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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
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11-29 November 2002

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

POLAND

1. The Committee considered the fourth periodic report of Poland on the implementation of the Covenant (E/C.12/4/Add.9) at its 33rd and 34th meetings, held on 13 and 14 November 2002 (see E/C.12/2002/SR.33 and 34), and adopted, at its 56th meeting, held on 29 November 2002, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Poland, which was prepared in conformity with the Committee's guidelines. The Committee notes with appreciation the comprehensive written replies to its list of issues (E/C.12/Q/POL/2) and the additional information provided during and after the constructive dialogue with the delegation of the State party.

B. Positive aspects

3. The Committee notes with appreciation the range of concrete measures that have been undertaken by the State party during the reporting period, in accordance with the Committee's previous recommendations.

4. The Committee commends the State party for its ongoing process to bring its legislation in harmony with the provisions of the Covenant and for the specific measures it has taken in order to ensure the enjoyment of economic, social and cultural rights within its jurisdiction.

5. The Committee welcomes the establishment in November 2001 of the Government Plenipotentiary for Equal Gender Status with the responsibility of promoting the principle of equality between men and women in government legislation and policies. The Committee also notes the recent expansion of the responsibilities of the Plenipotentiary to include combating discrimination based on race, ethnic origin, religion and belief, age and sexual orientation.

6. The Committee welcomes the programmes and measures undertaken by the State party to address the alarming rise in unemployment, including the National Strategy for Employment Growth and Human Resources Development for the years 2000-2006.

7. The Committee also welcomes the recent amendments to the Labour Code, which ban discrimination on the grounds of sex, age, disability, nationality or belief, and guarantee equal remuneration for work of equal value. The Committee notes with appreciation that under the new Labour Code the burden of proof is incumbent on the employer if an employee complains about discriminatory practices.

8. The Committee welcomes the recent redefinition of juvenile work, according to which the minimum working age has been raised from 15 to 16 years.

9. The Committee welcomes the establishment in 2000 of the Ombudsman for Children responsible for monitoring children's rights in Poland.

10. The Committee also welcomes the adoption in 1997 of the Charter of Disabled Persons' Rights, as well as the entry into force in 1998 of the Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities of 27 August 1997.

11. The Committee notes with appreciation the initiatives undertaken by the State party to reduce alcohol consumption and tobacco smoking in the country, including the recent ban on the selling of alcohol to minors and on the promotion and advertising of tobacco products.

C. Factors and difficulties impeding the implementation of the Covenant

12. The Committee notes the difficulties encountered by the State party in implementing the rights provided for in the Covenant, which arose from the process of transition to a market-oriented economy.

D. Principal subjects of concern

13. The Committee is deeply concerned about the recent increase in xenophobic manifestations and acts of violence against certain minorities, in particular Jews and Roma.

14. The Committee regrets that the State party has not provided data about the Romani population living in Poland and that it has not yet adopted and implemented a comprehensive programme to address the problems faced by Romani communities, in particular unemployment and inadequate living standards. The Committee also expresses its concern at the high dropout rates among Romani students.
15. The Committee notes with regret that it did not receive a satisfactory answer from the State party as to whether migrant workers and members of their families have the right to appeal in courts. The Committee is concerned that the rights enshrined in the Covenant are insufficiently protected for a large number of migrant workers residing in Poland.
16. The Committee is concerned about the high level of unemployment in the State party, which has steadily increased since the consideration of its last periodic report and which currently affects over 17 per cent of the active population. The Committee notes with concern that rural areas are particularly affected in this regard as a result of the restructuring of the public sector in the field of agriculture.
17. The Committee is also concerned that, despite the measures taken by the State party to combat discrimination against women in employment, the discrepancy persists between the law and actual practice with respect to equal remuneration for work of equal value and to promotion in employment, as acknowledged by the State party's delegation.
18. The Committee is further concerned that there are no specific regulations against sexual harassment in the State party. It notes with regret that the State party was not able to provide information on this subject in its report and written replies to the list of issues, as requested by the Committee.
19. The Committee notes with concern the different retirement ages for men (65) and women (60), which in practice result in lower pensions for women.
20. The Committee is concerned that the minimum wage in Poland is insufficient to provide a worker and his/her family with a decent standard of living.
21. The Committee is also concerned about the inadequacies in enforcing occupational safety laws and regulations in the State party, resulting in a relatively high number of accidents in the workplace.
22. The Committee notes with concern that the legislation of the State party still contains restrictions on civil servants' right to join trade unions and to strike.
23. The Committee expresses its concern that the relatively high incidence of child labour in rural areas, as acknowledged by the State party's delegation, has a negative impact on children's health and right to education.
24. The Committee is concerned about the rising incidence of trafficking in women for the purpose of sexual exploitation.

25. The Committee is also concerned about the high number of reported cases of domestic violence and notes with regret that insufficient information was provided on this issue by the State party.
26. The Committee is further concerned that, under existing legislation, forced evictions may be carried out in the State party without the provision of alternative lodging, as stipulated in the Committee's General Comment No. 7 (1997) on forced evictions.
27. The Committee regrets that it did not receive adequate information from the State party on the number of people who live below the poverty line.
28. The Committee is concerned that family planning services are not provided in the public health-care system and that women have no access to affordable contraception. It also expresses concern that education in sexual and reproductive health is not adequately covered in the national school curricula.
29. The Committee is concerned about the restrictive abortion laws, which have resulted in a large number of women risking their health by resorting to clandestine abortionists.
30. The Committee expresses its concern at the high level of cardiovascular diseases, as acknowledged by the State party.
31. The Committee expresses deep concern at the high number of people who suffer from mental illness and the equally high number of children and young adults who required psychological care during the reporting period.
32. The Committee notes with regret that the State party did not provide sufficient information on its programmes to combat HIV/AIDS.

E. Suggestions and recommendations

33. The Committee requests the State party to clarify, in its fifth periodic report, whether individuals within its territory may invoke the rights enshrined in the Covenant before the domestic courts, as well as relevant case law, if available, on the application of the Covenant. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 (1998) on domestic application of the Covenant. The Committee urges the State party to take measures to increase public awareness of the Covenant and of the possibility of invoking its provisions before the courts.
34. The Committee recommends that the State party formulate and implement a comprehensive national plan of action for the promotion and protection of human rights, as recommended in paragraph 71 of the Vienna Declaration and Programme of Action, adopted in 1993. The Committee requests the State party to include a copy of the national plan of action and information on its implementation in its next periodic report.
35. The Committee urges the State party to take legislative and other measures to ban and prosecute organizations which incite or promote racial discrimination.

36. The Committee also urges the State party to provide updated information on the Romani population and to adopt a comprehensive programme to address the obstacles to the advancement of the Romani population, including measures to ensure effective remedy for cases of discrimination against Roma in employment, housing and health care. The Committee further urges the State party to adopt effective measures to combat the low school attendance and high dropout rates among Romani students and to provide for their integration into regular classes on an equal footing with other Polish children.

37. In view of the large number of migrant workers in Poland, the Committee urges the State party to ensure the effective protection of the rights of migrant workers and their families, provided for under the Covenant.

38. In order to tackle unemployment, the Committee urges the State party to intensify its efforts to implement the relevant national plans of action with a view to adapting the workforce to a changing labour market and providing alternative sources of income for workers affected by restructuring programmes, particularly in the heavy industry and agricultural sectors.

39. The Committee reiterates its previous recommendation to the State party to ensure the implementation of the legal provisions and administrative regulations guaranteeing equal remuneration for men and women and the equal opportunity for promotion in employment, subject to no considerations other than those of seniority and competence. The Committee encourages the adoption of the draft legislation on the equal status of men and women, currently being considered by the Senate of the State party.

40. The Committee also reiterates its previous recommendation to the State party that sexual harassment be prohibited by law, and urges the State party in its next periodic report to provide information on sexual harassment.

41. The Committee recommends the adoption of the same age of retirement for men and women.

42. The Committee also recommends that the State party regularly evaluate and adjust the minimum wage on the basis of the cost of living so as to ensure that the worker and his/her family are able to have a decent standard of living.

43. The Committee reiterates its previous recommendation to the State party to intensify its efforts at ensuring that occupational safety legislation is properly implemented, especially by allocating sufficient resources to the State Labour Inspectorate and imposing effective sanctions with respect to violations of safety regulations.

44. The Committee recommends that the legislation on civil service be amended with a view to lifting the restrictions imposed on civil servants' right to join trade unions and on their right to strike, in conformity with the comments made by the International Labour Organization Committee of Experts in 2001 concerning the Right of Association and Protection of the Right to Organize Convention (No. 87).

45. The Committee also recommends the adoption of legislation in order to regulate child labour in rural areas in such a way that the right to health and right to education of working children are fully protected.
46. The Committee further recommends that the State party take effective measures to combat trafficking in women, inter alia, by ensuring that those responsible for trafficking are prosecuted, and to ratify the international instruments aimed at intensifying cooperation in this field among States, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Committee requests the State party in its next periodic report to report on the progress made in this regard.
47. The Committee recommends that the State party strengthen programmes and increase budget allocations for combating domestic violence, ensuring, among other things, the availability and accessibility of crisis centres where victims of domestic violence can find safe accommodation and counselling.
48. The Committee reiterates its previous recommendation that the conditions for permissible forced evictions be specified in law, with provisions that address the need for alternative lodging for those evicted, as provided for in the Committee's General Comment No. 7 on forced evictions.
49. The Committee recommends that the State party closely monitor the level of poverty and provide in its next periodic report disaggregated and comparative data on the number of people living under the poverty line. The Committee furthermore urges the State party to fully integrate human rights, including economic, social and cultural rights, in the formulation of a national strategy for poverty reduction. In this respect, the Committee refers the State party to the Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex VII).
50. The Committee also recommends that family planning services be provided by the public health-care system, that contraceptives be available at affordable prices and that sexual and reproductive health education be included in the national school curricula.
51. The Committee requests that the State party provide in its next periodic report detailed information, including comparative data, about the problem of abortion in Poland and the measures, legislative or otherwise, including the review of its present legislation, it has undertaken to protect women from clandestine and unsafe abortions.
52. In view of the high level of deaths caused by cardiovascular diseases, the Committee recommends that the State party monitor the situation closely and include in its next periodic report disaggregated and comparative data documenting the effects of measures taken in this respect.
53. The Committee requests the State party, in its next periodic report, to provide detailed information on the conditions in psychiatric inpatient health-care facilities and to include data documenting the results of the Mental Health Protection Programme.

54. The Committee also requests the State party to include in its next periodic report information on concrete results of the implementation of the Charter of Disabled Persons' Rights (1997) as well as of the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons (1998).
55. The Committee further requests the State party to provide information on legislation and programmes concerning persons with HIV/AIDS, as requested in the list of issues to be taken up in connection with the present report.
56. The Committee encourages the State party to provide human rights education in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.
57. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, and in particular among State officials and the judiciary, and to inform the Committee in the next periodic report, of all steps taken to implement them.
58. Finally, the Committee requests the State party to submit its fifth periodic report by 30 June 2007, and encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of the report.
