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Summary record of the first part (public)* of the 38th meeting

Held at the Palais Wilson, Geneva, on Friday, 6 November 2009, at 3 p.m.

Chairperson: Mr. Marchán Romero

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The meeting was called to order at 3.05 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Fifth periodic report of Poland (continued) (E/C.12/POL/5; E/C.12/POL/Q/5 and Add.1; E/C.12/1/Add.82; HRI/CORE/POL/2009)

1. *At the invitation of the Chairperson, the delegation of Poland took places at the Committee table.*

Articles 6 to 9 of the Covenant (continued)

2. **Ms. Kocot** (Poland) said that the unemployment rate — which was high in Poland, at 10.9 per cent — had fallen significantly as compared with previous years, as a result of a wide range of measures taken by the Government to combat and mitigate the effects of unemployment. As part of that effort, particular attention was paid to certain categories of people, such as young persons, women, the long-term unemployed and persons with disabilities, and the district labour offices had implemented a special assistance programme for those who, six months after registering as job-seekers, had begun to receive the allowances that would allow them to get by until they found paid work. Furthermore, the Ministry of Labour had a special fund to provide assistance to persons with disabilities.

3. **Mr. Kosiński** (Poland) said that the law on the reintegration of persons with disabilities into the world of work included provisions for incentives for employers, particularly reimbursement of training costs and related social security contributions. Thus, between January and June 2009, 29,000 persons with disabilities had been hired, an increase of 9 per cent compared with December 2008 — all types and degrees of disability included — which proved the effectiveness of the steps taken to support and boost employment of persons with disabilities.

4. **Ms. Bolesta-Borkowska** (Poland) said that the standard working hours were 40 hours per week, but the working day could be extended to 16 hours uninterrupted over a 24-hour period for jobs in the surveillance sector or employees on call. However, a working day could not exceed 8 hours for physically demanding jobs and employees who worked 16 hours a day could only do so for 9 or 10 days a month. The minimum amount of rest time was 11 hours per 24-hour period, except in the exceptional cases mentioned previously. Overtime pay was one and a half times or double the normal rate, depending on whether it extended the working day or was undertaken during the weekly rest time.

5. The minimum wage and its annual increase were established by Act No. 202; decisions to increase the minimum wage were taken by the Tripartite Commission for Social and Economic Affairs. An agreement had recently been reached to set the minimum wage at 40 per cent of the average national salary. Previously, article 18, paragraph 3 (c), of the Labour Code had established equal pay for men and women for work of equal value, but the Labour Code already prohibited all forms of discrimination, for whatever reason. In fact, stipulating a ground for discrimination has been considered superfluous. Finally, trial periods had been reduced from four months to one month.

6. **Ms. Karciszko** (Poland) said that, in practice, the wage gap between men and women for work of equal value was 11 per cent, which was below the average of 15 per cent for the European Union. The Government had taken measures to promote the employment of women, particularly those aged over 45, and to make it easier for them to find a work/life balance. A women's conference had been held to discuss ways to improve

women's employment and protect their political and social rights, and a national campaign was due to be carried out to close the gender wage gap.

7. **Ms. Kurowska** (Poland) said that the number of staff of the National Labour Inspectorate had increased since 2005. The number of inspectors had risen by 3.6 per cent, to 500.

8. **Mr. Ciechański** (Poland) said that in October 2008 the Council of Ministers had adopted an intergenerational solidarity programme for the over-50s, which included both incentives and legislative reform, with the aim of keeping the over-50s on the labour market. The awareness-raising campaign carried out under the incentives component of the programme was aimed at both employers, who should be made aware of the benefits of employing workers aged over 50, and employees, who were inclined to take early retirement which guaranteed them a monthly income while allowing them to work at the same time. Specific steps had been taken to encourage employers to retain employees aged over 50, for example by granting exemptions from contributions, and to develop the abilities of those aged over 45 to learn new skills, which would ensure that they stayed on the labour market.

9. **Ms. Maciejewska** (Poland), in reply to the question on trade union rights, said that two possible remedies were available in the event of a breach of the Act on Trade Unions of 1981. The first was to contact the National Labour Inspectorate. In 2008, 70 petitions had been filed for discrimination based on membership, or non-membership, of a trade union, and in October 2009 there had been 33. The second remedy was to take the matter directly to court. In 2008, only two individuals had been sentenced under the Act on Trade Unions. Civil servants and judges were given appropriate training on the right of association.

10. With regard to collective agreements, in October 2009 there were 51 instances where an agreement had been suspended. In such cases, workers' rights were still protected by the Labour Code and other related legislation. Furthermore, the suspension of a collective agreement had to be registered, and during registration the reasons for the suspension were duly examined. The maximum period of suspension was three years. Finally, further to the decision of the Constitutional Tribunal of 18 November 2002, the article of the Labour Code which provided that when a collective agreement was terminated the agreement remained in force until the parties had come to a new agreement, had been repealed, as it constituted a real limitation on the right of collective bargaining.

11. **Ms. Guzelf** (Poland) said that pensions were a very sensitive issue. The reform, which had been under way for 10 years, sought to extend working lives and reduce the number of early retirements. In 2009, the retirement age had been increased from 56 to 60 for women and from 61 to 65 for men. Under the old system, men and women had received a pension calculated on the basis of the number of years worked, which put women at a disadvantage; under the new system, in force since 1999, pension payments varied according to the contributions made. Women could not see the difference yet, as it would take 20 or 30 years for the changes to be perceptible, but they were beginning to realize that it was not in their interest to retire too early. Experts were currently discussing ways to achieve equal pension rights for men and women.

12. **Ms. Maciejewska** (Poland) said, with regard to rights granted to foreign nationals, that Polish legislation established distinctions based on social, economic and political considerations, but prohibited all discrimination for reasons judged to be unreasonable. The person's status — as a refugee, a person under temporary protection or a national of a European Union member State — was also taken into consideration and could mean that the person was entitled to some social benefits.

13. With regard to the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, an examination of

Polish legislation in that field had shown that workers in a regular situation enjoyed the rights provided for in the Convention. The problem was that the Convention granted rights to workers in an irregular situation; implementing those rights would require a thorough revision of domestic legislation. However, the labour market was currently under too much strain for such a revision, and thus for the ratification of the Convention, to take place.

14. **Mr. Ciechański** (Poland), in reply to the question on employment strategy, recalled that the latter had been adopted in 2000 when Poland, as a candidate to join the European Union, had been making efforts to comply with the European Employment Strategy and its four components, the first of which was employability. At the time, the unemployment rate had been 18 or 19 per cent and steps had been needed to improve employability. Also there was a tax wedge that had to be reduced as it had a very discriminatory effect on workers with few qualifications who were excluded from the labour market. The aim of that reduction was not to bring down wages but to bring less qualified workers into the labour market. At the same time, the Government had introduced important reforms in the field of education and vocational training in order to improve the employability of Polish workers.

Articles 10 to 12 of the Covenant

15. **Mr. Riedel** noted that the prevalence rate of neurosis and depression, particularly among women, was extremely high, at 7 per cent, and requested additional information on the availability and accessibility of mental health specialists, particularly in rural areas. Noting that 9 per cent of children suffered from chronic allergies, he asked what the Government was doing to remedy that situation, which affected many European countries, and in particular what it was doing to counter pollution and whether steps had been taken to train specialists in that medical field. Smoking had decreased by 9 per cent but was still a problem; he asked what measures had been introduced to fight that addiction, particularly among women. Alcohol consumption had increased, especially among youngsters, and even children, as well as the unemployed and the homeless, which went against the trends seen in other European countries. What had the Government done in that area and what were the results of the measures taken?

16. He said that he would like more information on the procedures for, and results of implementing the regulations on the conditions for the disposal of sewage in watercourses and the soil and on substances particularly harmful to the water environment, adopted by the Polish Ministry of the Environment. He also asked the delegation to summarize briefly the findings published by the Chief Inspectorate for Environmental Protection on that issue.

17. **Ms. Bonoan-Dandan**, recalling the previous concluding observations of the Committee, asked whether the State party had indeed formulated a national strategy for poverty reduction that fully integrated human rights and included economic, social and cultural rights.

18. She also asked whether the State party had implemented the recommendation that family planning services should be provided by the public health-care system, that contraceptives should be available at affordable prices and that sexual and reproductive health education should be included in the national school curricula.

19. Finally, the Committee had requested that the State party should provide in its next periodic report detailed information about the problem of abortion, which had been done. However, it had also requested information on the measures, in particular legislative measures, undertaken to protect women from clandestine and unsafe abortions; on that point, information was lacking. She therefore asked the delegation to provide that information.

20. **Ms. Barahona Riera**, recalling the question on the gender equality bill she had asked at the previous meeting, said that she regretted that the delegation had simply read out the report instead of explaining why it had taken so long for the bill to be adopted.
21. With regard to family policy, she asked why family violence had not been classed as a criminal offence and whether a bill had been drafted to remedy that situation. She also asked the delegation to explain how civil law was applied and what form the measures to help victims and to punish perpetrators took.
22. Finally, for cultural reasons, measures to protect women's rights often fell short of the legal standards in force. She asked the delegation to explain why existing legislation was not applied, particularly with regard to health and sex education, reproductive health and, above all, abortion.
23. **Mr. Marchán Romero**, recalling Mr. Zhan Daode's unanswered question, asked what the positive and negative impact on employment had been of the economic measures adopted to tackle the recession.
24. **Mr. Sadi** asked what the position of the State party was on same-sex marriages.
25. He said that, although corporal punishment was prohibited by law, it appeared to be still in use within families. He encouraged the State party to reinforce legislation and ban such punishment in all circumstances, and asked whether it had any plans to do so.
26. He asked what specific measures were being considered to combat trafficking in persons, which was a matter of concern for Poland as a country of origin, destination and sometimes transit.
27. Despite the State party's manifest desire to integrate the Roma population, it appeared that the Roma had been refused access to social housing and had no security of tenure. Furthermore, it seemed that Poland did not have sufficient social housing. He asked the delegation to provide further details on those two issues.
28. The birth rate had dropped and, worse still, so had health expenditure – to 6.2 per cent of gross domestic product (GDP), which was less than the average of member States of the Organisation for Economic Co-operation and Development (OECD). Considering the importance of the right to health, it would be useful to hear the delegation's views on that matter. Finally, with regard to the refusal by some doctors and hospitals to carry out abortions, even though abortion was legal, he, together with other Committee members, wondered whether Poland was not legally obliged to offer alternative solutions to patients.
29. **Ms. Korbasinska** (Poland) confirmed that the number of cases of depression was increasing in Poland and, as in other countries, was rising more quickly among women than men. She said that a bill on mental health protection would be submitted to parliament very soon. The apparent increase in mental health problems, not only depression, was undoubtedly linked to the country's development and modern life, but it also highlighted a change for the better and a change in attitude towards such problems: those affected spoke about it more easily and more of them sought help. Treatment was no longer provided by big hospitals; it had been decentralized to communities and districts in order to be closer to where patients lived, so they were no longer cut off from their environment and treatment was cheaper.
30. She was unable to give precise figures on the number of individuals suffering from allergies. As Poland had a shortage of allergists, the Ministry of Health had declared that specialization a priority and offered supplementary payments to doctors who chose it. General practitioners had received training on allergies so that they could treat patients suffering from mild allergies.

31. Obesity was not as serious a problem in Poland as in other countries, but the situation was getting worse. A programme had been in place for two years to teach schoolchildren healthy eating habits. According to some studies, parents were particularly careful about what their children ate up to the age of 3, but were less vigilant after that. A department of the Ministry of Health had therefore been asked to develop an information campaign on that issue targeting parents and teachers.

32. Nicotine addiction was a serious problem in Poland. Government initiatives had produced positive results and consumption had fallen, though more among men than women. The large number of children who smoked was a cause for concern and prevention campaigns were run to inform children at a very young age of the detrimental effects of smoking. The results were, however, far from satisfactory. Parliament was currently examining a bill to increase the price of tobacco significantly in order to make it less accessible. With regard to alcohol addiction, as consumption habits changed, traditional alcoholic drinks, such as vodka, had been replaced by less alcoholic beverages. Campaigns against alcoholism were under way at the local level. The results had been relatively good, insofar as 40 per cent of persons who attended a detoxication centre stopped drinking.

33. The law on abortion, which established the conditions for legal abortions, had provoked fierce social debate. The adopted text was a consensus that did not completely satisfy anyone, whether it be the Catholic Church or the feminist movement. Under the new law on patients' rights, appeals could be made against certain medical decisions and the post of ombudsman for patients' rights had been established. It was still too early to assess the results of those measures. With regard to access to contraception, the State only financed contraceptive advice services, which were dispensed by doctors. All forms of contraception were available on the market, but the cost was not reimbursed. The three contraceptives that were on the list of medicines eligible for reimbursement only applied in the case of medical problems. The Government hoped to remedy that situation.

34. **Ms. Batrosiewicz** (Poland) said that preventing family violence was a government priority. Measures had been introduced to prosecute violent individuals, usually men, and to ensure that female victims were not forced to leave the family home with their children. The 2005 law on family violence, amended recently by parliament with the support of non-governmental organizations for the protection of children's and women's rights, made provision for preventive measures that sought, for example, to provide education programmes for the perpetrators of violence and to prevent them from approaching their victims. With regard to corporal punishment, a debate was currently under way as to whether legislation in that area should also cover psychological or sexual violence against children. There was another law that provided for children to be removed from their family if their health or life was in danger. Family violence was considered an offence under the Criminal Code, which included a specific provision on that matter. The reason why the number of cases of family violence remained stable despite more frequent police interventions was perhaps that more cases were reported. A social change was under way, but it would take some time before the education, awareness-raising and training campaigns had the desired effects.

35. **Mr. Ciechański** (Poland) said that amendments had been made in 2007 to kindergarten regulations in order to improve access to such services, which were needed by working women. Poland had a low birth rate and the lack of such services was one of the main reasons why women deferred having children. The Ministry of Health was currently drafting a bill on nurseries, in an attempt to relax regulations for such services, drawing on the experience of other European countries. Improved training for nursery staff was also on the agenda.

36. The aim of the national programme for social protection and inclusion was not to promote a particular set of social rights, but rather to improve coordination of existing

public policies to make them more efficient. However, the programme did include specific measures that covered the main social rights. It also sought to raise awareness among the general public of their rights and the services available to them.

37. **Ms. Maciejewska** (Poland) said that, since the latest information had been sent by the State party to the Committee, the Ministry of Infrastructure, which was responsible for housing, had received a study on an inventory of housing in Poland and the different legal categories of housing, which would be used to establish a new housing policy. In February 2009, the law on financial support for social and protected housing had been amended in order to broaden access to housing benefit programmes by private investors and the local authorities responsible for social housing. In April 2009, major changes were made to the programme to support the construction of rent-controlled properties, for which funding had been increased. Furthermore, the Ministry of Infrastructure had announced a reform of the programme to establish rent-controlled properties. Information on the results of those various initiatives would be included in the next periodic report.

38. **Ms. Glowacka-Mazur** (Poland) said that no rejections of social housing applications had been reported by members of the Roma community through the representative bodies for national minorities and that she would like to see the information on the cases referred to by Mr. Sadi. Around 1,300 dwellings, inhabited by Roma families had been renovated by the local authorities as part of the programme for the Roma community. Some of those families owned their homes.

39. **Mr. Pawelga** (Poland) said that the share of public expenditure allocated to the health sector in Poland was one of the lowest in the European Union. One of the first steps taken by the new Government had been to undertake a comprehensive consultation process with all health-system stakeholders to discuss the strategic decisions to be taken, in particular with regard to the allocation of public health expenditure and the cost of health insurance premiums. That project had been delayed because of difficulties linked to the economic crisis, but the process was ongoing. The centralized system in place since 2003, under which payments were made by a single public body, did not allow competition between service providers and did not encourage the introduction of additional services. Different options were being considered to introduce private service providers, modern management methods and supplementary insurance schemes. A law on guaranteed services to be financed by public funds had been adopted. Also, a body had been established to evaluate which treatment techniques were the most cost-effective and successful. The discussions were also looking at rationalizing the health system.

40. **Ms. Korbasińska** (Poland) said, with regard to abortion, that in Poland there was a “conscience clause” that doctors could invoke if they refused to perform abortions for religious or other reasons. They must, however, ensure that the abortion was performed by another doctor in the same hospital or another establishment. A doctor could also refuse to perform an abortion if it would put the mother’s health in danger. A therapeutic abortion could be performed when the foetus was not viable, but only in large hospitals. A pregnancy resulting from rape could be terminated in ordinary clinics. With regard to the legal provisions for abortion and protection of human life, performing an abortion without the consent of the mother was now considered a criminal offence. In 2008 there had been no cases of maternal deaths as a result of an abortion.

41. **Ms. Bonoan-Dandan** asked whether reproductive health had been included in school curricula and what steps had been taken by the State party to protect women against illegal or dangerous abortions.

Articles 13 to 15 of the Covenant

42. **Mr. Kerdoun** asked for details on the special, remedial or additional classes in schools for Roma children, what had been done to facilitate such children's access to ordinary classes and why that government measure had specifically targeted the Roma minority. Furthermore, he asked how many Roma were in Poland, how many Roma children were in primary and secondary schools and how many Roma students were in higher education. He also asked how much of the State budget was allocated for the implementation of the programme for the Roma community for the period 2004 to 2013, which was partly financed by the European Union, and how much aid was earmarked for Roma children.

43. **Ms. Bras Gomes** asked whether steps had been taken to counter homophobic incidents and harassment in schools. She said that she would like to know whether the State party intended to introduce into schools the Manual on Human Rights published by the Council of Europe. Finally, she noted that, on some points, sex education in the State party did not comply with the classifications and definitions of the World Health Organization (WHO).

44. **Mr. Dasgupta** said that there was little information on access to higher education in the State party's report and asked whether there had been any positive developments in that field. There were reports that the number of students in higher education had increased and reached the same level as in other European Union countries where GDP per capita was higher, but according to a Polish economic research group, access to higher education for poor population groups in rural areas was limited, as government grants were not available to all and only covered tuition fees, not other costs. He asked the delegation to provide details on that situation and to comment on reports that classes given in higher education institutions at weekends and outside normal hours were not free.

45. **The Chairperson**, speaking in his capacity as a member of the Committee, recalled that the Committee attached great importance to the right to participate in cultural life and asked how the State party perceived the negative impact of the current economic crisis on the right of access to culture in Poland. He asked whether the Government had reduced any subsidies that sought to promote participation in cultural life and whether other cuts had effectively restricted the general public's access to cultural life.

46. **Ms. Milewska** (Poland) said that an ordinance of the Minister of Education concerning sexual and reproductive health in the school curriculum had been amended. In force since September 2009, it regulated pupils' participation in and the organization of sex education classes. As of that date, all pupils had to attend sex education and reproductive health classes, unless their parents stipulated their opposition in writing. With regard to harassment and homophobia in schools, the Government had launched a draft manual for teachers and a programme on that issue, which covered all aspects of discrimination and related human rights.

47. **Ms. Glowacka-Mazur** (Poland) said that the problems related to the education of children from the Roma minority were no different from those facing other Polish schoolchildren. Roma children were well integrated and education for minorities was supported by funds from the State budget. The current number of Roma in Poland was around 15,000. There were 2,012 Roma pupils in 118 schools. With regard to higher education, 68 Roma students had applied for a grant to go to university. Special grants had been awarded to Roma children who were particularly gifted in artistic disciplines. Furthermore, the Polish Government had made many efforts to eliminate Roma-only classes. There were still two such classes, in village schools, but they would be closed at the end of the school year. Funds allocated for education subsidies for Roma children amounted to around 12.5 million zlotys per year and funding for the programme for the

Roma community in Poland was 10 million zlotys per year. As education was one of the priorities of that programme, a large proportion of its funds was allocated to projects that received financial support from the European Union of up to 12 million zlotys per year.

48. **Mr. Mieczko** (Poland) said that he had been able to organize hundreds of concerts and exhibitions with government financial support and contributions from private funds. A few years ago, a contract had been drawn up with an important national body to promote Polish culture and access by all Polish citizens to their cultural heritage. The Government was determined that the crisis should not impede the general public's access to culture, although it was aware that the obstacles to participation in cultural life were mainly due to a lack of funding. Nevertheless, the State party would endeavour to improve access to culture, particularly through legislation and education.

49. He would like to thank all those who had participated in the constructive dialogue on Poland's implementation of its obligations under the Covenant. The information provided reflected the importance the Polish Government attached to the implementation of that instrument. Over the last few years Poland had made real progress in that field, although much remained to be done to overcome the social problems facing the country. The Government would take into consideration the observations of the Committee on the implementation of the Covenant in Poland. Measures were being implemented under more difficult conditions owing to the current crisis, but the Government was resolved to continue its efforts to meet its obligations under the Covenant.

50. **The Chairperson** welcomed the efforts made by Poland to prepare for the dialogue with the Committee, as well as the openness of the State party's delegation, and announced the conclusion of the consideration of the fifth periodic report of the State party.

51. *The delegation of Poland withdrew.*

The meeting rose at 5.40 p.m.