



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-first session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION**

Concluding observations: Poland

1. The Committee considered the second periodic report of Poland (CRC/C/70/Add.12), submitted on 2 December 1999, at its 827th and 828th meetings (see CRC/C/SR.827 and 828), held on 1 October 2002, and adopted, at its 833rd meeting (CRC/C/SR.833), held on 4 October 2002, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report, as well as the detailed written replies to its list of issues (CRC/C/Q/POL/2), which gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the cross-sectoral delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

**B. Follow-up measures undertaken and progress achieved
by the State party**

3. The Committee welcomes the State party's adoption of a new Constitution in 1997, which embodies many of the principles of the Convention on the Rights of the Child.

4. The Committee welcomes the State party's establishment in 2000 of the Office of the Ombudsman for Children responsible for monitoring children's rights throughout Poland, and the role of the Supreme Chamber of Control in assessing and evaluating the Government's policy with regard to children's rights and the implementation of the Convention.

5. The Committee welcomes the various legislative measures taken to further implement the Convention, notably the following:

(a) The Act of 24 July 1998 amending the Act on Social Welfare, which established local centres for family assistance;

(b) The Act of 7 January 2000 amending the Acts on Social Welfare and Pensions, which created a coherent system of family protection and childcare within the framework of social welfare based on the local centres for family assistance.

6. The Committee welcomes the State party's ratification of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, of 1993.

7. The Committee also notes the State party's creation of the Office of the Government Plenipotentiary for Family Matters and Equal Status of Men and Women (2001), which replaced the Office of the Plenipotentiary for Family Matters.

C. Factors and difficulties impeding the implementation of the Convention

8. The Committee acknowledges that the State party continues to face economic difficulties and high unemployment rates as a result of the transition to a free market economy. This has led to regional disparities and increased poverty, thereby negatively affecting the welfare and living standards of vulnerable families with children.

D. Principal areas of concern and recommendations

1. General measures of implementation

Reservations and declarations

9. The Committee welcomes the information given by the delegation that the process of considering the withdrawal of the State party's reservations to articles 7 and 38 of the Convention and the declarations on articles 12 to 16 and 24 was resumed in 2001.

10. In light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to continue and complete the process of withdrawing all of its reservations to and declarations on the Convention.

Legislation

11. The Committee, while taking note of the adoption of the new Constitution in 1997 and the subsequent amendments to domestic legislation, nevertheless remains concerned that all domestic laws still do not fully comply with the provisions and principles of the Convention.

12. The Committee encourages the State party to take all necessary measures to ensure that its domestic legislation conforms fully with the principles and provisions of the Convention, in particular in the area of juvenile justice, unaccompanied asylum-seekers and sexual exploitation of children.

Coordination

13. The Committee notes the decision of the President of the Council of Ministers to make the Minister for National Education and Sport responsible for the coordination of policy on children and youth and the information given by the delegation that the State party is developing a national plan of action. Yet, the Committee remains concerned that the activities and programmes run by the various ministries and levels of government lack coordination.

14. The Committee recommends that the State party ensure that the Ministry for National Education and Sport is provided with adequate financial, human and material resources to effectively carry out its responsibilities in the coordination of policy, and that appropriate mechanisms for consultation and coordination are set up among the ministries and between all levels of government working with and for children.

Independent monitoring

15. The Committee welcomes, as noted above, the establishment of the Office of the Ombudsman for Children and the role of the Supreme Chamber of Control. Nevertheless, it is concerned at the lack of sufficient resources for the Office of the Ombudsman for Children.

16. The Committee recommends that the State party:

(a) Strengthen the role of the Supreme Chamber of Control as an internal monitoring body for the evaluation of children's issues and establish a comprehensive system for monitoring and self-evaluation of the implementation of the Convention both at the national and local level;

(b) Provide the Ombudsman for Children with sufficient resources to enable him to fulfil his responsibilities;

(c) Collaborate with non-governmental and civil society organizations in monitoring children's rights and policies both at the national and local level.

Allocation of resources

17. The Committee notes with concern that allocations for children from the central budget declined from 2000 to 2001 and are insufficient to respond to national and local priorities for the protection and promotion of children's rights and to overcome and remedy existing disparities between rural and urban areas with respect to services provided to children.

18. While recognizing the difficult economic conditions, the Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children “to the maximum extent of ... available resources”. Noting the State party’s efforts at administrative reform and the decentralization of service provision, the Committee recommends that the State party strengthen, to the maximum extent of available resources, the capacity of local governments in rural and urban areas equally to implement the economic, social and cultural rights of children.

Data collection

19. The Committee welcomes the additional statistical data contained in the written replies to the list of issues (CRC/C/Q/POL/2) and the information that a programme called E-Poland will be initiated in order to improve the exchange of data between ministries and facilitate their comparison and analysis. However, the Committee remains concerned that very little data are specifically disaggregated by gender and that data and indicators are not available for all areas covered by the Convention.

20. The Committee recommends that the State party:

(a) Ensure that the current system of data collection and indicators are disaggregated by gender and, where appropriate, by minority and ethnic group, and urban and rural area. The current system of data collection should be expanded, with the assistance of relevant ministries and authorities, to include all areas covered by the Convention, including all aspects of the juvenile justice system and assistance provided to child victims of sexual exploitation or abuse. The system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including child victims of abuse, neglect or ill-treatment, children with disabilities, children belonging to ethnic groups, refugee and asylum-seeking children, children in conflict with the law, working children, children living in the streets, children involved in commercial sexual exploitation and trafficking, and children in rural and economically depressed areas;

(b) Use these data and indicators for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.

Cooperation with civil society

21. Despite the existence of a vibrant civil society, the Committee is concerned that non-governmental organizations are not fully involved in the Government’s efforts to implement the Convention.

22. The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, and recommends that the State party

involve non-governmental organizations in a more systematic and coordinated manner throughout all stages of the implementation of the Convention, including policy formulation, at the national and local levels.

Dissemination

23. While noting the initiatives of the State party and the many activities of the Ombudsman for Children to promote awareness of the principles and provisions of the Convention, the Committee is concerned that all groups of professionals working with and for children, as well as children, parents and the public at large, are still not sufficiently aware of the Convention and the rights-based approach enshrined therein.

24. **The Committee recommends that the State party strengthen its awareness-raising efforts and encourages the State party to undertake systematic education and training in the principles and provisions of the Convention, in particular for parliamentarians, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, health personnel, including psychologists, social workers and religious leaders, as well as children and their parents.**

2. Definition of the child

25. The Committee is concerned that there is no clear minimum age of criminal responsibility and that, in some cases, children as young as 10 years of age can be sentenced to educational measures.

26. **The Committee recommends that, as the 1982 Law on Procedures in Cases Involving Juveniles considers juveniles to be between the ages of 13 and 17 years, the State party establish 13 years as the minimum age for criminal responsibility in all cases, below which children cannot be sentenced to either correctional or educational measures.**

3. General principles

Non-discrimination

27. The Committee notes with concern that the principle of non-discrimination is not adequately implemented with respect to certain vulnerable groups of children, including children of the Roma and other ethnic minorities, children living in institutions, children with disabilities, children of poor families and children with HIV/AIDS. In particular, the Committee is concerned about their limited access to adequate health, education and other social services and about reports of racially motivated violence in which police have failed to protect the victims.

28. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.**

29. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee's General Comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

Respect for the views of the child

30. The Committee notes the State party's efforts to require administrative and judicial proceedings to take into account the views of the child, but is concerned that in practice this principle is not always implemented, particularly in proceedings involving unaccompanied children applying for refugee status, juvenile offenders and children placed in institutions, as well as in custody hearings.

31. **The Committee recommends that the State party:**

(a) **Take effective measures, including legislation, to promote and facilitate respect for the views of children, by courts and all administrative bodies and the participation of children in all matters affecting them, in accordance with article 12 of the Convention;**

(b) **Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary, the Roman Catholic Church and other religious groups, and society at large, on children's right to have their views taken into account and to participate in matters affecting them.**

4. Civil rights and freedoms

Freedom of conscience and religion

32. The Committee is concerned that, despite regulations guaranteeing that parents can choose for their children to attend ethics classes instead of religion classes in public schools, in practice few schools offer ethics courses to allow for such a choice and students require parental consent to attend ethics courses.

33. **The Committee recommends that the State party ensure that all public schools permit children, in practice, to choose freely whether to attend religion or ethics classes with parental direction provided in a manner consistent with the child's evolving capacities.**

Ill-treatment and violence

34. The Committee notes the establishment of the "Blue Card" programme to address family violence, but is concerned that child abuse, and violence in the home and in schools, remain a problem in the State party and that there is no national system to receive and address complaints

of child abuse and neglect. It is also concerned that victims of abuse and their families receive limited support for recovery and reintegration. Furthermore, the Committee is concerned that corporal punishment is widely practised in the home, in schools and other institutions, such as prisons, and in alternative care contexts.

35. The Committee recommends that the State party:

(a) Establish a national system for receiving, monitoring and investigating complaints, and when necessary prosecuting cases, in a child-sensitive manner, and provide training for law enforcement officials, social workers and prosecutors in this regard;

(b) Set up a comprehensive and nationwide response system designed to provide, where appropriate, support and assistance to both victims and perpetrators of family violence, rather than only intervention or punishment, and which ensures that all victims of violence have access to counselling and assistance with recovery and reintegration, particularly in communities where the local administration does not have sufficient resources to set up a family crisis centre;

(c) Establish a mechanism to collect data on the perpetrators and victims of abuse, disaggregated by gender and age, in order to properly assess the extent of the problem, and design policies and programmes to address it;

(d) Expressly prohibit corporal punishment in the home, schools, and all other institutions;

(e) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.

5. Family environment and alternative care

Alternative care

36. The Committee is concerned at the large number of children in the State party living in institutions, a significant proportion of whom are “social” rather than natural orphans.

37. The Committee recommends that the State party:

(a) Ensure periodic review of placement of children in institutions which takes into account the views and best interests of the child while aiming, whenever possible, at reintegrating them into their families, with appropriate counselling and support, or at finding other forms of care than institutionalization;

(b) Expand the foster-care system by providing greater financial support to foster families and increasing the counselling and support mechanisms for foster families;

(c) Upgrade the capacity and skills of social workers so that they are better able to intervene and assist children in their own environment;

(d) Establish procedures to ensure that children currently residing in institutions that are being closed down are fully informed and able to participate in deciding their future placement, and that these children retain their right to social protection.

6. Basic health and welfare

38. While encouraged that health indicators of children are good and continuously improving, the Committee is nevertheless concerned at the increase in unhealthy behaviours and lifestyle trends, as well as at the low percentage of mothers continuing to breastfeed.

39. **The Committee recommends that the State party:**

(a) Improve the effectiveness of health promotion and health education programme, in particular by promoting healthy lifestyles among children and young people;

(b) Take steps to encourage and educate mothers on the benefits of exclusive breastfeeding of infants for the first six months and of continued breastfeeding for two years.

Children with disabilities

40. The Committee is concerned that children with disabilities do not all have the opportunity to attend integrated schools and education programmes, and that in some cases children with disabilities are institutionalized or do not attend school regularly owing to a lack of appropriate programmes close to their homes.

41. **The Committee recommends that the State party:**

(a) Develop a time-bound plan for reducing the number of children with disabilities living in institutions and integrating them into mainstream education and vocational training programmes, as well as social, cultural and leisure activities;

(b) Provide sufficient financial, human and organizational resources to powiats to ensure that they all offer integrated educational facilities that are accessible and appropriate to children with disabilities that will ensure their full participation in society.

Adolescent health

42. The Committee is concerned that:

(a) The rate of teenage pregnancies is relatively high and that adolescents have limited access to reproductive health education or services;

- (b) Smoking amongst adolescents is excessive;
- (c) The abuse of alcohol, drugs and illicit substances is increasing among teenagers.

43. The Committee recommends that the State party institute health education and awareness programmes specifically for adolescents on sexual and reproductive health and the dangers of smoking and drug and alcohol abuse in schools, community clubs, family centres and other institutions working with children.

7. Education

44. The Committee notes the new initiatives to provide textbooks to children from poor families and provide all schools with computers, yet it remains concerned at the increasing disparities in access to education, the material condition of schools and the quality of education between rural and urban areas, particularly with regard to kindergartens and extracurricular programmes and activities.

45. The Committee recommends that the State party ensure that children in rural areas have equal opportunities for a quality education which provides them with the skills to enter the labour market or university-level education based on their merit, by:

(a) Seeking innovative means for promoting the cognitive, social and emotional development of children, through, inter alia, programmes that foster interaction between children and their peers and parental education programmes on the benefits of early childhood education, ensuring that there are sufficient and appropriate kindergarten facilities for all children in rural areas; orienting the education system towards achieving the aims mentioned in article 29, paragraph 1, of the Convention and in the Committee's General Comment No. 1 on the aims of education; and introducing human rights, including children's rights, into the school curricula;

(b) Ensuring that rural areas and poorer communities are provided with additional funds to allow them to provide the same quality of education and level of extracurricular programmes as urban schools;

(c) Ensuring that students from poor families or those in rural areas have access to scholarships or other forms of financial support that allow them to attend general secondary schools in preparation for university.

8. Special protection measures

Refugee children and unaccompanied minors seeking asylum

46. The Committee notes the State party's efforts to speed up the processing of refugee cases, but is concerned that the claims of unaccompanied minors are slowed down by cumbersome procedures for appointing a legal representative of such minors applying for refugee status, who is solely responsible for administrative matters and not obligated to act in the best interests of the

child. Furthermore, the Committee is concerned that children waiting for their refugee claims to be processed do not have opportunities for education if they are housed in emergency blocks and that, in some cases, they are held together with juvenile offenders.

47. The Committee recommends that the State party:

(a) Amend current legislation on refugee processing so as to ensure that all unaccompanied minors are immediately appointed a legal guardian responsible for them who is obligated to act in their best interest to take their views into account;

(b) Ensure that asylum-seeking children temporarily placed in emergency blocks are not held together with juvenile offenders and only remain there for the shortest possible time, and not exceeding the legal maximum of three months;

(c) Ensure that all children awaiting processing of their refugee claims in emergency blocks, the refugee reception centre or other forms of care have full access to education.

Sexual exploitation and trafficking

48. While noting the increased efforts of the State party to cooperate in regional programmes to prevent trafficking and repatriate victims, the Committee is nevertheless concerned that Poland continues to be a country of origin, destination and transit for children trafficked for sexual exploitation.

49. The Committee recommends that the State party:

(a) Proceed with its intention to ratify the Worst Forms of Child Labour Convention (No. 182) of the International Labour Organization (ILO) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and develop a national plan of action on commercial sexual exploitation of children, as agreed at the first and second World Congresses against Commercial Sexual Exploitation of Children, held in Stockholm in 1996 and Yokohama, Japan, in 2001, respectively;

(b) Ensure that all persons under 18 involved in prostitution and the production of pornographic materials are not criminalized and enjoy full protection;

(c) Train law enforcement officials, social workers and prosecutors in how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner;

(d) Ensure that all victims of trafficking and forced prostitution have access to appropriate recovery and reintegration programmes and services.

Juvenile justice

50. The Committee is concerned at the high number of juveniles spending extensive periods of time in emergency blocks either as a pre-trial detention measure or as punishment for their actions in the juvenile reform centres. In addition, the Committee is concerned that not all juvenile detention centres guarantee the child's right to maintain contact with his or her family or provide adequate living standards.

51. **The Committee recommends that the State party:**

(a) **Ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), in light of the Committee's day of general discussion on the administration of juvenile justice, held in 1995;**

(b) **Enforce the regulations allowing a maximum stay of three months in emergency blocks;**

(c) **Use deprivation of liberty only as a measure of last resort and protect the rights of children deprived of their liberty, including those pertaining to conditions of detention.**

Children belonging to minority groups

52. The Committee is concerned that, despite pilot programmes aimed at improving the situation of the Roma in certain provinces, they still suffer from widespread discrimination which has in some instances impeded Romani children's right to education, health and social welfare.

53. **The Committee recommends that the State party:**

(a) **Initiate campaigns at all levels and in all provinces aimed at addressing the negative attitudes towards the Roma in society at large and in particular amongst authorities and professionals providing health, education and other social services;**

(b) **Develop and implement a plan aimed at integrating all Roma children into mainstream education and prohibiting their segregation into special classes, and which includes pre-school programmes for Romani children to learn the primary language of schooling in their communities;**

(c) **Develop curriculum resources for all schools which include Romani history and culture in order to promote understanding, tolerance and respect of Roma in Polish society.**

9. Optional Protocols to the Convention on the Rights of the Child and amendment to article 43, paragraph 2, of the Convention

54. The Committee notes that the State party has not ratified the two Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

55. The Committee recommends that the State party ratify the two Optional Protocols to the Convention on the Rights of the Child.

10. Dissemination of documents

56. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

11. Next report

57. The Committee, aware of the delay in the State party's reporting, wishes to underline the importance of a reporting practice which is in full compliance with the rules set out in article 44 of the Convention. The Committee in charge of doing so should have the opportunity to regularly examine the progress made in the implementation of children's rights. In this regard, regular and timely reporting by States parties is crucial. In order to help the State party return to full compliance with its obligation under the Convention, the Committee invites the State party, by way of exception, to submit its fourth periodic report before the due date established under the Convention for that report, i.e. 7 July 2008. This report would combine the third and fourth periodic reports.
