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**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие**

### **Доклад Специального докладчика по вопросу о праве на питание о ее поездке в Польшу**

#### **Записка секретариата**

Секретариат имеет честь препроводить Совету по правам человека доклад Специального докладчика по вопросу о праве на питание о ее поездке в Польшу в период с 18 по 25 апреля 2016 года.

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## Report of the Special Rapporteur on the right to food on her mission to Poland\*

### Contents

	<i>Page</i>
I. Introduction .....	3
II. General overview .....	3
III. Legal and institutional structure.....	5
A. Legal framework .....	5
B. Policy and institutional structure .....	7
IV. Food availability .....	8
V. Food accessibility .....	9
A. Social protection .....	9
B. Access to food by specific groups: refugees and inmates .....	10
VI. Food adequacy .....	11
A. Undernutrition, obesity and healthy eating habits .....	11
B. Breastfeeding and baby food .....	13
VII. Vulnerable and marginalized populations .....	14
A. Rural women and women farmers .....	14
B. Roma population .....	15
C. Seasonal migrant workers .....	15
VIII. Emerging issues .....	16
A. Food waste .....	16
B. Climate change and a sustainable environment .....	17
C. Alternative food systems: organic farming and agroecology .....	18
D. Use of pesticides .....	18
E. Genetically modified organisms .....	19
IX. Conclusions and recommendations .....	19

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## I. Introduction

1. The Special Rapporteur on the right to food, Hilal Elver, conducted an official visit to Poland from 18 to 25 April 2016, at the invitation of the Government. The Special Rapporteur's objective during the visit was to identify the main obstacles hindering the full realization of the right to food and to propose strategies to tackle those obstacles in order to improve the enjoyment of rights by individuals, particularly the most vulnerable in society. The Special Rapporteur focused on how Poland, as a country whose economy has experienced transition from a centralized system to a market economy, has adjusted its agricultural system and how this transition has affected small-scale farmers and those in vulnerable situations.

2. During the visit, the Special Rapporteur met representatives of the Ministry of Agriculture and Rural Development, Ministry of Health, Ministry of Family, Labour and Social Policy, Ministry of Education, Ministry of Environment, Ministry of Maritime Economy and Inland Navigation, Ministry of Development, Agency for Restructuring and Modernization of Agriculture, the Agricultural Market Agency, Agricultural Property Agency and the Prison Service. The Special Rapporteur also met representatives of the Supreme Court, the Plenipotentiary for civil society and equal treatment, the Ombudsman's Office for human rights defenders and the Ombudsman's Office for children, as well as representatives of international organizations, academia and several members of civil society organizations. In addition, the Special Rapporteur visited several small-scale farms, including apple farms and community-supported agriculture farms, and met with several Polish farmers and producers ranging from apple growers to beekeepers.

3. The Special Rapporteur expresses her appreciation to the Government for its excellent cooperation during the visit. She also appreciates the spirit of openness with which she was able to engage in dialogue with the authorities. She is grateful to the United Nations Information Centre for its support and offers her sincere gratitude to everyone who took the time to meet her, particularly those who shared personal experiences.

## II. General overview

4. Since the early 1990s, the Polish economy has undergone profound changes, transitioning from a centralized system to a market economy and acceding to the European Union in 2004. Poland showed resilience during and after the 2009 world economic and financial crisis, with solid growth and a significant improvement in the labour market. Ten years after joining the European Union, Poland's gross domestic product (GDP) had grown by 48.7 per cent.<sup>1</sup> Until 2012, employment in Poland had been rising and only in 2013 was a slight decrease observable, for the first time since 2002. Thereafter, the number of unemployed increased until the registered unemployment rate reached its highest point of 14.4 per cent in early 2012. Since then, it has decreased to 8.2 per cent as of October 2016.<sup>2</sup>

5. Poland is ranked thirty-sixth in the human development index, with an index value of 0.843 for 2015, which puts Poland in the very high human development category.<sup>3</sup> According to the global food security index, Poland ranks twenty-eighth out of 109 countries, rating strongly in the following categories: presence of food safety net

<sup>1</sup> See Ministry of Foreign Affairs, *Poland's 10 years in the European Union* (Warsaw, 2014).

<sup>2</sup> See Labour Force Survey of Poland (September 2016), available from [www.stat.gov.pl/en/topics/labour-market/registered-unemployment/unemployment-rate-1990-2016,3,1.html](http://www.stat.gov.pl/en/topics/labour-market/registered-unemployment/unemployment-rate-1990-2016,3,1.html).

<sup>3</sup> United Nations Development Programme (UNDP), *Human Development Report 2015*.

programmes, access to financing for farmers, nutritional standards, food safety and proportion of population under the global poverty line, among others.<sup>4</sup>

6. Despite strong economic growth in 2013, 7.4 per cent of the population in Poland was classified as living below the extreme poverty line and 16.2 per cent below the relative poverty line.<sup>5</sup> Particularly vulnerable to poverty are persons living in households whose main sources of income are from social benefits (21.1 per cent), pensions (12.5 per cent) and agricultural activities (12.1 per cent).<sup>6</sup> According to the Organization for Economic Cooperation and Development (OECD), 12.7 per cent of the Polish population aged 0-17 were in relative income poverty in 2012.<sup>7</sup>

7. Further, although economic transformation has brought a number of positive outcomes, throughout the 1990s and 2000s Poland experienced moderate but steady growth in income and wealth inequalities.<sup>8</sup> The Gini coefficient, a measure for inequality, was 0.30 in Poland in 2012, close to the average for OECD countries of 0.32. The top 10 per cent of the population receiving the highest income in Poland earn 7.4 times more than the bottom 10 per cent.<sup>9</sup> Inequality between rural and urban areas is also observable in Poland. In 2014, the proportion of people living in households with expenditure below the minimum subsistence level in rural areas was 11.8 percent in comparison to 4.6 per cent for urban areas.<sup>10</sup>

8. Poland is primarily an agricultural country, with some 39 per cent of the population living in rural areas. A large proportion of the land is rural and the economic and social role of agriculture is especially important. The share of employment in agriculture is 12.6 per cent of total employment in Poland.<sup>11</sup> The number of persons working in agriculture, hunting, forestry and the fishing industry in 2012 was over 2.5 times the percentage of persons employed in those sectors across the then 27 countries of the European Union.<sup>12</sup> According to the World Bank, between 2011 and 2015, the gross value added of agriculture in Poland, which includes forestry, hunting, and fishing, as well as cultivation of crops and livestock production, was 3.4 per cent of total GDP.<sup>13</sup>

9. In 2010, about 80 per cent of farms in Poland were small-scale family farms engaged in subsistence agriculture.<sup>14</sup> Recently, there has been a decrease in the number of smallholder farmers, with a 17 per cent decrease in the number of farms with an area ranging from 5 to 20 ha. Additionally, an increased presence of large-scale farming in rural

<sup>4</sup> See The Economist Intelligence Unit global food security index, available from [foodsecurityindex.eiu.com/Country/Details#Poland](http://foodsecurityindex.eiu.com/Country/Details#Poland).

<sup>5</sup> The Central Statistical Office of Poland defines persons at risk of extreme poverty as the percentage of persons in households where the level of expenditure (including the value of free-of-charge articles as well as natural consumption) is lower than the adopted extreme poverty threshold (subsistence minimum, setting the level of satisfaction of needs, below which occurs a biological threat to life and psychophysical human development). See [stat.gov.pl/en/metainformations/glossary/terms-used-in-official-statistics/3214,term.html](http://stat.gov.pl/en/metainformations/glossary/terms-used-in-official-statistics/3214,term.html).

<sup>6</sup> Information provided by the Government, 8 June 2016.

<sup>7</sup> See [www.oecd.org/social/inequality.htm](http://www.oecd.org/social/inequality.htm).

<sup>8</sup> Gini country report, "Growing inequalities and their impacts in Poland", available from [gini-research.org/system/uploads/450/original/Poland.pdf?1370090614](http://gini-research.org/system/uploads/450/original/Poland.pdf?1370090614).

<sup>9</sup> See [www.oecd.org/social/inequality.htm](http://www.oecd.org/social/inequality.htm).

<sup>10</sup> Data from the Central Statistical Office provided by the Government..

<sup>11</sup> *Human Development Report 2015*.

<sup>12</sup> Ministry of Agriculture and Rural Development, "Agriculture and rural economy in Poland" (2012), p. 4.

<sup>13</sup> See [data.worldbank.org/indicator/NV.AGR.TOTL.ZS](http://data.worldbank.org/indicator/NV.AGR.TOTL.ZS).

<sup>14</sup> See Sophia Davidova and Ken Thomson, "Family farming: a Europe and Central Asia perspective" (Food and Agriculture Organization of the United Nations (FAO), 2013), p. 18.

communities is observable, with 34 per cent of larger farms being 50 ha and above in size.<sup>15</sup> Polish smallholder farmers have formed cooperatives, federations of cooperatives and community-supported agricultural systems to gain negotiating power in order to compete against giant trade companies in the international market. As cooperatives, small-scale farmers may benefit from collective actions throughout their supply chain, such as purchasing of seeds, use of farm machinery and sharing of processing facilities and transportation. These cooperatives are recognized and legally supported in line with the Agricultural Producers' Organization Funding Act (2000) However, despite these benefits, the Special Rapporteur heard testimonies that small-scale farmers face difficulty in gaining market entry owing to high barriers, including competition against large supermarket chains.

### III. Legal and institutional structure

#### A. Legal framework

##### 1. Legislation on the right to adequate food

10. As a State party to the International Covenant on Economic, Social and Cultural Rights, Poland has a duty to respect, protect and fulfil the right to adequate food and has committed to undertake the appropriate steps, to the maximum of its available resources, to ensure the realization of the right to an adequate standard of living, including adequate food (arts. 2 (1) and 11 (1)). Poland is also a party to other core international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, all of which contain provisions explicitly related to the right to adequate food.<sup>16</sup> Those international agreements are sources of binding law in Poland, in accordance with the Polish Constitution (arts. 9 and 87).

11. While the right to adequate food is not explicitly enshrined in the Constitution or in any legislation in Poland, the Constitution stipulates rights that contribute to the realization of the right to adequate food: the right to life and the right to health are stipulated in article 68, the protection of the environment that is explicitly mentioned in article 74 and the protection of consumers stipulated in article 76. Furthermore, it protects family farms as forming the basis of the agricultural system (art. 23). These rights are closely linked to the right to adequate food and are adjudicated by national administrative courts.

12. To a certain extent, legislation in Poland creates grounds for implementation of the right to adequate food, both in respect of the availability of food and food safety. The Act on Food and Nutrition Safety and its implementing regulations establish the legislative framework on food safety and nutrition according to regulation (EC) No. 178/2002 of the European Parliament and Council. The Act on fodder establishes the competences of the institutions responsible for the hygiene and control of fodder and additives used for animal nutrition and the competences of the institutions responsible for the authorization, labelling and control of genetically modified organisms used for producing fodder. However, the Special Rapporteur notes that the existing legislation in Poland is sectorial, focusing predominantly on food adequacy and food safety, with a lack of specific legislation or

<sup>15</sup> See "Agriculture and rural economy in Poland", p. 8.

<sup>16</sup> See, in particular, Convention on the Rights of the Child, arts. 24 (2) (c) and (e) and 27 (3); Convention on the Elimination of All Forms of Discrimination against Women, arts. 25 and 28 (1); and Convention on the Rights of Persons with Disabilities, arts. 1, 3, 12 (2) and 14.

regulations focusing on the accessibility of food. The Polish legal system does not allow for the direct justiciability of the right to adequate food.

13. The Special Rapporteur wishes to emphasize the importance of explicit legislative recognition of the right to adequate food in national legislation.<sup>17</sup> Similarly, the justiciability of economic social and cultural rights, including the right to adequate food, allows individuals who claim to be victims of violations of those rights to file a complaint before an independent and impartial body, to request adequate remedies and to have any remedy enforced (see A/HRC/28/65). In order to protect human rights, judicial remedy is fundamental and ratification of the Optional Protocols on communications procedures to the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child would enable access to effective remedy for groups, individuals and children, providing an opportunity to bring cases to the international human rights monitoring bodies.

14. As the Special Rapporteur has highlighted in her thematic reports, an overarching legal framework on the right to adequate food could help ensure the integration of a plethora of policies, strategies and programmes, and should emphasize economic and physical accessibility as much as the availability and adequacy of food (see A/HRC/31/51/Add.1, para. 60). Such a legal framework, based on the 2004 Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, other voluntary guidelines and various good practices from other countries, could be helpful to Poland in harmonizing the existing coordination mechanisms between the relevant ministries and other stakeholders, and could also ensure greater efficiency of policies and programmes designed to respect, protect and fulfil the right to adequate food. The Special Rapporteur also notes that local authorities and civil society organizations should play a key role in the decision-making processes and the implementation of such a legal framework.

15. A framework law presents the following benefits: (a) institutionalization of a coherent and integrated approach, through the creation of an independent council formed by relevant government ministries and institutions and members of civil society, associations of food producers and the private sector, which will provide advice to the Government on matters related to food and nutritional security; (b) the grounding of national policies and programmes in a society-wide consensus, increasing their rate of survival in the face of changes in Government; (c) predictability and ring fencing of resources for food and nutritional programmes, possibly through the establishment of a national fund; (d) strengthened accountability and institutional oversight of food and nutritional security programmes, including with regard to the way information is collected and programmes are assessed, thereby increasing transparency and safeguards against the use of political criteria in the targeting of programmes (see A/HRC/25/57/Add.1, para. 80).

## **2. A new initiative: land transaction law reform**

16. On 1 May 2015, following the conclusion of the visit by the Special Rapporteur, the new land transaction law<sup>18</sup> came into force, marking the deadline of the grace period for suspension of sales of agricultural land to foreigners, granted to Poland after its accession to the European Union. During her visit, the Special Rapporteur heard testimonies that during the accession process, there had been increased interest in purchases of agricultural land by foreigners, against which Polish farmers had been protesting for a number of years.

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<sup>17</sup> See, for example, the report of the Special Rapporteur on extreme poverty and human rights emphasizing that economic and social rights be treated as human rights (A/HRC/32/31).

<sup>18</sup> The Act of 14 April 2016 on the suspension of sales of land property of the State Treasury's Land Property Resources and on amendments in certain other laws.

17. The new law changes the system of transactions of farmlands, which may be acquired only by qualified individual farmers. The law aims to strengthen the protection of agricultural land in Poland from speculative investment by domestic and foreign buyers. It seeks to guarantee that the land acquired will be used for agricultural purposes in accordance with the interests of society and to protect family farmers, 90 per cent of whom own approximately 10 ha on average. Another justification is that the new law will speed up agrarian transformation and limit the acquisition of agricultural property by unauthorized persons acquiring land for purposes other than agricultural production.

18. While the new law will still allow free trade between farmers with some strict criteria and provides for some exceptions (such as acquisitions for public projects and religious institutions), it will make it difficult for industrial producers, individuals without farming experience and foreigners to buy large tracts of land (over 300 ha). The Agricultural Property Agency currently administers approximately 1.5 million ha of land. It is tasked with reviewing and authorizing the sale of farmland in accordance with the criteria laid out in the new law. The Agency is also entitled to carry out inspections in order to ascertain whether certain obligations set out in the new law, including whether the obligation to live for five years after the acquisition of farmland in a specified commune is being fulfilled.

19. Although the new law might include good intentions to protect agricultural land in Poland against large foreign or domestic investments that would allow transformation from family farming to big agribusinesses, the Special Rapporteur was encouraged to learn that the law has established procedures to allow individuals to appeal against administrative proceedings in the event that they are wrongly denied their right to purchase farmland. The Special Rapporteur reiterates that such a process should be transparent, impartial and straightforward to ensure the protection of individuals and farmers from any political or economic speculation.

20. During her visit, the Special Rapporteur held extensive interviews on the new law and heard many concerns expressed regarding the potentially negative impact that its implementation might have on smallholders and family farmers. While it is still too early to assess the impact of the law, the Special Rapporteur reiterates that the key to its success will be its implementation in practice, in accordance with human rights principles, as well as the country's constitutional principles. Should it become evident that there are unintended consequences for smallholders and family farmers, the Special Rapporteur urges the Government to consider revising the law and to provide legal aid and support to those affected.

## **B. Policy and institutional structure**

21. In recent years, the Government has introduced an array of policy initiatives to achieve food security, food safety and sustainable agriculture, in an effort to implement the Sustainable Development Goals.

22. In relation to rural development, Poland implemented a rural development programme during the period 2007-2013, focusing on measures to improve the competitiveness of the agricultural sector, enhancing the quality of life and the environment in the countryside and diversification of the rural economy. Similarly, the rural development programme for the period 2014-2020 prioritizes enhancing the viability and competitiveness of farms and providing investment support to roughly 200,000 farms, with

the aim of creating more than 22,000 jobs.<sup>19</sup> Furthermore, in an effort to improve the organization of the food chain, the programme supports investment associated with the processing and marketing of agricultural products and the further development of groups and producer organizations and quality systems for agricultural products and foodstuffs. In the area of food security, Poland has implemented a multi-year national control plan as a long-term plan, which covers all sectors and all stages of the food production chain, in particular, food safety, animal health, animal welfare and plant health.<sup>20</sup> Another initiative was the operational programme on sustainable development of the fisheries sector and coastal fishing areas for the period 2007-2013, which sought to stabilize the balance between marine and inland resources and increase the fishing capacity of the Polish fishing fleet, as well as creating a modern and competitive fisheries sector in Poland. From 1 January 2014, it was replaced by the European Maritime and Fisheries Fund.

23. While these programmes contribute to the realization of the right to food, the Special Rapporteur observes that the policy initiatives and institutional structure for the implementation of legislation related to the right to adequate food are fragmented, without a centralized coordinating body or master plan for national food security. Such a centralized body or an overarching strategy with a specific focus on food security would be beneficial to mainstreaming all aspects of the right to food throughout all national programmes, thereby ensuring that all individuals, particularly those in marginalized and vulnerable situations, are covered.

#### IV. Food availability

24. Food availability is related to the presence of sufficient food from natural resources, for sale on the market, by cultivating land or animal husbandry, or through other ways of obtaining food, such as fishing, hunting or gathering, to meet the needs of the population.

25. Poland is a country with a high level of food self-sufficiency. The agricultural sector and the food processing industry not only meet domestic needs but also produce surpluses that are exported. Poland accounts for approximately 20 per cent of the world market for rye and approximately 1.5 per cent of the world market for the production of pigs.<sup>21</sup> The supply of fish, processed fish and shellfish to the Polish market amounted to 462,400 tons in 2011 and 479,300 tons of live weight fish in 2015.<sup>22</sup> The fish processing industry is one of the largest in the European Union and plays an important role in supplying processed fish to other European countries. Poland produced 450,000 tons of processed fish for a gross turnover of €2.2 billion in 2012.<sup>23</sup> According to the United Nations Food and Agriculture Organization (FAO), between 2003 and 2013 the food supply in Poland, per capita per day, amounted to 3,416 kcal.<sup>24</sup>

26. Innovative agricultural technologies, knowledge and the use of effective organic fertilizers, together with financial support from the European Union and the Government,

<sup>19</sup> See European Commission, fact sheet on rural development programme for Poland 2014-2020 available from [www.ec.europa.eu/agriculture/rural-development-2014-2020/country-files/pl/factsheet\\_en.pdf](http://www.ec.europa.eu/agriculture/rural-development-2014-2020/country-files/pl/factsheet_en.pdf).

<sup>20</sup> See Chief Sanitary Inspectorate, available from [www.gis.gov.pl/zywnosc/plany-kontroli/zintegrowany-wieloletni-plan-kontroli-mancp](http://www.gis.gov.pl/zywnosc/plany-kontroli/zintegrowany-wieloletni-plan-kontroli-mancp).

<sup>21</sup> "Agriculture and Rural Economy in Poland", p. 7.

<sup>22</sup> Ibid., p. 55, and [www.ierigz.waw.pl/download/20095-ryby\\_25\\_16-net.pdf](http://www.ierigz.waw.pl/download/20095-ryby_25_16-net.pdf).

<sup>23</sup> Eurofish, "Overview of the Polish fisheries and aquaculture sector", available from [www.eurofish.dk/index.php?option=com\\_content&view=article&id=120%3Apoland&catid=37&Itemid=53](http://www.eurofish.dk/index.php?option=com_content&view=article&id=120%3Apoland&catid=37&Itemid=53).

<sup>24</sup> FAOSTAT, available from [faostat3.fao.org/browse/FB/\\*/E](http://faostat3.fao.org/browse/FB/*/E).



have resulted in increased yields in agricultural production. Following accession to the European Union, around 1.36 million Polish farmers are considered to fall under the direct support scheme of the Common Agricultural Policy. As a result, Poland has introduced the single area payment scheme, which grants financial support to farmers proportional to their crop area, regardless of the agricultural production volume. In addition, farmers benefit from government subsidies for income tax and social security payments.

27. In Poland, there is a widespread trend of urban agriculture, in the form of family allotments. A 100-year-old tradition, such allotments are used not only to cultivate horticultural crops for personal consumption, but there is also a growing group of people who use them for leisure and recreational purposes. Poland is the leading country in Europe for allotments, with 906,887 allotments occupying nearly 41 million ha.<sup>25</sup> For instance, in Warsaw allotments account for over 58 per cent of all the green space within the city. This shows how great a role they play in the city's ecological system, as well as illustrating a new trend in European cities for maintaining food availability for city dwellers.<sup>26</sup>

28. City allotments also protect green areas against real estate developments as well as maintaining local food supply beyond supermarket chains. According to informal sources, about 1 million families cultivate allotments, a considerable number in a country of 38 million people. The Special Rapporteur strongly advises that this very valuable tradition is kept up.

## V. Food accessibility

29. Food should be physically accessible to all people, including those living in remote areas and the physically vulnerable, such as older persons or persons with disabilities. Furthermore, individuals should be able to afford food for an adequate, culturally acceptable diet without compromising any other basic needs, such as education, health or housing. Poverty and low incomes are major reasons for being unable to access sufficient and nutritious food.

### A. Social protection

30. The Special Rapporteur wishes to emphasize that social protection is an essential means for ensuring access to adequate food for those who are unable to work or produce their own food. It can include a wide range of services, from food aid, income support and health care, to housing allowances that aim to offer protection against the consequences of illness, accident, loss of income, inadequate income, parenthood and old age.

31. Social protection in Poland is regulated in the first instance by the Constitution (articles 67 and 71) and more concretely, by the Act of 12 March 2004 on Social Assistance. The act stipulates that a person or a family shall be entitled to shelter, meals and necessary clothing if they are deprived of such necessities. In 2015, social assistance benefits were granted to around 1.7 million persons and approximately 700,000 families were entitled to benefits for reasons of poverty.<sup>27</sup> The operational programme Food Aid 2014-2020 supplements the Act on Social Assistance and provides forms of support such as

<sup>25</sup> *Statistical Yearbook of Agriculture 2015*, p. 105, available from [stat.gov.pl/files/gfx/portalinformacyjny/en/defaultaktualnosci/3328/6/10/1/statistical\\_yearbook\\_of\\_agriculture\\_2015.pdf](http://stat.gov.pl/files/gfx/portalinformacyjny/en/defaultaktualnosci/3328/6/10/1/statistical_yearbook_of_agriculture_2015.pdf).

<sup>26</sup> Hanna Szumilas, "Allotment gardens in former Eastern Bloc countries — a comparative study of spatial policy in Tallinn and Warsaw", *Annals of Warsaw University of Life Sciences, Horticulture and Landscape Architecture*, No. 35 (2014).

<sup>27</sup> Information provided by the Government, dated 8 June 2016.

food packages and meals, according to the criteria set out in the act. In 2015, the number of recipients amounted to around 1.6 million persons, of whom 542,796 were children aged 15 or less and 836,645 were women.<sup>28</sup>

32. The Special Rapporteur recalls that in 2015, the Committee on the Rights of the Child expressed concern regarding child poverty in Poland, noting that the poverty rate for children was higher in all age groups (0-18 years) than previously and higher than for the rest of the population, with 10 per cent of children facing extreme poverty (see CRC/C/POL/CO/3-4, paras. 36-37 and 40-41). In that regard, the Special Rapporteur was encouraged to learn about the outcome of the State aid programme on food, adopted in 2013. Through this programme, lunch at school is provided to students on the basis of a social assistance system. The programme aims to reduce the phenomenon of malnutrition in children and youths from low-income families or families in a difficult situation, with a particular emphasis on pupils from areas of high unemployment and from rural areas.

## **B. Access to food by specific groups: refugees and inmates**

33. In terms of access to food for specific populations, the Special Rapporteur takes note of two groups, the first being refugees and asylum seekers. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that at the end of 2014, identified numbers in Poland included around 15,741 refugees, 2,470 asylum seekers and 10,825 stateless persons. Poland is a party to the Convention relating to the Status of Refugees and the Protocol thereto. The Act on Social Assistance provides social benefit entitlements to persons residing and staying temporarily within the territory of Poland, including foreigners and those with refugee status or enjoying subsidiary protection. Those who are granted refugee status and subsidiary protection are thus entitled to food programmes on the same basis as Polish citizens. Poland hosts 11 reception centres for asylum seekers, which are located far from residential areas. Reception centres are equipped with kitchens and asylum seekers are able to cook their own food in which case, allowance money, Zł 340 (approximately equivalent to \$85), is provided per person per month. Those who decide to live outside the centres during the process of claiming asylum are provided with Zł 750 per person per month. Considering the minimum wage in Poland is approximately Zł 1,745 per month, the Special Rapporteur considers that this amount may not be sufficient for individuals living alone.

34. The second group comprises inmates in State prisons, who are guaranteed their right to adequate food in accordance with the Executive Penal Code. In one case that was brought before the European Court of Human Rights, the authorities in a State prison refused to provide an inmate with a meat-free diet, which was contrary to the dietary rules of the individual's faith. In that case, the European Court of Human Rights concluded that observing dietary rules in accordance with one's religious belief could be considered as a direct expression of beliefs in practice in the sense of article 9 of the European Convention on Human Rights.<sup>29</sup> Following that decision, changes were introduced in Poland and inmates are currently served according to nutritional standards which take into account the religious and cultural requirements of each inmate. Furthermore, for inmates carrying out heavy physical work and in severe weather conditions, additional meals are served daily. The Special Rapporteur welcomes this outcome and encourages the Government to continue to strive to ensure that the right to adequate food for prisoners is fulfilled.

<sup>28</sup> Information provided by the Government, dated 8 June 2016.

<sup>29</sup> *Jakóbski v. Poland*, (Application no. 18429/06), 7 December 2010.

## VI. Food adequacy

35. Adequacy requires that food satisfy dietary needs, depending on a person's age, living conditions, health, occupation and gender, amongst other factors. Adequacy of food also means that food is safe for human consumption, free of adverse substances, culturally acceptable and nutritious.

### A. Undernutrition, obesity and healthy eating habits

36. Despite an ample food supply in Poland, there are people suffering from undernutrition and micronutrient deficiency. According to the first nationally representative nutritional survey, carried out by the National Food and Nutrition Institute in collaboration with the Central Statistical Office in 2000, 3.2 per cent of women examined (aged 19 years and above) and 1 per cent of men examined (aged 19 years and above) had a body mass index below 18.5, identified as those at risk of undernutrition. For boys aged 1-18 years the percentage of those underweight was 11.8 per cent and for girls in the same age group, 14.2 per cent. The Special Rapporteur notes that such a nationwide nutritional survey has not been conducted since 2000, highlighting the difficulty in accessing up-to-date information on the nutritional status of the population, including rates of undernutrition. With regard to micronutrient deficiency, in 2009/2010 the National Food and Nutrition Institute carried out a survey assessing the dietary intake of nearly 400 children aged between 11 and 13, which indicated an extremely high risk of deficiency for vitamin D, folate and vitamin E. Over 90 per cent of the children surveyed manifested the risk of calcium and potassium deficiency. In a survey conducted in 2013/2014 within the framework of the national multi-centre health survey of a random sample of the population aged over 20, considerable deficiencies were found in folate, magnesium, calcium and potassium intakes.

37. On the other hand, owing to changes related to modern urban lifestyles and dietary habits, obesity and eating disorders, such as bulimia and anorexia, have been identified as emerging issues in Poland, especially among the youth. Obesity levels for Polish children have increased during the last decade, with a jump from 5 per cent in 2000 to 22 per cent in 2013. According to a survey carried out by the World Health Organization (WHO), 31 per cent of 11-year-old boys and 21 per cent of 11-year-old girls in Poland are overweight or obese.<sup>30</sup> According to the dietary survey mentioned in the previous paragraph, 41 per cent of adult men were overweight and 15.7 per cent were obese. For women, 28.7 per cent were overweight and 19.9 per cent were obese.

38. The Special Rapporteur welcomes the fact that the Government considers combating overweight and obesity as a high priority and welcomes several initiatives it has taken to promote healthy ways of eating. As early as 2007, Poland implemented a national prevention programme for overweight and obesity and non-communicable diseases through dietary improvement and increased physical activity. Under the programme, the National Food and Nutrition Institute has devised a comprehensive programme, including a national dietary survey similar to the one carried out in 2000, covering all population groups. The Special Rapporteur however notes with regret that the programme was discontinued after 2012 owing to lack of funding.

39. Recent initiatives by the Government have focused on reducing overweight and obesity in children. One legislative initiative is the amendment to the Polish Food and Nutrition Safety Law, which takes into consideration the food and nutrition of children and

<sup>30</sup> World Health Organization (WHO), *Growing Up Unequal: Gender and Socioeconomic Differences in Young People's Health and Well-being* (Geneva, WHO Regional Office for Europe, 2016).

adolescents in educational institutions. The amendment requires that food offered in school canteens comply with nutritional standards, for example restricting the use of salt, sugar and other food additives.

40. Poland is also implementing programmes to promote healthy eating habits that target children. One initiative, introduced in the 2004/2005 school year, is the “Milk at school” programme, which encourages consumption of healthy dairy products containing important vitamins and minerals. Children who regularly attend nursery schools, kindergartens, primary schools and secondary schools receive 0.25l of milk or an equivalent milk product per school day. Another programme, introduced in 2009, is the school fruit and vegetable programme aimed at changing the eating habits of children by increasing the share of fruit and vegetables in their everyday diet. Children participating in the programme receive a portion of fresh fruit and vegetables and juices two to three times a week. In the school year 2015/2016, nearly 91 per cent of the target group (aged 6 to 9), 1.476 million students, participated in the programme.<sup>31</sup> In addition to the distribution of fruit and vegetables, the programme also includes education and communication aspects, whereby schools participating in the scheme are obliged to implement at least two activities aimed at developing healthy dietary habits in their pupils, enriching their knowledge of the origin of agricultural products and assessing the impact of the programme on children’s dietary habits.

41. In another programme, “School promoting health,” teachers are encouraged to eat together with students to monitor their diet, including the lunches that they bring to school. The Ministry of Health plans to disseminate widely the concept of “School promoting health”, to be carried out by the Ministry of Education and the Education Development Centre.

42. Eliminating poor eating habits requires comprehensive intervention and must be stimulated not only by restrictions, but also by complementary dietary awareness. The Government has launched several programmes to change the awareness of young consumers through widespread education, prevention of bad nutritional habits and actions to increase physical activity in line with guideline 11 of the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. These issues have been addressed in the national health programme for the period 2016-2020, in which the need to improve the diet of the population is stressed, with particular emphasis on the dissemination of the principles of proper nutrition in schools and the implementation of broader health education.

43. A specific example of education and awareness-raising is the “Keep fit” national educational programme operated by the Chief Sanitary Inspectorate and the Polish Federation of Food Industry from 2006 to 2015, covering 8,805 primary and lower secondary schools in Poland, which includes nearly 7 million students. The programme aims to promote a balanced diet and physical activity among teenagers and to educate them in how to develop permanently healthy habits, and promote an active lifestyle and balanced diet based on individual responsibility and free choice.

44. Commercial advertisements for unhealthy foods are also a contributing factor to the rise in obesity and unhealthy diets among children across the world. While there are no legal regulations on the limitation of advertising for junk food targeting children, the Special Rapporteur welcomes voluntary initiatives by food producers and the Polish media to self-censor advertising of junk food aimed at children aged less than 13. However, these voluntary initiatives are non-binding in nature and require further scrutiny in terms of transparency and consistency in the definition of nutrition criteria, among other issues. The

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<sup>31</sup> Information provided by the Government, dated 8 June 2016.

Special Rapporteur emphasizes that as part of the State obligation under the right to health and the right to adequate food, Poland should formulate laws, policies and regulatory frameworks to control the advertising of unhealthy foods, in particular to reduce children's exposure.

45. To a certain extent, emerging superstores impact the unhealthy eating habits of urban dwellers, leading them to replace fresh fruit and vegetables with unhealthy, relatively inexpensive foods that are widely available in such stores. Taxes on junk food and sugary drinks are one method to reduce malnutrition and market monopolization. These policies are also effective in helping local food vendors and smallholders to compete with supermarket chains, as well as fighting obesity and non-communicable diseases.

## **B. Breastfeeding and baby food**

46. The dietary habits of individuals may be fostered from birth. Studies have indicated that children and adolescents who were breastfed as babies are less likely to be overweight or obese and their immune systems are likely to be stronger than those who were not. Additionally, some studies have indicated that they perform better in intelligence tests and have a higher level of school attendance. Promoting adequate breastfeeding plays a crucial role in the prevention of obesity, which is currently one of the main challenges in the area of public health in Poland, and helps to develop strong immune systems to protect children from various diseases (see A/71/282).

47. Poland is currently implementing the WHO recommendation that babies be exclusively breastfed up to 6 months of age, followed by continued breastfeeding and appropriate complementary foods up to 2 years of age or beyond. Poland has started to include breastfeeding rates in its public statistics, receiving the first data in 2015, which found that in the first four weeks of life, 70 per cent of infants were exclusively breastfed, but that fell to 49 per cent between the ages of 2 and 6 months. At 9 months, only 28 per cent were still breastfed (but not exclusively). An informal study conducted in 2013 found that while 95 to 97 per cent of mothers initiated breastfeeding after birth, those rates fell to 65 per cent for infants of 4 months.<sup>32</sup> In order to assess and monitor the status of breastfeeding in Poland, in 2014 the Government initiated a survey, which includes a questionnaire on breastfeeding in the mandatory reporting for all medical centres. Data on feeding newborn babies and infants are collected from primary care doctors during check-ups, as well as in maternity hospitals. The Special Rapporteur looks forward to seeing the results of the questionnaire and the data collected by the Government.

48. In terms of the legal framework, breastfeeding is explicitly supported by the regulation of the Minister of Health of 20 September 2012 concerning the standards of conduct and medical procedures during the provision of health services in the field of prenatal care, birth, post childbirth and infant care. The regulation seeks to ensure the implementation of standardized practices to support breastfeeding in all branches of gynaecology and obstetrics in Poland. It also implements the WHO International Code of Marketing of Breast-milk Substitutes (1981) of which the main objective is to support breastfeeding and to reduce the impact of advertising of milk substitutes.

49. The entitlements of female employees in relation to breastfeeding are defined in the Labour Code (art. 187), entitling them to two half-hour breaks during their working hours if they work more than six hours per day. Women breastfeeding more than one child are entitled to two 45-minute breaks. These breaks are not paid if a woman works for less than

<sup>32</sup> Centre for Lactation Science, "Report on breastfeeding status in Poland 2013".

four hours a day. The regulations apply throughout the time the woman decides to breastfeed, without an upper age limit of the child.

50. Additionally, the regulation of the Minister of Health concerning food products intended for particular nutritional uses defines the conditions for the labelling of products intended for the initial feeding of infants. While Polish law prohibits the advertising of milk formula, the same prohibitions and regulations for baby food do not exist.<sup>33</sup> As such, the Special Rapporteur encourages Polish legislators to put in place regulations to carefully monitor the advertising of baby food and food for infants over 6 months of age.

51. As for policy initiatives, the Ministry of Health is implementing the Baby-friendly Hospital Initiative, launched in 1991 by WHO and UNICEF, which aims to implement practices that protect, promote and support breastfeeding. More specifically, the objectives of the initiative are to support early initiation (first day of birth) of breastfeeding and to promote exclusive breastfeeding for the first six months. Currently, 90 hospitals in Poland have been certified as “baby-friendly.”<sup>34</sup>

## VII. Vulnerable and marginalized populations

52. The Special Rapporteur welcomes the efforts made at all levels of the Government to protect the enjoyment of the right to adequate food as part of an adequate standard of living. However, the Special Rapporteur is concerned that without the availability of disaggregated information about those marginalized in relation to the enjoyment of the right to adequate food, there is a risk that social protection and assistance programmes may not reach all those in need and may not be designed to target relevant population groups effectively. In order to ensure successful national efforts to eliminate poverty and access to adequate food for all, the collection and analysis of appropriately disaggregated data on the situation of specific population groups is essential. Such data collection and analysis must be carried out periodically to identify those in vulnerable situations, and systems must be in place to continuously monitor the impact of such assistance policies and programmes. In the following paragraphs, the Special Rapporteur highlights a number of population groups which might benefit from further monitoring.

### A. Rural women and women farmers

53. With respect to rural women and women farmers, the Special Rapporteur reiterates the concern of the Committee on the Elimination of Discrimination against Women that rural women in Poland continue to suffer from limited access to health care, education, employment and social services and participation in decision-making processes at the local level (see CEDAW/C/POL/CO/7-8, paras. 38 and 39). Poland collects data on women’s participation in the implementation of projects under the rural development programme. According to the general data for the programme for the period 2007-2013, female farmers accounted for 20 per cent of all farmer beneficiaries. The Special Rapporteur, however, finds that this information does not adequately reflect the situation of rural women in relation to food security, poverty, malnutrition and hunger, and does not take into consideration that in general, rural women disproportionately experience poverty and

<sup>33</sup> Advertising of breast milk substitutes is regulated by the Act of 25 August 2006 on food safety and nutrition.

<sup>34</sup> The Committee on the Dissemination of Breastfeeding is charged with the certification of hospitals. A list of baby-friendly hospitals is available from [www.laktacja.pl/index.php?option=com\\_content&view=article&id=8%3Aszpital-przyjazne-dziecku&catid=6&Itemid=25](http://www.laktacja.pl/index.php?option=com_content&view=article&id=8%3Aszpital-przyjazne-dziecku&catid=6&Itemid=25).

exclusion and face systemic discrimination in accessing land and natural resources.<sup>35</sup> Disaggregated information from the perspective of protecting the right to adequate food is necessary in order to fully monitor the status of rural women and their enjoyment of the right to adequate food, and the possible negative impact arising from the recent trend of agricultural industrialization in Poland.

## **B. Roma population**

54. Another marginalized population of concern are the Roma communities. In Poland, the Roma population is estimated to be between 13,000 and 50,000.<sup>36</sup> During the national census of population and housing in 2011, 16,723 Polish citizens declared that they belonged to the Roma ethnic minority. Roma belong to five groups: Polish Roma, Carpathian Roma (also called Bergitka Roma or Mountain Roma), Kalderari, Lovari, and the small group of Sinti.

55. In 2009, the Committee on Economic, Social and Cultural Rights raised concerns that the Roma communities in Poland continued to face widespread discrimination in areas such as employment, education, land tenure, access to welfare benefits, housing and health care, which impaired the enjoyment of their economic, social and cultural rights (see E/C.12/POL/CO/5, para. 14). Poland has since implemented a programme for the integration of the Roma community in Poland for the period 2014-2020.<sup>37</sup> The primary objective of the programme is to increase the integration of the Roma community by providing support in four areas: education, housing, health and activities to increase employment. The Special Rapporteur wishes to draw the attention of the Government to the fact that the enjoyment of the right to adequate food reinforces the enjoyment and promotion of many other rights, including education, adequate housing and the highest attainable standard of physical and mental health. As such, ensuring access to food for the Roma population should also be a focus area in national programmes.

## **C. Seasonal migrant workers**

56. In Poland, most seasonal migrant workers are engaged in agricultural activities. The Ministry of Family, Labour and Social Policy is currently drafting a bill to implement the provisions of directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers. This directive obliges member States to introduce certain terms and procedures for the issuance of residence and work permits for foreign seasonal workers. The aim of the new rules is to improve the process of accepting workers from third countries and to establish effective channels to promote legal employment. The Special Rapporteur welcomes these efforts and hopes that such legislation is implemented to facilitate seasonal migrant workers in obtaining legal status as employees and as residents in Poland. The requirements for obtaining residence and work permits for seasonal workers should not be too stringent and time-consuming, so that those residing in Poland can also benefit in a timely manner from social assistance and food provisions, in accordance with the Act on Social Assistance, which stipulates that persons residing or

<sup>35</sup> See Committee on the Elimination of Discrimination against Women, general recommendation No. 34 (2016) on the rights of rural women, paras. 5 and 63.

<sup>36</sup> Irena Topińska, "Poland, second semester report: promoting social inclusion of Roma" (Centre for Social and Economic Research on behalf of the European Commission, 2011).

<sup>37</sup> Available from [www.ec.europa.eu/justice/discrimination/files/roma\\_poland\\_strategy2\\_en.pdf](http://www.ec.europa.eu/justice/discrimination/files/roma_poland_strategy2_en.pdf).

staying temporarily within the territory of Poland are entitled to social assistance benefits and the relevant food subsidies.

## VIII. Emerging issues

### A. Food waste

57. According to Eurostat data in 2006, Poland wasted nearly 9 million tons of food. Nearly 6.6 million tons of food waste is attributed to food production, while 2 million tons originates from households. The Special Rapporteur notes that there is a lack of reliable up-to-date data regarding the quantity of food waste, which, if it existed, would help to implement efficient strategies to manage food surpluses and prevent waste.

58. Government-led initiatives related to food waste prevention are part of the national waste prevention programme<sup>38</sup> and initiatives related to food waste management are included in a draft of the national waste management plan for 2022. However, the Special Rapporteur is concerned that there is no specific programme for monitoring food waste, nor is there a governmental institution dedicated to carrying out such a task. Also lacking is a formal structure for intersectoral cooperation between different governmental agencies to reduce food waste effectively and provide legal regulations promoting prevention of food waste. Considering that there is surplus food production in Poland, the Government should prioritize methods to deal with excessive food that is unconsumed and unsold. The Special Rapporteur further advises that Poland initiate policies that enhance the willingness of individuals to modify consumption behaviour to avoid food waste.

59. Non-governmental organizations have largely been responsible for dealing with prevention of food waste in Poland. The Federation of Polish Food Banks, which cooperates with 32 food banks and food distributors, works to prevent and reduce food waste. Donated food is transferred from food banks to social organizations and then to the recipients. In 2015, food banks provided 146,000 tons of food, with a total value of €80 million for almost 2 million people in need.<sup>39</sup> Additionally, food banks have signed agreements with retail chains such as Tesco Poland, Makro, Selgros, Auchan and Carrefour to transfer to them food with short expiry dates.

60. One legal measure taken to facilitate food distribution by food banks is the amendment to the Act on Value Added Tax, which allows food donated by producers and distributors to be exempt from VAT. This amendment replaced the previous regulation, whereby only donations made by producers were exempt from VAT. The amendment now relieves the financial constraint faced by distributors when making food donations.

61. Nevertheless, certain regulations negatively affect the implementation of some initiatives by non-governmental organizations to tackle food waste. For instance, it is not possible to donate and distribute food that has passed its “best before” date. That affects partners, such as hypermarket chains, which could potentially donate food that has passed the date but which is still edible. Another concern is that Polish regulations lack clear information and instructions on how to treat food that does not meet quality standards, but which could still be redistributed or donated. That potentially affects food producers who

<sup>38</sup> Available from [www.mos.gov.pl/g2/big/2014\\_10/a400f6bb998e8fbc1bc8451fe5c41b11.pdf](http://www.mos.gov.pl/g2/big/2014_10/a400f6bb998e8fbc1bc8451fe5c41b11.pdf).

<sup>39</sup> Information provided by the Federation of Food Banks, dated 16 June 2016. The sources of food aid include *81,000 tons of fresh fruit and vegetables donated by farmers, 53,800 tons from the Fund for European Aid to the Most Deprived, 8,200 tons from food producers, 1,600 tons from food collections and 1,400 tons from donations by food distributors.*



are unwilling to donate food that does not reach quality standards, even if it is safe and edible.

## **B. Climate change and a sustainable environment**

62. Climate change has negative impacts on agriculture, while current agricultural practices and food systems are responsible for harming the environment, affecting social and environmental determinants of health and accelerating human-induced climate change (see A/70/287). Changes in temperature, humidity, precipitation and other factors will increase the risk of food insecurity and adversely affect the quality of food, as well as fresh water availability.

63. Poland is committed to its international obligations in relation to the United Nations Framework Convention on Climate Change and the sustainable development principles which form part of the 2030 Agenda for Sustainable Development. Poland became a party to the Framework Convention on Climate Change on 9 May 1992 and to the Kyoto Protocol of 11 December 1997. As a member of the European Union, Poland also signed the Paris Agreement on 22 April 2016, committing itself to the intended, nationally determined contribution of the European Union to achieve by 2030 at least a 40 per cent national reduction in greenhouse gas emissions compared to 1990 levels. The Special Rapporteur looks forward to the efforts to be made by Poland in view of preparations for the ratification of the Paris Agreement, recognizing that these will be challenging commitments to meet, considering that the country relies on coal as its main source of fuel for electricity generation.

64. In Poland, three sectors are recognized as being the most vulnerable to climate change and having the most significant socioeconomic consequences: water management, coastal zone management and agriculture. Climate change will significantly undermine the right to food, with a disproportionate impact on those who have contributed the least to its harmful effects and are most vulnerable to them. Over recent years, an increase in the frequency of extreme weather events, such as prolonged droughts and water deficits, floods and inundations, landslides and heat waves, have resulted in reduced agricultural production and water shortages.<sup>40</sup> Even without considering the negative consequences of climate change, the quality of agricultural land in Poland is already relatively inadequate for agriculture, with a high percentage of poor and acidified soils. Combined with frequent rainfall shortages, 62.5 per cent of the agricultural land in Poland is classified as “areas with natural constraints”.<sup>41</sup> Approximately 19.4 per cent of arable land in Poland faces various environmental challenges: 8.2 per cent is particularly endangered by water and/or wind erosion, 3.6 per cent experiences problems with low levels of humus, which provides nutrients for plants and increases the ability of soil to retain water, and 7.4 per cent is defined as “nitrate vulnerable zones”, namely areas that drain into waters polluted by nitrates.<sup>42</sup>

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<sup>40</sup> See Republic of Poland, *Sixth National Communication and First Biennial Report to the Conference of the Parties to the United Nations Framework Convention on Climate Change* (2013), pp. 129-142.

<sup>41</sup> See factsheet on rural development programme 2014-2020.

<sup>42</sup> See factsheet on rural development programme 2014-2020.

### **C. Alternative food systems: organic farming and agroecology**

65. To reduce the adverse impacts of climate change on agriculture and minimize resource depletion, it is necessary to promote alternative food systems, based on sustainable local food production. Local food systems use ecological farming methods, avoid long-distance transportation and use less fossil fuel inputs and chemicals. This alternative form of agriculture also contributes to the reduction of greenhouse gas emissions.

66. In the previously mentioned rural development programme for the period 2014-2020, approximately 30 per cent of its total budget is dedicated to environmental and climate-friendly practices aimed at enhancing biodiversity, increasing organic farming, improving water management and preventing soil erosion. Those measures support environmental protection projects, including water, soil, landscape and climate protection. Community-supported agriculture is also helpful for connecting consumers and farmers, allowing consumers to pay up front to producers for a whole season of deliveries, providing them with healthy, high quality and fresh food. The Special Rapporteur was impressed by young farmers who have established community-supported farms to deliver such fresh vegetables and fruit. With the help of the Government, by way of various incentives and tax reductions, such a system may have a viable future in establishing self-sufficient food security in Poland and could act as a model to its neighbours.

67. Small-scale farmers who follow agroecological practices provide a higher resistance to climate change, reduce vulnerability and make farms more sustainable in the long term. For instance, organic farmers do not use excessive chemicals, synthetic plant protection measures or antibiotics for livestock, so that the resulting food is produced naturally by environmentally friendly methods, which may also have positive impacts on human health and the environment.

68. In Poland in 2009, organic farming accounted for 2.4 per cent of the total arable area, ranking Poland in ninth position in Europe. At the end of 2011, the area of organic farming accounted for 4 per cent of the total arable area. The control and certification of organic farming in Poland ensures that organic products are manufactured according to the requirements in the organic farming regulations. The Agricultural and Food Quality Inspection is responsible for the oversight of certification units and organic production. The Special Rapporteur visited several organic farms during her visit and interviewed farmers, some of whom voiced the need for further financial and technical support from the Government in order to compete with large-scale corporate industrial farming.

### **D. Use of pesticides**

69. Pesticides used in farming can leave hazardous residues in foods, thereby impeding the right of the individual to access safe, healthy food. Farmworkers and their families are particularly at risk of exposure. Children may also be exposed to hazardous pesticides through their mother's milk. Pesticide use in Poland as an accession country has been very low for over a decade; however, it is on the rise due to the intensification of agriculture following accession, owing to competition.<sup>43</sup> The application of pesticides is covered by the Act of 8 March 2003 on plant protection products, which seeks to protect human health and the environment and limit the application of chemicals by promoting integrated pest management.

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<sup>43</sup> Leonard Gianessi and Ashley Williams, "EU subsidies have led to a significant increase in pesticide use and crop productivity in Poland" CropLife Foundation international pesticide benefit case study No. 49 (December 2011).

70. In Poland, official control and monitoring of pesticide residues in food is conducted in accordance with the provisions of national and European law, especially regulation (EC) No. 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council directive 91/414/EEC. A regulation of 16 September 2010 from the Minister of Health furthermore indicates maximum permitted levels of pesticide residues for infant formula and complementary foods for young children. The State Sanitary Inspectorate prepares and implements a consolidated annual plan of sampling for testing food as part of official control and monitoring, which takes in to account the applicable legislation on food safety. The Special Rapporteur emphasizes the importance of local authorities monitoring the implementation of these regulations.

## E. Genetically modified organisms

71. In Poland, legislation exists to regulate the use of genetically modified organisms in spheres from scientific experiments and production, through import and distribution to the placement of products containing them on the market. It includes the Law of 22 June 2001 on genetically modified organisms and other laws and the Law of 15 January 2015 on the change in the Law on genetically modified organisms and other laws. Furthermore, in accordance with the Law of November 2012 on seeds, Poland bans the use for cultivation of genetically modified maize seed MON 810. Legislation related to genetically modified organisms is overseen by the Ministry of the Environment, responsible for the contained use of them and their release into the environment for experimental purposes;<sup>44</sup> the Ministry of Agriculture and Rural Development, responsible for genetically modified feed and for the marketing and use of seeds, including genetically modified varieties; and the Chief Sanitary Inspectorate, responsible for any activities concerning genetically modified food and genetically modified organisms intended for food production within the scope of European Union regulations on genetically modified food and the traceability and labelling of genetically modified organisms.

## IX. Conclusions and recommendations

**72. As a major agricultural country in Europe, Poland has adopted a wide range of policies and programmes to ensure the effective enjoyment of the right to food, as part of the right to an adequate standard of living. Those policies also protect family farmers and support the Polish agricultural sector in adjusting to emerging competition. However, as identified in the present report, the legislative structure remains inadequate for providing the right to food for all as a fundamental human right, in accordance with article 11 of the International Covenant on Economic, Social and Cultural Rights. Legislation and policy on food in Poland are focused primarily on food adequacy and food safety, and some social programmes and policies on specific vulnerable populations are not enough to mainstream the issue of food accessibility. By recognizing access to sufficient and adequate food as a legal entitlement, the right to food provides an important tool to protect the rights of people to live with dignity and ensures that all have either the resources required to produce enough food for themselves, or purchasing power sufficient to procure food from the market. It also imposes obligations on the State, requiring transparency, avoidance of discrimination and participation in decision-making mechanisms to provide individuals with access to recourse mechanisms when these obligations are not met.**

<sup>44</sup> See directive No. 2001/18/EC on the deliberate release into the environment of genetically modified organisms and repealing Council directive 90/220/EEC.

73. **The Special Rapporteur recommends that the Government:**

- (a) **Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;**
- (b) **Create a master plan for a national policy focused on the right to food, with the participation of all stakeholders, including smallholders and consumers at every level;**
- (c) **Devise and adopt a national law on the right to adequate food, including a stronger overall legislative framework on the protection of that right. The framework should also include the necessary budgetary and fiscal measures;**
- (d) **Establish a centralized institutional or coordinating body to implement legislation related to the right to adequate food and policy initiatives. The authorities and agencies responsible for implementation should be identified and appropriate monitoring and accountability mechanisms established to ensure proper implementation of existing laws;**
- (e) **Highlight and mainstream all aspects of the right to adequate food as a pillar in national social assistance programmes;**
- (f) **Collect disaggregated data to monitor the situation of all marginalized groups and those in vulnerable situations, including women, by conducting surveys and studies;**
- (g) **Strengthen the integration of a gender perspective into institutional, legal and policy frameworks on the right to adequate food and nutritional security strategies, as well as rural development programmes, and support women farmers with additional incentives and access to credit and other agricultural resources;**
- (h) **Ensure that the new land transaction law adheres to the principles of human rights and that individuals are guaranteed adequate access to appeal the administrative proceedings;**
- (i) **Establish regulatory frameworks and national policies to control the advertising of unhealthy foods, in particular to reduce the exposure of children;**
- (j) **Implement and monitor environmental regulations that protect soil degradation and water pollution from excessive farming, especially in relation to livestock;**
- (k) **Enhance control and monitoring systems against the excessive use of pesticides;**
- (l) **Promote organic agriculture and agroecology, including by providing support, such as financial mechanisms and training programmes for ecological farming;**
- (m) **Continue to implement the FAO voluntary guidelines for domestic agricultural policymaking activities, specifically the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security; the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security; and the Principles for Responsible Investment in Agriculture and Food Systems endorsed by the Committee on World Food Security;**

(n) **Continue to make efforts towards implementing the Sustainable Development Goals, especially Goal No. 2 to end hunger, achieve food security and improved nutrition and promote sustainable agriculture, and establish a national monitoring system.**

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