



General Assembly

Distr.
GENERAL

A/HRC/WG.6/1/POL/2
27 March 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
First session
Geneva, 7-18 April 2008

COMPILATION PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(B) OF THE
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

Poland

The present report is a compilation of the information contained in the reports of treaty bodies, special procedure, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR) other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. The information included herein has been systematically referenced in endnotes. The periodicity of the review for the first cycle being four years, most of the documents used as reference are dated after 1 January 2004. In the absence of recent information, the latest available reports and documents have also been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty, and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICESCR	18 Mar. 1977	None	
ICCPR	18 Mar. 1977	Art. 5 (2) (a)	Inter-State complaints (art. 41): Yes
ICCPR-OP1	7 Nov./1991	Art. 5 (2) (a)	
ICERD	5 Dec. 1968	Arts. 17 (1) and 18 (1)	Individual complaints (art. 14): Yes
CAT	26 July 1989	None	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes Inquiry procedure (art. 20): No
OP-CAT	14 Sept. 2005	None	
CEDAW	30 July 1980	None	
OP-CEDAW	22 Mar. 2004	None	Inquiry procedure (arts. 8 and 9): Yes
CRC	7 June 1991	Arts. 7, 24 (2) (f), 38 and 12 -16	
OP/CRC-AC	7 Apr. 2005	None	
OP/CRC-SC	4 Feb. 2005	None	
<i>Core treaties to which Poland is not a party: ICCPR-OP2 (signature only, 2000), ICRMW, CPD (signature only, 2007), OP-CPD, CED.</i>			
<i>Other main relevant international instruments³</i>		<i>Ratification, accession or succession</i>	
Convention on the Prevention and Punishment of the Crime of Genocide		Yes	
Rome Statute of the International Criminal Court		Yes	
Palermo Protocol ⁴		Yes	
Refugees and stateless persons ⁵		Yes, except the 1954 Convention and the 1961 Convention	
Geneva Conventions of 12 August 1949 and Additional Protocols ⁶		Yes	
ILO fundamental conventions ⁷		Yes	
UNESCO Convention against Discrimination in Education		Yes	

1. The Committee against Torture (CAT) welcomed the ratification or accession by Poland of the two OP-CRC-AC and OP-CRC-SC, OP-CEDAW and OP-CAT; the Rome Statute of the International Criminal Court; and the United Nations Convention against Transnational Organized Crime, the Palermo Protocol and the Protocol against the Smuggling of Migrants by Land, Sea and Air in 2004.⁸ The Committee on the Rights of the Child (CRC) welcomed the ratification of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.⁹ The Committee on the Elimination of Discrimination against Women (CEDAW) commended the accession to OP-CEDAW, and the Committee on the Elimination of Racial Discrimination (CERD)

welcomed the acceptance by Poland of the individual complaints procedures under the Convention.¹⁰ The Human Rights Committee (HR Committee) welcomed the commitment to ratify ICCPR-OP2.¹¹ In 2007, CEDAW recommended that Poland ratify ICRMW.¹² CERD welcomed the withdrawal of the reservation to article 22 of the Convention¹³ and CRC welcomed the information that in 2001 Poland resumed the process of considering the withdrawal of reservations and declarations to the Convention.¹⁴ Poland reiterated this in 2006, in its pledges and commitments to the Human Rights Council.¹⁵

B. Constitutional and legislative framework

2. In 2002, CRC encouraged Poland to take all necessary measures to ensure that its domestic legislation conforms fully with the principles and provisions of the Convention, in particular in the area of juvenile justice, unaccompanied asylum-seekers and sexual exploitation of children.¹⁶ This was also highlighted by UNHCR.¹⁷ In 2003, CERD welcomed the direct applicability of the Convention in domestic law¹⁸ and, in 2007, CAT regretted that Poland had not changed its position not to incorporate the Convention into Polish law.¹⁹ CAT noted with appreciation the adoption of new laws ensuring better protection of human rights,²⁰ and in 2002, the Committee on Economic, Social and Cultural Rights (CESCR) welcomed the adoption in 1997 of the Charter of Disabled Persons' Rights.²¹

3. In 2004, the Human Rights Committee (HR Committee) welcomed Poland's commitment to respect the rights recognized in the Covenant²² and the recent passage of legislation making provision for complaints against the violation of the right of a party in judicial proceedings to have his or her case examined without undue delay.²³ In 2007, CEDAW commended the recent adoption of a number of laws aimed at eliminating discrimination against women and welcomed the amendments to the Labour Code ensuring equal treatment of women and men; the Social Welfare Act of 2004; the Law on Combating Domestic Violence of 2005; and amendments to the Law on Aliens and on Protecting Aliens in the Territory of the Republic of Poland to enhance protection for trafficked persons.²⁴ CAT noted with appreciation the adoption, in January 2005, of the Law on National and Ethnic Minorities and on Regional Languages²⁵ and CESCR welcomed a series of legislative measures.²⁶

C. Institutional and human rights structure

4. In 2002 and 2003, CRC and CERD noted, and CESCR welcomed, the establishment in November 2001 of the Government Plenipotentiary for Equal Gender Status with responsibility for promoting the principle of equality between men and women and combating discrimination based on race, ethnic origin, religion or belief, age and sexual orientation in Government legislation and policies.²⁷ In 2007, however, CEDAW expressed concern at the abolition of the Plenipotentiary and that the new location of the national machinery in the Department for Women, Family and Counteracting Discrimination at the Ministry of Labour and Social Policy may result in low priority and insufficient focus being given to the specific nature of discrimination against women.²⁸ CEDAW recommended that Poland ensure that the necessary visibility and attention is given to the promotion of gender equality.²⁹ In 2002, CRC welcomed the establishment in 2000 of the Office of the Ombudsman for Children.³⁰ The Office of the Commissioner for Civil Rights Protection, which is the national human rights institution, was established by act in 1987 and entrenched the same year in the Constitution. The Office was accredited in 1999 with "A" status, which was renewed in October 2007.³¹

D. Policy measures

5. In 2007, CAT noted with appreciation the establishment in 2003 of the National Programme for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance and the National Programme for Crime Victims in February 2006.³² While CEDAW commended Poland on the National Programme to Combat and Prevent Trafficking in Human Beings for 2005-2006, and the forthcoming programme for 2007-2008,³³ it regretted that insufficient information had been provided on results achieved in the implementation of the National Action Plan for Women for 2003-2005.³⁴ In 2007, CEDAW invited Poland to adopt a comprehensive national action plan for gender equality with sufficient resources, in consultation with women's non-governmental organizations,³⁵ while in 2002, CESCR recommended that Poland formulate and implement a comprehensive national plan of action for the promotion and protection of human rights.³⁶ CEDAW commended Poland on the ongoing implementation of a number of policies and programmes aimed at overcoming de facto discrimination against women, notably through enhancement of women's equal opportunities in the labour market, the National Programme to Counteract Domestic Violence and the European Union Daphne III programme to combat violence against children, young people and women.³⁷ Furthermore, CAT, CERD, CESCR and CRC welcomed human rights education measures undertaken by Poland and recommended that further measures be taken to increase public awareness of the provisions of the international instruments and of the possibility of invoking them before the courts.³⁸

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body³⁹</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CESCR	2001	Dec. 2002	-	Fifth report submitted in 2007
HR Committee	2004	Nov. 2004	31 Aug. and 26 Nov. 2006	Sixth report due in 2008
CERD	2001	Mar. 2003	-	Seventeenth, eighteenth and nineteenth reports overdue since 2006
CAT	2004	May 2007	Due in May 2008	Sixth report due in 2011
CEDAW	2004	Jan. 2007		Seventh and eighth reports due in 2008
CRC	1999	Oct. 2002	-	Third and fourth reports due in 2007
CRC-OP-AC				Initial report due in 2007
CRC-OP-SC				Initial report due in 2007

6. Concerning the individual complaints procedure, while the HR Committee noted the consideration given by Poland to improving methods for the implementation of the Committee's Views, it observed that no consistent procedure is yet in place and recommended that Poland ensure that all views issued by it under the Optional Protocol are complied with and that appropriate mechanisms are available for this purpose.⁴⁰

2. Cooperation with special procedures

<i>Standing invitation</i>	Yes
<i>Latest visits or mission reports</i>	None
<i>Visits agreed upon in principle</i>	None
<i>Visits requested and not yet agreed upon</i>	None
<i>Follow-up to visits</i>	-
<i>Facilitation/cooperation during missions</i>	-
<i>Responses to letters of allegation and urgent appeals</i>	Between 1 January 2004 and 31 December 2007, 10 communications (letters of allegation and urgent appeals) were sent to the Government. In addition to particular groups, these communications concerned nine individuals, including two women. In the same period, Poland replied to seven of the communications (70 per cent).
<i>Responses to questionnaires on thematic issues⁴¹</i>	Poland responded to 2 of the 12 questionnaires sent by special procedures mandate holders ⁴² between 1 January 2004 and 31 December 2007, within the deadlines. ⁴³

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

7. In 2006, Poland hosted a major international conference on anti-corruption measures, good governance and human rights. Poland regularly makes voluntary contributions to support the work of the Office.

B. Implementation of international human rights obligations

1. Equality and non-discrimination

8. In 2007, concerns were expressed by CEDAW at the lack of a definition of discrimination against women in compliance with article 1 of the Convention. Concern about repeated rejection by the Parliament, most recently in June 2005, of a comprehensive law on gender equality was stressed and CEDAW urged Poland to enact such legislation with an effective monitoring mechanism.⁴⁴ The HR Committee regretted that a general non-discrimination provision covering all appropriate grounds has not yet been introduced into national legislation and recommended that Poland broaden the scope of its non-discrimination law.⁴⁵ In 2003, CERD reminded Poland of its obligation under article 4 of the Convention to prohibit all organizations and activities, including those of the mass media, which promote and incite racial discrimination. It suggested strengthening its efforts to implement existing legislation.⁴⁶

9. In 2002, CRC noted with concern that the principle of non-discrimination was not adequately implemented with respect to certain vulnerable groups of children, including Roma and other ethnic minorities, children living in institutions, children with disabilities, children of poor families and children with HIV/AIDS. CRC was also concerned about their limited access to adequate health, education and other social services and about reports of racially motivated violence in which police failed to protect the victims. It recommended that Poland increase its efforts to ensure the implementation of existing laws guaranteeing the principle of non-discrimination.⁴⁷

10. In 2007, CEDAW was concerned about the persistence of deep-rooted prejudice and stereotypical attitudes against women and urged Poland to intensify its efforts to overcome those stereotypes.⁴⁸ Both CEDAW and the HR Committee were concerned about continued underrepresentation of women in public and political life and in decision-making positions.⁴⁹ CEDAW encouraged Poland to take sustained measures to accelerate women's full and equal participation in elected and appointed positions.⁵⁰

11. The HR Committee in 2004 and CAT in 2007 noted with concern alleged recent manifestations of hate speech and intolerance against homosexuals and lesbians. They recommended that such discrimination be specifically prohibited in Polish law and that appropriate training be provided to law enforcement and judicial officials in order to sensitize them to the rights of sexual minorities.⁵¹ Furthermore, CESCR in 2002, CERD in 2003 and CAT in 2007 were concerned about xenophobic manifestations and acts of violence against certain minorities, in particular Jews and Roma.⁵² CERD was also concerned about reports of racially motivated harassment and discrimination against persons of African and Asian origin, which have not been properly investigated.⁵³ The three committees recommended that Poland intensify its efforts to combat and punish all such cases.⁵⁴ CERD further recommended that law enforcement bodies be given adequate training and instructions on how to address complaints of racially motivated crimes and that similar training be provided to the judiciary.⁵⁵

12. While taking note of the draft law on national and ethnic minorities and on regional languages, the HR Committee in 2004 was concerned that current legislation does not allow linguistic minorities to use their own languages when dealing with administrative authorities in areas where their numbers warrant this. It therefore recommended that Poland ensure that new legislation on minorities is in full compliance with article 27 of the Covenant.⁵⁶

13. The HR Committee noted with concern that incidents of desecration of Catholic and Jewish cemeteries and acts of anti-Semitism have not always been properly investigated and the perpetrators punished. It recommended that Poland intensify efforts to combat and punish all such incidents. It also recommended that law enforcement bodies and the judiciary be properly trained and instructed on how to address such complaints.⁵⁷

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

14. In 2007, CAT reiterated its concerns about the absence of a specific offence of torture consistent with the Convention and requested Poland to enact a specific offence of torture in its Criminal Code.⁵⁸ CAT was concerned about reports on the excessive use of force by law enforcement officials in May 2004 and the use of penetrating ammunition “by error”. The Committee recommended ensuring prompt, impartial and effective investigations into all complaints or allegations of misconduct. It further stated that Poland should try the alleged perpetrators of acts of abuse and adequately compensate the victims in order to eliminate the de facto impunity for law enforcement personnel.⁵⁹

15. In 2005, the Special Rapporteur on the question of torture notified Poland that he had received allegations concerning a young man’s arrest and detention for 48 hours by the police, during which he was reportedly beaten and sustained injuries.⁶⁰ In its reply Poland reported that the prosecutor affirmed that the investigation had been dismissed, stating that the police action in the course of the arrest cannot be considered torture or other cruel, inhuman or degrading treatment or punishment.⁶¹

16. On the issue of arbitrary detention in psychiatric institutions, an individual communication was sent to the HR Committee (case No. 1061/2002) on 19 August 1999, in which the Committee concluded that there had been a violation of article 9 of ICCPR.⁶² In 2007, the Committee decided that the case had been settled when the author accepted a remedy which was considered as satisfactory.⁶³

17. While acknowledging the efforts made by Poland to deal with the issue of overcrowding in prisons, CAT in 2007 and the HR Committee in 2004 were concerned that the conditions of detention are still not in conformity with minimum international standards.⁶⁴ The HR Committee recommended that Poland take appropriate measures and that alternative forms of punishment be sought more frequently.⁶⁵ CAT noted with concern the regime and material conditions of detention in transit zones or deportation detention centres and recommended that Poland review these conditions and ensure that they are in conformity with minimum international standards.⁶⁶ CAT expressed concern at the length of pre-trial detention, which can last up to two years, and at the absence in the legislation of a time limit for pre-trial detention upon the commencement of the court proceedings. It recommended that Poland ensure that its pre-trial detention policy meets international standards and is only used as an exceptional measure for a limited period of time.⁶⁷ CAT and the HR Committee recommended that Poland consider using alternative measures in order to reduce the number of persons in pre-trial detention.⁶⁸ CAT further noted with concern the absence of specific laws regarding the detention of aliens after the deadline for their expulsion. It recommended that Poland ensure that the detention of aliens in transit zones is not excessively protracted and that, if the detention is to be extended beyond a few days, the decision is taken by a court.⁶⁹

18. In 2007, CAT expressed concern at the persistent allegations of the involvement of Poland in extraordinary renditions in the context of the fight against international terrorism and at allegations regarding the existence in the territory of Poland of secret detention facilities for aliens suspected of terrorist activities. While noting that Poland rejected those allegations, it recommended that Poland apply the non-refoulement guarantee to all detainees in its custody, take all the necessary measures to avoid and prevent the rendition of suspects to States where they may face a real risk of torture and ensure that suspects have the possibility to challenge decisions of refoulement.⁷⁰ CAT also urged Poland to share information about the scope, methodology and conclusions of the inquiry into allegations of the existence in the territory of secret detentions facilities for aliens suspected of terrorist activities conducted by the Polish Parliament.⁷¹

19. While CAT acknowledged the progress made by Poland in decreasing the number of cases of abuse of conscripts in the army, it remained concerned at the large number of cases that continue to be reported. It recommended that Poland eradicate hazing in the armed forces, continue implementing measures of prevention, ensure prompt, impartial and effective investigation and prosecution of such abuses, and report publicly on the results of any such prosecutions. CAT further recommended that Poland guarantee the rehabilitation of victims, including appropriate medical and psychological assistance.⁷²

20. On the issue of domestic violence, CEDAW in 2007 expressed concerns about remaining gaps in the 2005 Law on Combating Domestic Violence and the perception of domestic violence as a gender-neutral phenomenon.⁷³ In 2002, CESCR expressed concerns about the high number of reported cases of domestic violence⁷⁴ and both CEDAW and the HR Committee were concerned about insufficient services for victims, including immediate eviction of the perpetrator, free legal aid, and the number of shelters available, as well as about inadequate training for law enforcement officers.⁷⁵ CEDAW, the HR Committee and CESCR recommended that law enforcement officers be properly trained and that appropriate measures be taken to address domestic violence cases.⁷⁶ In 2007, CEDAW further recommended that Poland conduct awareness-raising campaigns to combat violence against women and undertake research into the root causes of such violence.⁷⁷ In 2002, CRC was concerned that child abuse and violence in the home and in schools remain a problem in Poland. CRC was further concerned that corporal punishment is widely practised in the

home, in schools and other institutions, such as prisons, and in alternative care contexts.⁷⁸ CRC recommended that Poland expressly prohibit corporal punishment and carry out public education campaigns in that regard. Also, in 2007, CAT and CEDAW were concerned about the absence of a definition of trafficking in human beings in the Polish Criminal Code.⁷⁹ In 2002, CESCR was also concerned about the rising incidence of trafficking in women for the purpose of sexual exploitation and recommended that Poland take effective measures to combat such trafficking, inter alia, by ensuring that those responsible are prosecuted.⁸⁰ In 2002, CRC was also concerned that Poland continues to be a country of origin, destination and transit for children trafficked for sexual exploitation and recommended that it develop a national plan of action on commercial sexual exploitation of children and ensure protection, access to appropriate recovery, reintegration programmes and services for victims.⁸¹

3. Administration of justice and the rule of law

21. In 2007, concerns were expressed by CAT regarding restrictions that might be imposed on fundamental legal safeguards for persons detained by the police and recommended that Poland ensure the respect of such safeguards, particularly the right to access a lawyer and to consult with him/her in private, from the very outset of the detention, including during the stages of the preliminary investigation.⁸² In 2004, the HR Committee regretted the lack of an appropriate system of legal aid available at all times.⁸³ CAT also regretted the delay in the submission of the draft law on access to free legal aid to Parliament and recommended that Poland expedite this.⁸⁴

22. In 2002, CRC was concerned that there is no clear minimum age of criminal responsibility and that, in some cases, children as young as 10 years of age can be sentenced to educational measures. It recommended that Poland establish 13 years as the minimum age for criminal responsibility in all cases, below which children cannot be sentenced to either correctional or educational measures.⁸⁵ CRC was also concerned at the large number of juveniles spending extensive periods of time in emergency blocks either as a pre-trial detention measure or as punishment for their actions in the juvenile reform centres. In addition, it was concerned that not all juvenile detention centres guarantee the child's right to maintain contact with his or her family or provide adequate living standards. It thus recommended that Poland ensure the full implementation of juvenile justice standards, enforce the regulations allowing a maximum stay of three months in emergency blocks and use deprivation of liberty only as a measure of last resort, and protect the rights of children deprived of their liberty, including those pertaining to conditions of detention.⁸⁶

4. Right to privacy, marriage and family life

23. Concerns were raised in 2002 by CRC about the large number of children living in institutions, a significant proportion of whom are "social" rather than natural orphans. It recommended that Poland ensure the periodic review of placement of children in institutions.⁸⁷

5. Freedom of expression, association and peaceful assembly

24. In 2006, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent communications regarding alleged arbitrary arrest, prolonged pre-trial detention and lengthy judicial proceedings against journalists. He referred to cases where criminal proceedings have been kept pending, journalistic materials were sealed and court appeals were dismissed as groundless.⁸⁸ In one instance, a journalist was charged for assaulting a police officer, a

crime that carries a sentence of up to 10 years' imprisonment, based on the evidence provided by a police officer the journalist claimed not to recognize.⁸⁹ Furthermore, the Special Representative of the Secretary-General on the situation of human rights defenders inquired about the steps taken for the implementation of the Declaration on Human Rights Defenders⁹⁰ and expressed her continued concern about the reported harassment of human rights defenders campaigning for equality and against discrimination based on perceived sexual orientation.⁹¹ She also expressed concern about bans imposed by officials on marches organized by women's rights organizations and lesbian, gay, bisexual and transgender organizations, and noted that in one case the police roughly handled some of the protestors and arrested and interrogated over 65 persons.⁹²

25. In 2007, the Special Rapporteur on the right to education and the Special Representative of the Secretary-General on the situation of human rights defenders sent a joint communication concerning the dismissal of the director of a training centre by the Minister for Education. Concerns were expressed that this dismissal may represent a form of punishment for his role in the publication and dissemination of a Council of Europe handbook that promotes universal human rights and respect for diversity.⁹³ Poland replied that the content of the manual is not suitable for teaching and that it is contradictory to the Constitution of Poland, which defines marriage as a "union of a man and a woman". In another case, the Special Representative sent an urgent communication concerning threats and acts of intimidation against a member of the Campaign against Homophobia.⁹⁴

26. Following a communication sent by the Special Representative together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance concerning the Krakow March for Tolerance, a peaceful march organized by the Campaign against Homophobia,⁹⁵ Poland reported that the high court decisions banning the marches were quashed in appeal proceedings.

6. Right to work and to just and favourable condition of work

27. CESCR, the HR Committee and CEDAW noted that the Labour Code has been amended to include a non-discrimination clause relating to employment and recommended that definitions of direct and indirect discrimination be provided.⁹⁶

28. In 2002, CESCR expressed concern at the high level of unemployment that particularly affects rural areas as a result of the restructuring of the public sector in the field of agriculture.⁹⁷ In 2007, CEDAW commended Poland on the adoption of a number of policies and programmes aimed at overcoming de facto discrimination against women and enhancing women's equal opportunities in the labour market, but remained concerned about the situation of women in the labour market.⁹⁸ Both CEDAW and CESCR were concerned about different retirement ages for men and women, which in practice results in lower pensions for women.⁹⁹ CEDAW was also concerned about women's higher unemployment rates and the concentration of women in low-paid sectors of public employment.¹⁰⁰ CESCR in 2002, the HR Committee in 2004 and CEDAW in 2007 were also concerned about the disparities in remuneration between men and women and recommended that Poland ensure equal treatment of men and women at all levels of public service.¹⁰¹ They also urged it to strengthen its efforts aimed at ensuring equal opportunities and equal conditions of work for women and men in the labour market.¹⁰²

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

29. In 2002, CESCR expressed concern that the minimum wage in Poland is insufficient to provide a worker and his/her family with a decent standard of living and recommended that Poland regularly evaluate and adjust the minimum wage on the basis of the cost of living.¹⁰³ While noting measures taken to improve the conditions of the Roma community, CRC in 2002 and the HR Committee in 2004 expressed concerns that Roma continue to suffer prejudice and discrimination, in particular with regard to access to health services, social assistance, education and employment.¹⁰⁴ CESCR urged Poland to adopt a comprehensive programme to address the obstacles to the advancement of the Roma population, including measures to ensure effective remedy for cases of discrimination against Roma in employment, housing and health care.¹⁰⁵

30. In 2007, CEDAW expressed concern that, as a result of the restructuring of the health sector, there has been a decrease in the number of clinics and health services available to women, in particular in rural areas.¹⁰⁶ Also, in 2002, CESCR was concerned that family planning services are not provided in the public health-care system and that women have no access to affordable contraception.¹⁰⁷ Furthermore, deep concerns were expressed by both CESCR in 2002 and the HR Committee in 2004 about the restrictive abortion laws which have resulted in a large number of women risking their life and health by resorting to clandestine abortionists.¹⁰⁸ The HR Committee was further concerned about the unavailability of abortion in practice even when the law permits it, for example in cases of pregnancy resulting from rape, and by the lack of information on the use of the conscientious objection clause by medical practitioners who refuse to carry out legal abortions. It further regretted the lack of information on the extent of illegal abortions and their consequences for the women concerned.¹⁰⁹ Both CEDAW in 2007 and CESCR in 2002 urged Poland to take concrete measures to enhance women's access to health care, in particular to sexual and reproductive health services.¹¹⁰ CEDAW, the HR Committee and CESCR requested Poland to strengthen measures aimed at the prevention of unwanted pregnancies, including by making a comprehensive range of contraceptives widely available at an affordable price and by increasing knowledge and awareness about different methods of family planning.¹¹¹ The HR Committee also recommended that Poland liberalize its legislation and practice on abortion.¹¹²

31. UN-Habitat noted that the Act on financial support to families purchasing their own flat is being implemented in order to satisfy the growing housing needs of families. Problems of the homeless and people with the lowest income are being addressed in the Act on the financial support of housing for the poorest (continuation of the pilot programme 2004-2006) and the related Programme for counteracting social exclusion of the homeless and people at risk of homelessness.¹¹³ The Programme for the Roma Community in Poland (2003-2014) aims at improving the situation of the Roma community and includes investments in infrastructure for Roma housing. Progress remains relatively slow and does not fully satisfy existing needs.¹¹⁴ UN-Habitat also noted that inadequate housing conditions affect about 6.5 million Poles (out of 38 million) and that the cost of real estate has risen rapidly: land and housing are becoming less affordable for the average citizen. Also, limited access to credit for middle- and low-income households and an insufficient stock of social housing are also a problem. According to UN-Habitat, some ethnic and national minorities live in low-quality dwellings that are often overcrowded and lack basic facilities, or in illegally erected buildings that are physically isolated. It also noted that there is a growing number of homeless people.¹¹⁵

8. Right to education and to participate in the cultural life of the community

32. In 2002, CERD noted efforts to meet the specific educational needs of Roma children, but was concerned that in some cases these efforts have led to segregated classes having a lower standard of education than their Polish counterparts.¹¹⁶ In 2002, CESCR expressed concern at the high dropout rates among Roma students¹¹⁷ and CRC about Roma children's right to education.¹¹⁸ CERD, CESCR and CRC recommended that Poland design new programmes to integrate Roma children into schools; combat the low school attendance and high dropout rates among Roma students; recruit more teachers and teaching assistants from the Roma minority; include pre-school programmes for Roma children to learn the primary language of schooling in their communities; and that curriculum resources be developed for all schools to include Roma history and culture in order to promote understanding, tolerance and respect for Roma in Polish society.¹¹⁹ CRC also remained concerned about the increasing disparities in access to education, the material condition of schools and the quality of education between rural and urban areas. It recommended that Poland ensure equal opportunities for all.¹²⁰ CRC was also concerned at the issue of children with disabilities and recommended that Poland develop a time-bound plan for reducing the number of children with disabilities living in institutions and integrating them into mainstream education.¹²¹

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

33. In 2007, CAT commended Poland for its contributions to the United Nations Voluntary Fund for Victims of Torture between 1999 and 2005 and encouraged its continued contribution.¹²² It also noted with appreciation the ongoing efforts at the State level to reform its legislation, policies and procedures in order to ensure better protection of human rights.¹²³ In 2002, CESCR commended the ongoing process to harmonize legislation with the Covenant and the specific measures taken to ensure the enjoyment of economic, social and cultural rights.¹²⁴ It noted, however, the difficulties encountered by Poland in implementing the rights provided for in the Covenant which arise from the process of transition to a market-oriented economy,¹²⁵ which, as acknowledged by CRC, have led to regional disparities and increased poverty, thereby negatively affecting the welfare and living standards of vulnerable families with children.¹²⁶

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

34. In 2004, the HR Committee asked Poland to provide additional information on the assessment of the situation and the implementation of the Committee's recommendations regarding abortion laws, family planning regulations and the Roma Community.¹²⁷ Poland provided extensive information in October 2005 on all these areas and explained the concrete measures taken to implement the Committee's concluding observations.¹²⁸ In a letter dated July 2006, the Committee's Special Rapporteur for follow-up on concluding observations welcomed Poland's cooperation and decided that no further action was required.¹²⁹ In 2007, CAT requested Poland to provide information on its response to the Committee's recommendations on the administration of justice and fair trial, training, trafficking and hazing in the armed forces.¹³⁰

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

35. UN-Habitat provided information on capacity-building programmes and activities in Poland.¹³¹

Notes

¹ Unless indicated otherwise, the status of ratifications of the instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://untreaty.un.org/>.

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
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
CPD	Convention on the Rights of Persons with Disabilities
OP-CPD	Optional Protocol to Convention on the Rights of Persons with Disabilities
CED	International Convention on the Protection of All Persons from Enforced Disappearance

³ 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 5 April 2006 sent by the Permanent Mission of Poland to the United Nations addressed to the President of the General Assembly (hereafter “note verbale”), available at <http://www.un.org/ga/60/elect/hrc/poland.pdf>.

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁵ 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.

⁶ 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: <http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html>.

⁷ 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 Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize 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.

⁸ Concluding observations of the Committee against Torture (CAT/C/POL/CO/4), para. 4.

⁹ Concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.194), para. 6.

- ¹⁰ Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/POL/CO/6), para. 4, and concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/62/CO/6), para. 4.
- ¹¹ Concluding observations of the Human Rights Committee (CCPR/CO/82/POL), para. 6.
- ¹² CEDAW/C/POL/CO/6, para. 37.
- ¹³ CERD/C/62/CO/6, para. 4.
- ¹⁴ CRC/C/15/Add.194, para. 9.
- ¹⁵ See note verbale, p. 4.
- ¹⁶ CRC/C/15/Add.194, para. 12.
- ¹⁷ UNHCR submission to UPR on Poland, p. 1, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/PL/UNHCR_POL_UPR_S1_2008_UnitedNationsHighCommissionerforRefugees_uprsubmission.pdf.
- ¹⁸ CERD/C/62/CO/6, para. 7.
- ¹⁹ CAT/C/POL/CO/4, para. 6.
- ²⁰ Ibid., paras. 5 (a) and (b).
- ²¹ E/C.12/1/Add.82, para. 10.
- ²² CCPR/CO/82/POL, para. 3.
- ²³ Ibid., para. 4.
- ²⁴ CEDAW/C/POL/CO/6, para. 5.
- ²⁵ CAT/C/POL/CO/4, para. 5 (a) and (b).
- ²⁶ Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.82), paras. 4, 6, 7, 8, 10 and 11.
- ²⁷ CRC/C/15/Add.194, para. 7; CERD/C/62/CO/6, para. 6; E/C.12/1/Add. 82, para. 5.
- ²⁸ CEDAW/C/POL/CO/6, para. 10.
- ²⁹ Ibid., para. 11.
- ³⁰ CRC/C/15/Add.194, para. 4.
- ³¹ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/7/69, annex VIII, and A/HRC/7/70, annex I.
- ³² CAT/C/POL/CO/4, para. 5 (d) and (f).
- ³³ CEDAW/C/POL/CO/6, para. 6.
- ³⁴ Ibid., paras. 12 and 13.
- ³⁵ Ibid., para. 13.
- ³⁶ E/C.12/1/Add.82, para. 34.
- ³⁷ CEDAW/C/POL/CO/6, para. 6.
- ³⁸ See CAT/C/POL/CO/4, para. 15; CERD/C/62/CO/6, para. 14; E/C.12/1/Add.82, paras. 33 and 56; CRC/C/15/Add.194, paras. 23 and 24.
- ³⁹ The following abbreviations have been used in this document:

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

⁴⁰ CCPR/CO/82/POL, para. 7.

⁴¹ The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate holder.

⁴² See (i) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006;

(ii) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in September 2006;

(iii) report of the Special Rapporteur on the human rights aspects of victims of trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons, sent in July 2006;

(iv) report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95 and Add.5), questionnaire on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms sent in June 2005;

(v) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous peoples sent in August 2007;

(vi) report of the Special Rapporteur on trafficking in persons, especially women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005;

(vii) report of the Special Rapporteur on the right to education (E/CN.4/2006/45), questionnaire on the right to education for girls sent in 2005;

(viii) report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/61/341), questionnaire concerning its mandate and activities sent in November 2005;

(ix) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent in July 2006;

(x) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78), questionnaire on child pornography on the Internet sent in July 2004;

(xi) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2004/9), questionnaire on the prevention of child sexual exploitation sent in July 2003;

(xii) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprise (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices.

⁴³ Questionnaire on the right to education of persons with disabilities (A/HRC/4/29, para. 47), questionnaire on the sale of children's organs (A/HRC/4/31) and questionnaire on child pornography on the Internet (E/CN.4/2005/78, para. 4).

⁴⁴ CEDAW/C/POL/CO/6, para. 9.

⁴⁵ CCPR/CO/82/POL, para. 16.

⁴⁶ CERD/C/62/CO/6, para. 8.

⁴⁷ CRC/C/15/Add.194, paras. 27 and 28.

⁴⁸ CEDAW/C/POL/CO/6, paras. 16 and 17.

⁴⁹ Ibid., para. 14; CCPR/CO/82/POL, para. 10.

⁵⁰ CEDAW/C/POL/CO/6, para. 15.

- ⁵¹ CCPR/CO/82/POL, para. 18; CAT/C/POL/CO/4, para. 20.
- ⁵² See E/C.12/1/Add.82, para. 13; CERD/C/62/CO/6, para. 10; CAT/C/POL/CO/4, para. 20.
- ⁵³ CERD/C/62/CO/6, para. 10.
- ⁵⁴ E/C.12/1/Add.82, para. 35; CAT/C/POL/CO/4, para. 20; CERD/C/62/CO/6, para. 10.
- ⁵⁵ CERD/C/62/CO/6, para. 10.
- ⁵⁶ CCPR/CO/82/POL, para. 20.
- ⁵⁷ Ibid., para. 19.
- ⁵⁸ CAT/C/POL/CO/4, para. 6.
- ⁵⁹ Ibid., para. 14.
- ⁶⁰ E/CN.4/2005/62/Add.1, para. 1348.
- ⁶¹ Ibid., para. 1349.
- ⁶² Human Rights Committee, Views, communication No. 1061/2002 (CCPR/84/D/1061/2002), adopted on 4 August 2005.
- ⁶³ CCPR/C/89/R.5, paras. 1 and 14.
- ⁶⁴ See CAT/C/POL/CO/4, para. 17; CCPR/CO/82/POL, para. 12.
- ⁶⁵ CCPR/CO/82/POL, para. 12.
- ⁶⁶ CAT/C/POL/CO/4, para. 13.
- ⁶⁷ Ibid., para. 7.
- ⁶⁸ Ibid., para. 7; CCPR/CO/82/POL, para. 13.
- ⁶⁹ CAT/C/POL/CO/4, para. 11.
- ⁷⁰ Ibid., para. 11.
- ⁷¹ Ibid., para. 16.
- ⁷² Ibid., para. 19.
- ⁷³ CEDAW/C/POL/CO/6, para. 18.
- ⁷⁴ E/C.12/1/Add.82, para. 25.
- ⁷⁵ CEDAW/C/POL/CO/6, para. 18; CCPR/CO/82/POL, para. 11.
- ⁷⁶ See CEDAW/C/POL/CO/6, paras. 18 and 19; CCPR/CO/82/POL, para. 11; E/C.12/1/Add.82, para. 47.
- ⁷⁷ CEDAW/C/POL/CO/6, paras. 18 and 19.
- ⁷⁸ CRC/C/15/Add.194, paras. 34 and 35.
- ⁷⁹ CAT/C/POL/CO/4, para. 18; CEDAW/C/POL/CO/6, paras. 20 and 21.
- ⁸⁰ E/C.12/1/Add.82, paras. 24 and 46.
- ⁸¹ CRC/C/15/Add.194, paras. 48 and 49.
- ⁸² CAT/C/POL/CO/4, para. 8.
- ⁸³ CCPR/CO/82/POL, para. 14.
- ⁸⁴ CAT/C/POL/CO/4, para. 10.
- ⁸⁵ CRC/C/15/Add.194, paras. 25 and 26.
- ⁸⁶ Ibid., paras. 50 and 51.
- ⁸⁷ Ibid., paras. 36 and 37.
- ⁸⁸ E/CN.4/2006/55/Add.1, paras. 824 and 825.

- ⁸⁹ Ibid., para. 822.
- ⁹⁰ E/CN.4/2006/95/Add.5, para. 1357.
- ⁹¹ A/HRC/4/37/Add.1, para. 560.
- ⁹² E/CN.4/2006/95/Add.5, para. 1356.
- ⁹³ A/HRC/4/37/Add.1, para. 561.
- ⁹⁴ Ibid., para. 562.
- ⁹⁵ Ibid., para. 560.
- ⁹⁶ E/C.12/1/Add.82, para. 7; CCPR/CO/82/POL, para. 16; CEDAW/C/POL/CO/6, para. 5.
- ⁹⁷ E/C.12/1/Add.82, para. 16.
- ⁹⁸ CEDAW/C/POL/CO/6, paras. 5, 6 and 22.
- ⁹⁹ Ibid., paras. 22 and 23, and E/C.12/1/Add. 82, paras. 19 and 41.
- ¹⁰⁰ CEDAW/C/POL/CO/6, para. 22.
- ¹⁰¹ Ibid., para. 22; CCPR/CO/82/POL, para. 10; E/C.12/1/Add.82, para. 39.
- ¹⁰² CEDAW/C/POL/CO/6, para. 23; CCPR/CO/82/POL, para. 10; E/C.12/1/Add.82, para. 39.
- ¹⁰³ E/C.12/1/Add.82, paras. 20 and 42.
- ¹⁰⁴ CRC/C/15/Add.194, para. 52; CCPR/CO/82/POL, para. 17.
- ¹⁰⁵ E/C.12/1/Add.82, para. 36.
- ¹⁰⁶ CEDAW/C/POL/CO/6, para. 24.
- ¹⁰⁷ E/C.12/1/Add.82, para. 28.
- ¹⁰⁸ E/C.12/1/Add.82, para. 29; CCPR/CO/82/POL, para. 8.
- ¹⁰⁹ CCPR/CO/82/POL, para. 8.
- ¹¹⁰ CEDAW/C/POL/CO/6, para. 25; E/C.12/1/Add. 82, para. 50.
- ¹¹¹ CEDAW/C/POL/CO/6, para. 25; CCPR/CO/82/POL, para. 9; E/C.12/1/Add.82, paras. 28 and 50.
- ¹¹² CCPR/CO/82/POL, para. 8.
- ¹¹³ See UN-Habitat submission to UPR on Poland, p. 1, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/PL/UNH_POL_UPR_S1_2008_UnitedNationsHabitat_uprsub mission.pdf.
- ¹¹⁴ Ibid., p. 2.
- ¹¹⁵ Ibid.
- ¹¹⁶ CERD/C/62/CO/6, para. 13.
- ¹¹⁷ E/C.12/1/Add.82, para. 14.
- ¹¹⁸ CCPR/CO/82/POL, para. 52.
- ¹¹⁹ See CERD/C/62/CO/6, para. 13; E/C.12/1/Add.82, para. 36; CRC/C/15/Add.194, para. 53.
- ¹²⁰ CRC/C/15/Add.194, paras. 44 and 45.
- ¹²¹ Ibid., paras. 40 and 41.
- ¹²² CAT/C/POL/CO/4, para. 22.
- ¹²³ Ibid., para. 5.
- ¹²⁴ E/C.12/1/Add.82, para. 4.
- ¹²⁵ Ibid., para. 12.

¹²⁶ CRC/C/15/Add.194, para. 8.

¹²⁷ CCPR/CO/82/POL, para. 22.

¹²⁸ See CCPR/CO/82/POL/Add.1.

¹²⁹ Letter dated 6 July 2006 by the Special Rapporteur on the follow-up to concluding observations of the Human Rights Committee addressed to the Government of Poland.

¹³⁰ CAT/C/POL/CO/4, para. 26.

¹³¹ See UN-Habitat submissions to UPR on Poland, p. 3.
