has 18

months to remedy the problem, which will require extensive reform of the prison system. Additionally, Polish law provides only 3 m² per one prisoner, even though the CPT recommends 4 m². This is the next problem that the Government will have to remedy, and we hope it will be done soon.

DISCRIMINATION

There are different segments of society that experience discrimination. For example, many problems concerning the rights of LGBT people are still present in Polish society. While freedom of assembly is no longer an issue, we still face other problems, including hate speech and physical violence towards LGBT people, discrimination at the workplace, limited access to services (which is sometimes hidden since LGBT people do not want to come out when pursuing their rights), and possible discrimination in family matters (parental custody).

A new anti-discrimination law is currently being prepared. The law seems to be very restrictive and limits itself to proper implementation of EU Directives, thus neglecting any additional issues that could be covered by such a law. A new Plenipotentiary for Equal Status has been appointed; however, due to lack of material resources she cannot perform her duties effectively. We hope that the government will take up these problems in the near future.

II.

The Helsinki Foundation for Human Rights **is concerned by the failure** of the Government to accept the recommendation to release the results of its study on the existence of secret detention centers on Polish territory (recommendation no 20). These detention centers have been used to house foreign citizens accused of terrorist activities.

POLISH INVOLVEMENT IN THE CIA RENDITION PROGRAMME

Despite denials by the government, senior Polish security officials have confirmed to the Council of Europe that Polish territory was secretly used to hold some of the United States's most important detainees after 9/11.

In the report prepared by Senator Dick Marty from Parliamentary Assembly of the Council of Europe there is a following statement: "*On the basis of information obtained from different sources we were able to determine that persons suspected of being high level terrorists were transferred out of a secret CIA detention facility in Kabul, Afghanistan in late September and October 2003. During this period, my official database shows that the only arrival of CIA-linked aircraft from Kabul in Europe was at the Polish airport of Szymany.*"

Senator Marty's report noted that a parliamentary inquiry into the allegations that a "secret prison" exists in Poland had been conducted behind closed doors. Although the Polish government has promised to release the findings of this inquiry, such material has never been made public, except at a press conference, in which the government denied the existence of any information regarding the use of detention facilities. In

Marty's opinion, this exercise was insufficient in terms of the positive obligation to conduct a credible investigation of the allegations of serious human rights violations.

The request for publishing the results of the investigations conducted by the Government and the Parliamentary Committee of Special Services is based on three grounds:

1. **Serious grounds for suspecting a violation of fundamental human rights within the "CIA rendition programme"** – especially the prohibition against torture or against inhuman or degrading treatment.
2. **International significance of this issue** – the "CIA rendition programme" raises significant human rights issues, and the international community is determined to examine all aspects of the possible violations of human rights that took place during the cooperation between the CIA and special services from the allied countries.
3. **Access to public information** – the Polish Constitution and the Law on Access to Public Information, as well as international regulations, guarantee access to information about the activities of public institutions, including special services.