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Examen périodique universel

Note verbale datée du 28 mars 2011, adressée au Haut-Commissariat des Nations Unies aux droits de l'homme par la Mission permanente de la République de Pologne auprès de l'Office des Nations Unies à Genève

La Mission permanente de la République de Pologne auprès de l'Office des Nations Unies et des autres organisations internationales à Genève présente ses compliments au Haut-Commissariat des Nations Unies aux droits de l'homme et a l'honneur de lui faire tenir ci-joint un exemplaire du rapport à mi-parcours sur la mise en œuvre des recommandations adressées à la Pologne dans le cadre de l'Examen périodique universel*. Le rapport a été présenté par la délégation polonaise au titre du point 6 de l'ordre du jour de la seizième session du Conseil des droits de l'homme.

La Mission permanente de la République de Pologne vous saurait gré de bien vouloir faire distribuer le texte de la présente note et de son annexe en tant que document de la seizième session du Conseil, au titre du point 6 de l'ordre du jour.

* Rapport publié en annexe à la présente note et distribué tel qu'il a été reçu, dans la langue originale seulement.

Annexe

**Republic of Poland
Ministry of Foreign Affairs**

**Human Rights Council
16th Session**

**UNIVERSAL PERIODIC REVIEW
MID-TERM PROGRESS REPORT BY
POLAND**

Recommendation	State of implementation of the recommendations – February 2011.
<p>1. Recommended to Poland to endorse the recommendations made by the Committee on the Rights of the Child and the Human Rights Committee on the adoption of legislative measures to ensure compliance of national legislation with the principles and provisions of the <i>Convention on the Rights of the Child</i> (Angola);</p>	<p>Polish national legislation ensuring protection of the rights of children complies with the provisions of the <i>Convention on the Rights of the Child</i>.</p> <p>1) <i>The Constitution of the Republic of Poland</i> is the supreme source of human rights in Poland, one of which is the protection of the rights of the child (Article 72), and it lays down the fundamental principles governing family relations in our country. Under <i>the Constitution</i>, children have the right to demand special health care (Article 68. 3) and children deprived of parental care are guaranteed care and support which they obtain from public authorities (Article 72. 2).</p> <p>2) <i>The Family and Guardianship Code</i>, which implements the fundamental principles enshrined in the Constitution that safeguard the good of the child and guarantee children equal rights, irrespective of whether they were born in or out of wedlock, is the principal legislative act governing family rights.</p> <p>3) In July 2005, the Parliament of the Republic of Poland passed <i>The Act on Counteracting Domestic Violence</i> which was amended on June 10, 2010. It aims to enhance the protection provided to victims of domestic violence (banning corporal punishment of minors by persons who exercise parental or guardianship authority over them). The Act imposes an obligation on central as well as local government bodies to effect measures to counteract domestic violence, as well as to initiate and promote activities to raise social awareness about the causes and effects of domestic violence (for details: see response to Recommendation no. 2).</p> <p>4) Polish legislation on sexual exploitation of children is fully consistent with the provisions of <i>the Convention on the Rights of the Child</i>, in particular its Art. 34, which obligates States Parties to protect the child against all forms of sexual exploitation and sexual abuse. Protection against child pornography under Polish law is wider than the one accorded under <i>the Convention on the Rights of the Child</i> and its <i>Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography</i>. Since 2008, the Polish <i>Criminal Code</i> has been amended several times to enhance the protection of children against sexual violence. These amendments have resulted in the alignment of Polish law with international standards (for more information, please see response to Recommendation no. 2).</p> <p>5) Article 40 of <i>the Constitution of the Republic of Poland</i> prohibits all forms of torture or cruel, inhumane or degrading treatment or punishment. It also bans corporal punishment. This ban was also enacted through the “<i>Family and Guardianship Code: ”Persons exercising parental authority or guardianship over a minor are prohibited from administering corporal punishment”</i> (Article 96¹ as amended in 2010).</p> <p>6) Polish law guarantees the primacy of child rearing by his or her own family. <i>The Act on Social Assistance of March</i></p>

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	<p><i>12, 2004</i> reflects the hierarchy of these values and sets out, respectively, the sequence of measures aimed at preserving the right of the child to be reared by his or her family, namely to receive support from his or her own biological family, then to obtain assistance, if the child cannot remain with his or her own family and – as a last resort measure – to be placed in residential child care facilities.</p> <p>7) Contacts with a child were the subject of an amendment of <i>the Family and Guardianship Code</i> in 2008, whose aim was to facilitate such contacts. Under the amendment, maintaining contacts with a child is a right of a child and and, at the same time, an obligation of his parents. This regulation corresponds to Article 9.3 of <i>the Convention on the Rights of the Child</i>, which provides that a child has a right to maintain regular personal and direct contacts with both parents, except for cases, when it is against the best interest of the child. The amendment also incorporates Article 10 of <i>the Convention</i>, which provides that a child whose parents reside in different countries shall have the right to maintain regular (save for exceptional cases) personal relations and direct contacts with both parents. This Amendment also corresponds to the substance of the Council of Europe <i>Convention on Contact concerning Children</i>.</p> <p>8) Pursuant to Article 91 of <i>the Constitution of the Republic of Poland</i>, international agreements that contain a definition of human trafficking, including primarily the <i>Palermo Protocol</i> and the <i>Council of Europe Convention on Action against Trafficking in Human Beings</i>, are directly applicable by Polish judicial authorities.</p> <p>9) Under the amended <i>Act on General Obligation to Defend the Republic of Poland</i> and the amended <i>Act on Alternative Military Service</i>, only persons over 18 years old may be called upon to perform obligatory or volunteer basic military service.</p>
<p>2. While noting the measures taken by Poland to address the continuing occurrence of violence against children, recommended that measures be taken by the Government to ensure the sufficient legal protection of the freedom of children from physical or mental violence (Sweden);</p>	<p>On June 10, 2010, <i>The Act on Counteracting Domestic Violence and some other Acts</i> were amended. The amendments were intended to ensure:</p> <ol style="list-style-type: none"> 1) the development of domestic violence prevention measures, 2) increasing the effectiveness of protection accorded to victims of domestic violence, esp children, 3) the creation of mechanisms facilitating isolating offenders from their victims, 4) change of the attitude of persons resorting to domestic violence by subjecting them to corrective and educational interactions. <p>The Act amends <i>the Family and Guardianship Code</i> by banning corporate punishment and all forms of reprimand inflicting mental suffering on children that violates their dignity; <i>the Criminal Code</i> by requiring domestic violence offenders to</p>

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	<p>participate in corrective and educational programmes, with or without their consent, and imposing new penal and probation measures: the restraining order and the order to leave the premises occupied jointly with the victim; and <i>the Code of Criminal Procedure</i>, by extending the catalogue of preventive measures to include a restraining order and an order to leave premises enforced under the civil law procedure, apart from criminal proceedings.</p> <p>In addition, the Act requires local authorities to develop local programs to counteract domestic violence and to effect preventive measures (including setting up interdisciplinary groups).</p> <p>Pursuant to the Act, social workers were granted the right to take a child away from his or her family in the event that his or her life or health is at risk due to acts of violence.</p> <p>On June 8, 2010, amendments to <i>the Criminal Code</i> and other acts went into effect introducing more effective measures to counteract paedophilia in the Internet. The purpose of the Act was to introduce harsher penalties for perpetrators of sex offences against children below the age of 15.</p> <p>The objective of <i>the Criminal Code</i> amendment was to align Polish law with the requirements of the <i>Council of Europe Convention on the Protection of Children against Sexual Exploitation</i> and was dictated not only by the planned ratification of <i>the Convention</i>, but primarily by the need to guarantee effective action against sexual offences against minors.</p> <p>The amendment also ensured greater effectiveness of measures undertaken towards the perpetrators of such crimes, by subjecting them to therapy that tones down criminal sexual behaviour in the form of obligatory placement of a sentenced offender in a centre running pharmacological therapy or psychotherapy.</p>
<p>3. Encouraged Poland to continue its efforts to ensure compliance of its domestic legislation with <i>the Convention on the Rights of the Child, specifically with regard to juvenile justice (Mexico)</i>;</p>	<p>Polish law is compatible with the provisions of <i>the Convention on the Rights of the Child</i>, including those concerning juvenile justice. However, the concept of “<i>criminal responsibility of juveniles</i>” does not exist in the Polish legal system. The law on proceedings involving juveniles stipulates that courts competent in family matters may apply reformatory measures to juveniles aged 13 to 17 who commit a punishable offense and educational measures to juveniles under 17 who display symptoms of demoralization. All these measures are meant to help parents bring up their children and prevent their demoralization.</p>
<p>4. Recommended that Poland set a date for the ratification of <i>the International Convention for the Protection of All Persons from Enforced Disappearance (France)</i>;</p>	<p>Comparative analysis of the provisions of the <i>International Convention for the Protection of All Persons from Enforced Disappearance</i> and of Polish legal regulations indicates that Polish law does not leave unpunished the behaviour covered by the definition of “<i>enforced disappearance</i>” contained in <i>the Convention</i>. The Polish legal system provides for appropriate punishment for such offenses and establishes adequate standards</p>

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	<p>of their prevention.</p> <p>Poland is also a party to a number of conventions that also address the issue of enforced disappearance (e.g. <i>International Covenant on Civil and Political Rights</i>, <i>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> and the <i>Facultative Protocol to the Convention</i>). Thus, the ratification of the <i>Convention</i> would not extend the scope of protection against enforced disappearances in Poland. However, we are ready to consider ratifying the <i>Convention</i>, if it were to contribute to the enhancement of the international standards in this area.</p>
<p>5. Recommended to Poland to consider forming twinning relationships or partnerships with countries that have been through a process of legal reforms on minority issues to work closely with them on the legal, technical and institutional challenges involved in introducing change (United Kingdom);</p>	<p>Poland attaches importance to the creation of “<i>twinning relationships</i>” and has been engaged, together with its neighbours, in a dialogue on national minority issues.</p> <p>The Secretary of State in the Ministry of Interior and Administration of the Republic of Poland in charge of national and ethnic minorities has met several times with the Secretary of State in the Federal Ministry of Internal Affairs of the Federal Republic of Germany, the Federal Republic of Germany’s Plenipotentiary for the Displaced and National Minorities, Mr. Christof Bergner. Among the issues they discussed was the situation of the German minority in Poland. Following this meeting, a Round Table debate was organized in Warsaw on November 3, 2010 to review the state of implementation of the provisions of the <i>Polish-German Good Neighbourhood and Friendly Cooperation Treaty of 1991</i> as regards the rights of the German minority in Poland and German citizens of Polish descent in Germany.</p> <p>The meeting led to the creation of three Polish-German task groups charged with running consultations and finding agreement on common positions regarding different thematic areas: historical and legal issues/the culture of memory, science and language support, as well as, other supporting measures</p>
<p>6. Recommended to Poland to adopt an anti-discrimination law that would ensure equal treatment and non-discrimination on any grounds, including sexual orientation and gender identity (Slovenia, United Kingdom and Sweden);</p>	<p>On January 1, 2011, the Act of December 3, 2010 <i>on the Implementation of Certain European Union Legal Provisions on Equal Treatment</i> entered into force. The Act prohibits any unequal treatment on account of race, ethnic origin, nationality, religion, faith, beliefs, disability, age, or sexual orientation.</p> <p>The Act entrusts the exercise of tasks relating to the implementation of equal treatment to the Human Rights Defender and to the Government Plenipotentiary for Equal Treatment. Furthermore, the Act regulates the legal situation and identifies areas where unequal treatment is prohibited and in so doing, fully transposes the legal provisions of EU anti-discriminatory directives into domestic law. It also identifies legal measures that protect the principle of equal treatment. Its provisions apply to both natural and legal persons.</p> <p>The Act entrusts the Government Plenipotentiary for Equal Treatment with the task of developing a <i>National Programme of Measures for the Advancement of Equal Treatment</i>.</p>

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<p>7. Encouraged Poland to continue its efforts to address the issues of overcrowding of prisons and delays in court proceedings (Republic of Korea);</p> <p>8. Urged Poland to give priority to the implementation of outstanding necessary improvements of prisons conditions (Denmark);</p> <p>9. Having studied all the background information, recommended that a national programme to combat overcrowding in prisons be developed in order to bring Polish places of detention into line with international standards (Russian Federation);</p> <p>10. Called upon Poland to alleviate the overcrowding of detention centres and to review the conditions of detention centres so they are in conformity with minimum international standards. Also recommended that limits be set for pre-trial detention, according to minimum international standards (Algeria).</p>	<p><u>Lengthy proceedings</u></p> <p>The Polish Government has adopted several measures to shorten the length of court proceedings. The most important one was the 2009 Amendment of <i>the Act on the Complaint against Lengthy Proceedings</i>. The Amendment makes the complaint procedure against lengthy proceedings more effective in that it obligates the courts to adjudicate sums of money in favor of the defendant, provided he or she has made such claim and it is well-grounded, and has increased these amounts to sums ranging from PLN 2,000 to PLN 20,000.</p> <p>The Amendment also provides for filing a complaint against lengthy pre-trial proceedings, which in turn, can lead to shortening excessively long pre-trial detentions.</p> <p>In the period after 2008, Poland has also adopted organisation measures to speed up court proceedings, by, for example: assigning assistants to judges, docketing cases dealing with minor offenses within a month's time from the date of their filing, reassigning judges between court sections and courts to take the burden off the sections/courts where proceedings are especially lengthy.</p> <p><u>Length of pre-trial detention</u></p> <p>To implement the recommendation the Polish government has adopted several measures to shorten the length of pre-trial detention. As a result, the number of motions for pre-trial detention has been steadily dropping, from 38,519 (including arrest warrants) in 2005 to 27,918 (including arrest warrants) in 2009. This is also true of the decreasing number of court-ordered pre-trial detentions, which went down from 35,142 (including arrest warrants) in 2005 to 24,967 (including arrest warrants) in 2009, as well as the number of remand prisoners on record (as at December 31: 6,239 in 2005 and 4,417 in 2009). Source: reports filed by the prosecutors' offices' administration units.</p> <p>The most important legislative amendments shortened the catalogue of evidence authorising courts to extend the length of pre-trial detention, resulting in extensions based solely on premises precisely defined in <i>the Code of Criminal Procedure</i>: when a suspension of criminal proceedings is necessary; when the identity of the accused has to be confirmed in proceedings; when evidence has to be collected in particularly complicated cases, cases conducted outside Poland or when the accused intentionally draws out proceedings. The amendments went into effect in 2009.</p> <p>Pre-trial detention is subject to continuous administrative oversight by the Minister of Justice, who mandated presidents of courts to monitor court proceedings in which the accused are held in pre-trial detention for more than 2 years, and to submit quarterly monitoring reports, as well as to docket such cases without waiting for their turn.</p>

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	<p><u>Conditions in correctional facilities</u></p> <p>Poland has followed up on the recommendation concerning overcrowding of prisons and has adopted a number of measures, including nation-wide programs, to solve this problem and to improve the existing conditions in correctional facilities.</p> <p>Notwithstanding the measures adopted to increase the number of places in correctional facilities, since 2008 work has been done to improve the living conditions of the prisoners: cells, sanitary units, kitchens, baths, prison yards, prison hospitals and other facilities have been renovated. From 2008 until 2010 about 1100 living quarters were refurbished. Programs are also underway to further improve the quality of medical care provided to inmates.</p> <p>The authorities of the Republic of Poland attach great importance to solving the problem of overcrowded prisons. To this end, the number of prisoners' quarters has been increased under the "<i>National Program to obtain 1700 places in Penitentiary System Organisation Units between 2006-2009</i>" which continued to be implemented until 2010. Alternative punishment to imprisonment has been made possible, punishment in the form of electronic surveillance, a larger group of prisoners is now eligible for parole and the Prison Service is now ensuring that correction facilities throughout the country are equally staffed.</p> <p>Under these programs, 15,000 new prisoners' quarters were provided between 2006-2010. New ones were built and old correction facilities were extended, buildings used for other purposes were adapted into housing annexes, pavilions that had been out-of-use because of bad technical condition have been renovated, real estate taken over from the army and local government have been adapted into correctional facilities.</p> <p>Amendment of the <i>Code of Execution of Criminal Sentences</i>, which entered into force in June 2010, provided for increasing the number of people who can do social work as an alternative to imprisonment. The Amendment identifies a large group of entities in which prisoners can undertake social work, minimises the tasks of the entity employing convicts and reduces the costs relating to their employment.</p> <p>The new law entered into force in September 2009 that provides for a <i>new system of performing the penalty of short-term imprisonment</i>, allowing convicted persons to stay outside correctional facilities under court-ordered electronic surveillance that controls the place and time of sentenced persons' stays. In 2010, this law was amended, increasing 4-fold the number of sentenced persons allowed to apply for doing prison terms in the electronic surveillance system.</p> <p>The number of convicted persons doing prison terms who can apply for parole has also increased. Now all persons who were sentenced to prison can apply for parole after they have done at least half of their time in prison (before only those sentenced to more than 6-month imprisonment could apply). As</p>

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	<p>an illustration, from January to June 2010, 12,148 convicts who were eligible for parole left correctional facilities.</p> <p>The 2009 Amendment of the <i>Code of Execution of Criminal Sentences</i>, which was prompted by a Constitutional Court decision, has led to less overcrowding in detention centres. The amendment significantly restricted cases of inmates placed in cells with less than 3 m² of living space (and prohibited placing them in cells with less than 2 m² of living space). Under the current law, prisoners can be placed in such conditions for a maximum period of 90 days and only under exceptional circumstances, which are clearly set out in this legislative provision. Also persons who are put in such cells are eligible for longer walks (by 30 minutes) and for additional recreation and educational activities or physical education and sports activities. Decisions to place a convicted person in conditions described above are subject to court oversight.</p> <p>The Council of Europe and the European Union have recognized the achievements of the Polish penitentiary system and in 2009 awarded the Prison Service a “<i>Cristal Balance</i>” – the most important European prize conferred upon institutions promoting and improving the public justice system in EU and Council of Europe Member States.</p>
<p>11. Recommended to systematically and continuously integrate a gender perspective in the follow-up process to the review (Slovenia);</p>	<p>The government of the Republic of Poland has been implementing <i>gender mainstreaming</i>, or the integration of a gender perspective into politics and social activities run by the state. <i>Gender mainstreaming</i>, a horizontal European Union policy, means planning, monitoring and evaluating all actions in terms of equal status. In practice, this amounts to: promoting, disseminating and advocating equal opportunity and running information and education activities to raise awareness about creating equal opportunities and the methods and strategies of counteracting inequalities.</p> <p>Main activities incorporating <i>gender mainstreaming</i> include:</p> <ol style="list-style-type: none"> 1) Promoting entrepreneurship among women, their social and professional mobility, while also urging them to act to create their own jobs; 2) Raising public awareness about discrimination against women over forty-five in the labour market; 3) mobilising women on the professional, educational, social and personal fronts; 4) changing the social climate among employers and women entering the workforce after childbirth and returning to work after maternity or child leave so that they are seen as good and efficient workers; improving the self-esteem of this group and increasing its motivation to enter and re-enter the labour market; 5) disseminating women’s knowledge about flexible forms of employment and, thus, increasing their motivation to actively participate in the labour market;

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	<p>6) raising awareness about reconciling professional and family/private roles of women and men;</p> <p>7) disseminating studies and experts' opinions about equal rights for women and men in all aspects of life, such as: health, education, the labour market, violence prevention;</p> <p>8) raising awareness about the situation of women in the labour market;</p> <p>9) running training sessions for public administration works to raise their awareness about <i>gender mainstreaming</i>.</p> <p>The Ministry of Labour and Social Policy routinely engages in such activities and initiates or participates in projects co-financed by the European Union. These help disseminate knowledge about the most effective strategies and practices used to counteract labour market developments that negatively affect women and contribute to the creation of a better social climate around the idea of <i>gender mainstreaming</i>.</p> <p>Measures to that effect are undertaken by the Government Plenipotentiary for Equal Treatment, who organised a conference called "<i>The Power of Women is the Power of the Company</i>" aimed at promoting entrepreneurship among women and facilitating women's re-entry into the labour market after maternity or child leave.</p> <p>The "<i>I Am the Boss</i>" competition organized by the Government Plenipotentiary aims to overcome stereotypes about women and authority and to promote a positive image of women leaders among young people.</p>
<p>12. Urged Poland to implement the recommendations made by the Human Rights Committee and the Committee against Torture to put in place legislative measures to sanction manifestations of repeated hate speech and intolerance (Slovenia);</p>	<p>Polish law prohibits hate speech on racial, ethnic, national, religious or secular grounds under Article 256, paragraph 1, 256 paragraph 2, and Article 257 of the <i>Criminal Code</i>.</p> <p>These legislative provisions penalize instigation to hatred on account of a person's or a group of persons' national, ethnic, racial, religious or secular grounds as well as insulting a person or a group of persons on grounds of their affiliation with such group.</p> <p>In all cases when hate speech is made in public or in the media and law enforcement authorities are informed about such incidents or they are reported, preparatory proceedings are instituted to determine whether such incident has all the elements of an offence.</p> <p>Depending on the findings, a decision is then taken to either continue or discontinue the proceedings. This also applies to cases when hate speech is being made by public administration officials, politicians and representatives of religious communities.</p> <p>Since June 8, 2010, penalisation of behaviour motivated by racism has been extended to include acts involving printing, recording, importing, purchasing, storing, possessing, presenting, transporting or transferring printed matter, recordings or other objects that contain content promoting</p>

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	fascist or totalitarian state system or which incite to hatred or which carry fascist or other totalitarian symbols.
<p>13. While enquiring about the status of the legislative proposal aimed at “punishing anyone who promotes homosexuality or any other deviance of a sexual nature in education establishment”, recommended to withdraw it if it has not yet been done (Slovenia);</p>	<p>In early 2007, a draft amendment of the <i>Act on the System of Education</i> obligated schools to protect their students against content “<i>threatening their proper mental and moral development</i>” that promoted brutality, violence, hatred or discrimination, pornography and, as such, undermined the principle of protection of marriage and the family, including through the propagation of homosexuality. In mid-2007, the Ministry of National Education worked on a bill to impose fines for pro-gay campaigning at school.</p> <p>However, as education is a priority of social life and is based on dialogue and social consultations, the proposed amendment did not meet with acceptance and was strongly rejected.</p> <p>As of September 1, 2009, the Polish education system has a new policy basis defined by the Ordinance of the Minister of National Education of December 23, 2008, on Pre-School Education and Comprehensive Education in Different Types of Schools. This policy accounts for the protection of, and guarantees full and equal exercise of all human rights and fundamental freedoms and promotes respect for inalienable dignity of human beings. The new policy grounds require schools to undertake adequate measures to counteract any forms of discrimination and violence. Human rights and counteracting violence are taught as part of different subject curricula, especially in social studies, ethics, education for life in family, the Polish language, history and society.</p>
<p>14. Recommended reinstituting the Office of the Government Plenipotentiary for the Equality of Men and Women or a similar governmental structure to serve as an effective mechanism at the highest possible political level for the promotion of gender equality and to coordinate the integration of gender perspective across all sectors (Slovenia);</p>	<p>To increase the effectiveness of government institutions responsible for protection against discrimination, the office of the Government Plenipotentiary for Equal Treatment was appointed by Ordinance of the Council of Ministers dated April 22, 2008. The Government Plenipotentiary, who is in the rank of a Secretary of State in the Office of the Chairman of the Council of Ministers (the Prime Minister’s Office), is charged primarily with implementing the government’s policy on equal treatment, including counteracting discrimination, especially on grounds of sex, race, ethnic origin, nationality, religion or faith, political views, age, disability, sexual orientation, marital or family status.</p> <p>The Government Plenipotentiary also provides opinion on legislative acts, monitors the situation and coordinates government activities aimed at eliminating all forms of discrimination.</p> <p>The office of the Government Plenipotentiary for Equal Treatment as a body responsible for performing tasks relating to the implementation of the principle of equal treatment is also referred to in the <i>Act on the Implementation of Certain European Union Legal Provisions on Equal Treatment</i>, which entered into force on January 1, 2011.</p>

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<p>15. Recommended to Poland that laws on press offences be liberalized (Slovenia);</p>	<p>Poland followed up on the recommendation and has liberalised legislative provisions concerning libel and slander committed in the mass media.</p> <p>Prior to June 2010, libel and slander committed in the mass media (the press, radio, television, book publications, electronic recordings or the Internet) was punishable by up to two years in prison. This piece of legislation raised doubts and has been changed through an amendment to the Criminal Code, which entered into force on June 8, 2010.</p> <p>The amendment reduced the penalty for libel or slander in the mass media to up to one year in prison. Under this amended law, other libel or slander offences committed otherwise than in the mass media are now punishable by a pecuniary fine or by restriction of liberty.</p>
<p>16. While commending the Government on the measures already taken, in particular the draft act on equal treatment, the system of human rights advisers, and related research and training, recommended that steps continue to be taken by Poland to follow up on the recommendations of the Human Rights Committee (Canada);</p>	<p>Regular inter-ministerial meetings that coordinate the measures taken by the Government in this area are held to implement the recommendation of the Human Rights Committee.</p> <p>The Polish Government is making efforts to implement all the Human Rights Committee recommendations. To this end, it organises social campaigns, runs assistance programs, like for example, the “<i>Networks of Assistance to Offence Victims</i>”, making information available on the Internet site www.pokrzywdzeni.gov.pl, improving the living conditions of juveniles in youth custody centres and shelters for juveniles, as well as by amending legislative provisions to ensure more effective penalisation of offences covered by the <i>Civil Procedure Code</i>.</p> <p>The <i>Criminal Code</i> is an example of amended statutes. In June 2010, an amendment entered into force that penalises acts committed on racist grounds, involving production, recording, importing, purchasing, storing, possession, presentation, transportation or transfer of printed matter, recordings or other objects whose contents promote fascist or totalitarian state system or which instigate to hatred on national, ethnic, racial, religious or secular grounds, or which carry fascist or other totalitarian symbols. The perpetrator of such acts has not committed an offence if he or she has done so as part of his or her artistic, educational, collecting hobby or research activity.</p> <p>The amended <i>Criminal Code</i> also contains a definition of human trafficking (which includes an open catalogue of different forms of human trafficking), which has been modelled on the definitions found in international agreements (including the <i>Palermo Protocol</i>).</p> <p>Notwithstanding the above measures, preparatory proceedings involving alleged offences committed on racial grounds are being monitored.</p> <p>The Plenipotentiary of the Chief of Police for Human Rights Protection, following an evaluation of the system of protection of human rights and freedoms carried out in the Police force in</p>

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	<p>2010, undertook measures to enhance effective teaching of the practical aspects of human rights and individual freedoms and professional ethics and their protection as part of the basic professional training of policemen. These measures are intended to make policemen act in a more professional manner in policeman-citizen contacts and enhance the professional group's bonds between policemen, based on tolerance and mutual respect. Visits to Police academies will be continued to see how classes in human rights and individual freedoms and professional ethics are progressing.</p> <p>Since 2006, the Law Enforcement Officers Programme on Combating Hate Crimes (LEOP) has been implemented. This program is coordinated by the Ministry of Interior and Administration and is being carried out by the Police force in cooperation with <i>the Office for Democratic Institutions and Human Rights</i> (of the <i>Organisation for Security and Co-operation in Europe</i>). One of the Program's elements is a system of cascade training courses forming part of the policemen's continuous professional education that was developed by a special team. These training sessions called Specialist Course in Counteracting and Combating Hate Crimes cover subjects like the identification of hate crimes, adequate response to such crimes and counteracting measures.</p> <p>A police team of experts has begun work on developing the next edition of training courses for the chiefs of Police units dealing with the practical aspects of human rights protection.</p> <p>The Early Intervention System, a pilot project, was launched in the Police force, the aim of which is to address specific situations which require a rapid response of the police force. The system has passed its test at local government level and a decision was made to implement it nationwide.</p>
<p>17. Recommended to Poland to ensure that human rights defenders, in particular groups campaigning for equality and against discrimination based on perceived sexual orientation, are allowed to carry out their work in a secure environment, and that the rights to freedom of expression and association are respected (Canada);</p>	<p>Polish law regulating various forms of activities engaged in by persons of different sexual orientation is exhaustive. Such persons enjoy the same rights as the rest of citizens of the Republic of Poland. Like them, they have the right to freedom of expression, association and organisation of peaceful assemblies, different types of events and get-togethers, including: conferences, film festivals, social awareness campaigns. Human rights', including LGBT rights', organisations have full access to public funding, including EU's, channelled through different funds and grants.</p> <p>Some of the campaigns organised by LGBT organisations cover the whole country and are open to everyone. One such example are the equality marches organised on the streets of the biggest Polish cities. Polish law guarantees their organisers and participants safety during parades and manifestations (e.g. the <i>Euro Pride</i> parade that took place in Warsaw in 2010).</p> <p>The Polish police have been engaged in many different activities, the aim of which is to facilitate social integration of persons of different sexual orientation and to make them feel more comfortable when acting in the public domain. Since 2011,</p>

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	<p>larger-scale events involving the LGBT community have been monitored by Police Plenipotentiaries for Human Rights Protection (<i>"Human Rights Advisers"</i>). The Police cooperates on a daily basis with one of the best known LGBT organizations in Poland, <i>"Kampania Przeciwko Homofobii"</i> (<i>The Campaign Against Homophobia</i>) in raising policemen's awareness about such issues and in organising meetings between LGBT communities and police experts.</p> <p>The Ministry of Interior and Administration drafted a bill amending the <i>Right of Assembly Act</i> of July 5, 1990, in order to enhance the implementation of the Constitutional freedom of assembly. This legislative measure was promoted by the European Court of Human Rights judgement of May 3, 2007, in <i>Bączkowski and Others versus Poland</i> (Application no. 1543/06).</p>
<p>18. While commending the Government for the measures already taken in combating violence against women, recommended that steps continue to be taken to follow up on the recommendations of the Human Rights Committee and CEDAW (Canada);</p>	<p>The Act of June 10, 2010 <i>on the Amendment of the Act on Counteracting Domestic Violence and Other Acts</i>, entered into force on August 1, 2010. It has introduced a number of changes to more effectively combat domestic violence and to protect its victims.</p> <p>Namely, new measures to isolate the perpetrator from the victim, like:</p> <ol style="list-style-type: none"> 1) the possibility to issue an order for the perpetrator to leave the premises he or she occupies with the victim, 2) a special, fast-track procedure enabling placement of a perpetrator of violence in detention following violation of probation terms. 3) the possibility to take a child away from his / her family by a social worker in case of direct threat to the child's life or health. <p>The amended Act also gives a more prominent role to non-governmental organisations in counteracting domestic violence and provides for interdisciplinary groups to be established in municipalities.</p> <p>See also: response to Recommendation no. 2</p> <p>Platform for Action Stop Sexual Violence in Poland</p> <p>On November 25, 2010, ten years after the United Nations established the International Day for the Elimination of Violence against Women, the Government Plenipotentiary for Equal Treatment announced the creation in Poland of a Platform for Action against sexual violence <i>"Stop Sexual Violence in Poland"</i>.</p> <p>The inter-ministerial and inter-sectoral Platform for Action, which includes the Ministry of Health, the Ministry of Justice, the Ministry of Interior and Administration, the Police and the Prosecutor's Office, as well as NGOs, works to effectively combat sexual violence in Poland. One of the Platform's results is the <i>Police Conduct and Medical Unit Procedure for Dealing</i></p>

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	<p><i>with Victims of Sexual Violence.</i></p> <p>Poland and Spain have initiated work on a proposal for a European Protection Warrant Directive. This initiative aims to enhance the protection of victims against recurring attempts by persons threatening victims who have moved to another EU country and are being followed by them. Protection measures are intended to safeguard victims against perpetrators who endanger their lives, physical and mental integrity, personal and sexual freedom.</p>
<p>19. Encouraged Poland to use a comprehensive approach to the promotion of gender equality, in particular by adopting a comprehensive law on gender equality as recommended by the CEDAW (Austria);</p>	<p>See: response to Recommendations nos. 6 and 11.</p>
<p>20. Recommended that Poland publish the results of the study carried out by the Government in order to detect on Polish territory any secret detention centres for foreign citizens accused of terrorist activities (Russian Federation);</p>	<p>The Appellate Prosecutor's Office is continuing its investigation, began on March 11, 2008, into alleged breach of authority by public officials. Procedural acts carried out in the course of proceedings aim to verify the circumstances of airplanes used by the Central Intelligence Agency of the United States of America landing while bypassing normal passport and customs-clearing procedures between 2002-2003 at the Szczytno-Szymany International Airport and the alleged illegal deprivation of liberty of terrorist suspects in a secret detention centre.</p> <p>Due to the fact that the proceedings are classified, it is not possible to report on the investigation findings, its scope, detailed course and methodology. At the present stage of the investigation, it is not possible to determine when it will be completed.</p>
<p>21. Recommended that Poland ensure that adequate measures provided for in the law on lustration comply with Polish obligations under fundamental international human rights instruments (Russian Federation);</p>	<p>In recent years the European Court of Human Rights has ruled in a number of cases against Poland, finding violations of the principle of equality of arms in lustration proceedings.</p> <p>As a result of the ECHR rulings, the Polish Parliament adopted the <i>Act on Disclosure of Information about State Secret Service Documents dating from 1944-1990 and the Contents of Such Documents</i> (the "Act"). To ensure full respect of process guarantees and human rights, the Act grants lustrated persons all the rights provided to a suspected/accused person under the <i>The Code of Criminal Procedure</i>. It also introduced one more important change, namely that lustration proceedings are conducted in open court, unless the lustrated person motions for the whole trial or part of, to the extent it may be open, to be heard in closed court. A case may be ordered to be heard in closed court <i>ex officio</i> or at the prosecutor's motion if there are grounds to believe that state secrets could be disclosed. The lustration case files are open and so a party to such proceedings can use the whole body of evidence to set his or her line of defence.</p>

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	<p><i>The Act</i> was reviewed to find out whether it complies with <i>the Constitution of the Republic of Poland</i> (Constitutional Court judgement of May 11, 2007). As a result, the Act's provisions were aligned with the Constitutional protection of civil rights. The Constitutional Court ruled that every individual, including a public official, accused publicly of working for, serving or collaborating with, the state secret service, may apply for the institution of the so-called auto-lustration proceedings.</p> <p>The current lustration procedure guarantees persons to whom it applies all the rights provided under <i>the Constitution</i> and <i>the Code of Criminal Procedure</i>, including: the presumption of innocence, the right to defence, freedom to evaluate evidence in lustration proceedings, the substantive truth principle and the principle of beyond reasonable doubt in favour of the lustrated person.</p>
<p>22. Recommended to Poland to continue to promote the participation of women in the public and political life of the country until they have gradually achieved a level of gender equality (Cuba);</p>	<p>In order to promote the participation of women in public and political life, a parity system was introduced by the <i>Act of January 5, 2011</i> amending the electoral law to the European Parliament, the Parliament of the Republic of Poland as well as local government councils.</p> <p>The number of women candidates may not be smaller than 35% of the total number of candidates running for elections to the above-mentioned bodies and, at the same time, the number of men candidates may not be less than 35% of all the candidates. In the event that the required quota is not met and this defect is not removed in the time provided, such a list of candidates proposed for election is not registered.</p> <p>Promotion measures addressed to young people, such as the <i>"I Am the Boss"</i> competition, first held in 2010, are also being carried out. The aim of this competition is to break the stereotypes regarding women and power and to promote a positive image of women as leaders among the younger generation.</p> <p>The <i>Labour Code</i> was amended to allow fathers to take father's leave and it was further amended in December 2010, to allow adopted fathers to do the same. These measures are aimed to help women and men reconcile professional and family obligations, to provide equal opportunities in the labour market to both sexes and to promote active fatherhood and a family model based on partnership.</p>
<p>23. Encouraged Poland to intensify its efforts to fight against all forms of discrimination, be it racial, national or social, and to promote and protect dignity and equality which are the guiding principles of concrete and effective implementation of human rights (Cameroon);</p>	<p>In 2006, appellate prosecutor's offices have appointed consultants for this category of offences, whose main task is to provide assistance to prosecutors who run and oversee such legal proceedings, which makes the relevant practice more uniform and eliminates errors committed in their course.</p> <p>Since 2004, a Monitor Unit for Racism and Xenophobia operates in the Ministry of Interior and Administration which monitors cases of racism, xenophobia or anti-Semitism and in this area cooperates with the Chief of Police's and Chief of Border Guards' Plenipotentiaries for Human Rights Protection and with a prosecutor – consultant on racism from the General</p>

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	<p>Prosecutor's office. The Group follows the handling of such cases from the moment an incident is reported, through the work of the Police, the prosecutor's office, up to the end of court proceedings.</p> <p>Every year many subsidies are allocated to carry out public tasks relating to preservation of the cultural identities of national and ethnic minorities and to civic counselling provided to victims of racial, national or ethnic discrimination. These efforts help change people's mentality and thinking about national and ethnic minorities and their cultures and provide means of addressing discrimination and related offences. In addition, training courses and seminars are organized on the subject, with the participation of NGOs, to raise social awareness about anti-racist attitudes. Training curricula for Police, Border Guards and civil servants now include a human rights component and instructions on how to counteract racist attitudes.</p> <p>During the last three years of its work, the Government Plenipotentiary for Equal Treatment has engaged in a number of system-based, educational and promotional campaigns, including:</p> <ol style="list-style-type: none"> 1) <i>The National Program for Counteracting Racial Discrimination, Xenophobia and the related Intolerance</i> (2004-2009) that will be continued in the years 2010-2013. In order to ensure coordination and evaluation of actions, a Council for the Prevention of Racial Discrimination, Xenophobia and the related Intolerance, an opinion-making and advisory body of the Council of Ministers, is planned to be created; 2) Analysis of textbooks to see how they address the issue of equal treatment and combating discrimination on the grounds of sex, race, ethnic origin, nationality, religion, faith, political views, age, sexual orientation, marital and family status; 3) Educational and promotional measures such as: I and II Conference "<i>NO to Racism in Sport</i>", Conference "<i>How to Bring Up Children so that They Do Not Think in Stereotypes</i>", the Diversity Day, which is a part of the EU campaign "<i>For Diversity – Against Discrimination</i>"; the "<i>The Power of Women is the Power of the Company</i>" conference; "<i>I Am the Boss</i>" and "<i>Father at Work, Father at Home</i>" competitions. 4) Establishing an award of the Government Plenipotentiary for Equal Treatment in a breaking stereotypes in advertising competition – "<i>Cristal Crowbars</i>"; 5) An election TV spot "<i>We Are Different – We Are Equal</i>" promoting equality irrespective of sex, age, race, disability or sexual orientation. <p>In addition, the Government Plenipotentiary acts or intervenes in response to complaints or information from</p>

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	<p>citizens, citizen groups or NGOs. His main task is to provide assistance to people who run or oversee these proceedings so as to make the relevant practice more uniform and to eliminate errors committed in their course.</p> <p>To make EURO 2012 championships safe (“<i>Feel safe, have fun</i>”) involves not only proper preparation of the security and public order forces, but also ensuring a friendly stadium atmosphere, friendly public space and providing access to information, professional service and medical care to event participants.</p> <p>The Polish government supports initiatives the aim of which is to develop positive attitudes and mentality of Polish fans – young and old alike – who will create stadium atmosphere in the near future. A key element of this approach is prevention. Promotion of positive rules of fan support, especially among children and school students – by eliminating many prejudices and overcoming stereotypes, will lead to the creation of a fan culture that respects the rules of <i>fair play</i>. The important decisions this respect were:</p> <ol style="list-style-type: none"> 1) the adoption of the <i>Act on Safety of Mass Events</i> and its amendment, 2) the appointment of a Security Council for Sports Events, an opinion and advisory body of the Prime Minister, charged with developing and supporting prevention programs and with coordinating and monitoring projects aimed at preventing discrimination in relation to sports events. <p>Preventive measures consists mainly of national, regional and local programs carried out in collaboration with government and non-government institutions, of which:</p> <ol style="list-style-type: none"> 1) <i>Razem Bezpieczniej (Safer Together)</i> (national) – local activities carried out in cooperation with partners to improve safety complement a government-led program to improve safety and reduce anti-social behaviour, 2) <i>Kibice Razem (Fans Together)</i> (in UEFA EURO 2012 host cities) – the aim of which is to create local centres working long-term to teach and educate football fans (fan-coaching) – the program has been developed by the PL.2012 Company, 3) <i>Counteracting aggression and social deviance among children and young people through sports</i> (national) – an educational program addressed to children and young people which led to the publication of an updated handbook <i>Program for Countering Aggression and Deviance among Children and Young People through Sports – a program participant’s handbook</i>, 4) <i>Jestem fair (I am fair)</i> (local and now regional) – educating fans by resorting to the principle of <i>fair play</i> as an educational element of combating racism, xenophobia and

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	anti-Semitism on football stadiums.
<p>24. Invited Poland, to the extent possible, to ensure that practical policies in the area of immigration be geared to the standards set forth by the principles enshrined in the <i>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</i> (ICRMW) and recommended Poland to ratify the <i>Convention</i> (Mexico);</p>	<p>Poland is not bound by the provisions of the <i>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</i> (ICRMW).</p> <p>The <i>Convention's</i> provisions have been analyzed carefully and a position was prepared on its possible adoption. The analysis has shown that Polish law guarantees migrant workers and members of their families the majority of rights accorded under the <i>Convention</i>. Were it to be ratified, the legislative provisions on migrant workers employed legally in Poland would have to be amended and far-reaching changes with respect to the situation of illegal workers would have to be made. Poland does not conduct a workers' migration policy – its labour market is, in principle, closed to foreigners (except for citizens of EU Member States). In addition, in view of the limited scale of current emigration and immigration, there is no need to expand migrant workers assistance services or to adopt actions in cooperation with other states, as required by the <i>Convention</i>.</p>
<p>25. While noting the efforts to strengthen the judiciary, encouraged Poland to make legal amendments that will make it possible to effectively prosecute offences related to torture and other cruel, inhuman or degrading treatments (Mexico);</p>	<p>The Polish law concerning the prosecution of criminal acts of torture and other cruel, inhuman or degrading treatment or punishment and prevention of such acts is exhaustive and in compliance with international standards. Thus, it guarantees a high level of protection of human beings.</p> <p>The use of methods banned under the <i>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> is not permitted in Poland. The Polish <i>Criminal Code</i> provides for a penalty of between one and ten years imprisonment for the use of force, illegal threats or other form of physical or mental cruelty by a public official or person acting in his/her name in order to obtain specific testimony, explanations, information or statements. Furthermore, the <i>Code</i> penalizes physical or mental cruelty against a person legally deprived of liberty, with punishment also envisaged for public officials who allow the commitment of such acts in dereliction of their duty. Any other abuse of force by public officials during the fulfilment of their duties, or in dereliction of duty, reported by the injured party or otherwise disclosed, is investigated in each instance through preparatory proceedings, being treated as autonomous crimes of abuse of authority or dereliction of duty, or cumulatively with other applicable offences.</p> <p>Preparatory proceedings in such cases are conducted as own investigations by prosecutors, who perform all the procedures personally, which restricts the possibility of interference. In view of the identity of the potential perpetrator, such investigations are marked by a meticulous approach to the obtainment of evidence.</p> <p>Furthermore, it should be pointed out that Poland is a party to various international accords concerned with the prosecution of the perpetrators of torture. The definitions of torture contained in these conventions constitute part of the Polish legal</p>

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	<p>order and are applied directly by Polish courts.</p> <p>As a consequence of the ratification of the <i>Optional Protocol to the Convention against Torture</i> (OP CAT), the Polish Government assigned on 18 January 2008 the fulfilment of <i>National Preventive Mechanism</i> (NPM) functions to the Human Rights Defender (HRD). Since the establishment of its office in 1987, the Human Rights Defender has regularly conducted visits to penitentiaries and remand jails to monitor the observance of human rights of inmates and detainees. That fact was among important arguments for designating the Human Rights Defender as the National Preventive Mechanism.</p> <p>As a part of the <i>National Preventive Mechanism</i>, the Police are subject to visits concerning the use of torture or other cruel or degrading treatment. Every year, the Police are informed by the the Office of the Human Rights Defender about a follow-up report. The NPM recommendations are also regularly communicated to Police units, which implements them immediately.</p>
<p>26. Invited Poland to consider the ratification of the Convention on the Rights of Persons with Disabilities as well as its Optional Protocol (Mexico);</p>	<p>Poland has been carefully analysing the possibility of being bound by the provisions of the <i>Convention on the Rights of Persons with Disabilities</i>. Poland's position on whether it is capable of fully implementing the rights provided under the Convention and, as a consequence, its draft decision to ratify the <i>Convention</i> are expected in 2011.</p>
<p>27. Recommended that Poland fulfil the recommendation, elaborated on in paragraph 2 of the OHCHR summary, made by the Council of Europe Commissioner for Human Rights, who in 2007 called upon Poland to enact a comprehensive body of anti-discrimination legislation and to set up a body to combat discrimination (Algeria);</p>	<p>See: response to Recommendations Nos. 6 and 23.</p>
<p>28. Recommended that Poland give adequate training and instruction to law enforcing bodies and to the judiciary on how to address complaints stemming from racially motivated crimes (Algeria);</p>	<p>At the turn of 2010 and 2011, the Government Plenipotentiary for Equal Treatment began implementing a project called "<i>Equal Treatment as a Standard of Good Governance</i>". The project is addressed to public administration and its main goal is to incorporate the policy of equal treatment and combating discrimination in public administration work in Poland. The project is being carried out in partnership with public colleges. It will train 400 officials from 85 institutions, including all the ministries and it will set up 45 coordinators responsible for monitoring all forms of discrimination within the government office's relevant area of competence.</p> <p>The project also calls for the drawing up of a <i>National Program of Action for Equal Treatment</i>. The project lasts two years and it is being co-funded by the European Union from the</p>

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	<p>European Social Fund and is implemented as the Human Capital Operational Programme.</p> <p>Also the Law Enforcement Officers Programme on Combating Hate Crimes (LEOP) (see Recommendation no. 16) is being implemented in the Police force.</p> <p>One of the Programme's elements consists of a system of training courses for policemen and policewomen designed by a special team as part of their continuous education. Such training courses, called <i>Specialist Course in Prevention and Combating Hate Crimes</i>, cover topics like hate crime identification, adequate response and counteracting such incidents. Police force lecturers, the ODIHR, OSCE and the Ministry of Interior and Administration, as well as NGOs active in combating racism, neo-fascism and representing foreigners participate in the running of such training courses.</p> <p>The training courses began in November 2009. So far fifty officers-trainers have been trained at central level. The training courses at local level are now being conducted. They will be run systematically until at least 2012.</p> <p>Prosecutors and judges also attend regular general courses on human rights protection and specialised courses on prevention and counteracting racially motivated crimes. Such training courses are attended by judge and prosecutor trainees (future judges and prosecutors) and have the form of either professional training courses for judges and prosecutors or post-graduate studies (e.g. the "<i>System of Human Rights Protection in Poland</i>" post-graduate studies organised in 2008-2009).</p> <p>The main institution specialising in drawing up training programmes for judges, prosecutors and others and in running them is the Polish National School of Judicature and Public Prosecution (formerly: the National Centre for Training the Staff of Common Courts and Public Prosecution). It organises training courses at national level, and in cooperation with foreign and international institutions.</p> <p>The said training courses have contributed to raising awareness among judges, prosecutors and their assistants and that, in turn, has led to more cases of racist or xenophobic offences being detected and in better persecution of such offences. This is evidenced by a greater number of perpetrators being indicted for such offences.</p>
<p>29. Recommended that Poland continue to use "Human Rights Advisers" to the police in the future and share experiences on this measure with other interested States (Austria).</p>	<p>The "<i>Human Rights Advisers</i>" (Police Plenipotentiaries for Human Rights Protection) will continue to work in the Police. Each foreign visit of the Plenipotentiary of the Chief of Police for Human Rights Protection (most recently to London and Brussels) is focused on exchanging experiences with other "<i>Human Rights Advisers</i>" in Europe and on building a coalition to create common good practices.</p>