



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-first session

SUMMARY RECORD OF THE 827th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 1 October 2002, at 10 a.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Second periodic report of Poland (CRC/C/70/Add.12; CRC/C/Q/POL/2; HRI/CORE/1/Add.25/Rev.1; written replies of the Government of Poland to the questions in the list of issues (document without a symbol distributed in the meeting room in English only))

1. At the invitation of the Chairperson, the members of the delegation of Poland took places at the Committee table.
2. The CHAIRPERSON welcomed the delegation and said that Poland deserved special recognition for being a country with a strong tradition of children's rights. In 1978, the Polish Government had taken the initiative to propose to the General Assembly a draft text for the Convention on the Rights of the Child, based on the 1959 Declaration on the Rights of the Child. Adam Lopatka, a Polish citizen, had played a prominent role in drafting the text that was to be adopted unanimously by the General Assembly in 1989. Another Polish citizen who merited recognition for his work was Janusz Korczak, a pioneer of child welfare who died in a prisoner of war camp in 1942 with orphan children.
3. Mr. GOBAN-KLAS (Poland) said that Poland was a country in transition. Since 1989, it had been undergoing a period of political transformation and in 1999 it had become part of a military alliance by joining the North Atlantic Treaty Organization (NATO). It was likely that Poland would join the European Union in the near future. Despite the fact that the available information was sometimes no longer valid, his delegation would endeavour to provide up-to-date answers to the questions posed by the Committee. Although the representative of the Ministry of Health had been unable to attend the meeting due to unforeseen circumstances, the Ministry could be contacted during the course of the day to provide answers to any questions relating to health.
4. Some substantial changes had taken place since the Committee's consideration of Poland's initial report (CRC/C/8/Add.11) in 1995; first, in April 2002, the task of coordinating the implementation of the provisions of the Convention, previously the responsibility of the Office of the Government Plenipotentiary for Family Affairs, had been entrusted to the Ministry of National Education and Sport. Therefore, the Ministry was still fairly inexperienced in such matters. Second, the Parliament had passed a law in 2000 on the Ombudsman for Children. The Ombudsman was present at the meeting as an observer. Third, as a result of the administrative reform that had changed the responsibilities of gminas (communes), powiats (districts) and voivodships (provinces), all matters relating to social assistance would now be addressed at powiat level and those concerning education would be addressed at gmina level. Fourth, in response to the Committee's previous concluding observations (CRC/C/15/Add.31), the Government had taken steps to withdraw its reservations to articles 7 and 38 of the Convention, as well as the declarations made in relation to the exercise of the rights defined in articles 12 to 16 and article 24. Unfortunately, the legislative work had come to a halt following a change of Government in 1997 and had not been resumed until 2002. It was hoped that the Government would withdraw its reservations in 2003. Fifth, a number of follow-up activities had been

conducted in response to the General Assembly special session on children held in May 2002. For example, a National Action Plan for children had been adopted and would hopefully be introduced in 2003. In addition, the Government was working closely with the United Nations Children's Fund (UNICEF) to review the situation of children in Poland in preparation for a conference to be held in October 2002.

5. The CHAIRPERSON invited the members of the Committee to put questions to the delegation concerning general measures of implementation, the definition of the child and general principles.

6. Ms. CHUTIKUL said that significant progress had been made since 1995 to advance the enjoyment of the rights of the child in Poland, including several amendments to the Penal Code, the adoption of new legislation, the creation of new institutions and the promulgation of the 1997 Constitution, which enshrined several of the provisions of the Convention. She welcomed Poland's ratification of various international instruments, including the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, the European Convention on the Exercise of Children's Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. She noted with satisfaction the State party's intention to withdraw its reservations to the Convention on the Rights of the Child by 2003. However, she expressed disappointment that Poland had not yet ratified the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) or the two Optional Protocols to the Convention on the Rights of the Child.

7. Poland's second periodic report (CRC/C/70/Add.12) had been prepared in accordance with the Committee's guidelines but focused too heavily on legislation, paying insufficient attention to implementation. It failed to provide details of the obstacles that had been encountered in terms of implementing the provisions of the Convention and did not outline any possible solutions. No specific reference had been made to the follow-up to the Committee's previous concluding observations and very little attention had been paid to specific groups of vulnerable children.

8. The State party should provide further information about the functions and intentions of the Ministry of National Education and Sport, which had recently been made responsible for coordinating governmental policies on children, an activity that would involve a range of different ministries. It would be useful to know what role would be given to non-governmental organizations (NGOs) and how their work would be coordinated. It would also be interesting to know how the implementation of the Convention would be coordinated at national and local levels. The creation of the Office of the Government Plenipotentiary for Family Matters and Equal Status of Women and Men was a positive development.

9. She welcomed the creation of the office of the Ombudsman for Children but expressed concern that it did not receive sufficient resources to carry out its mandate effectively. It would be interesting to know whether the Government intended to provide assistance and whether the office would remain independent. She hoped that children could still file complaints, despite the financial difficulties. Monitoring the implementation of the Convention was a major undertaking and she doubted whether the office of the Ombudsman could bear all the responsibility.

Therefore, it would be interesting to know whether the State party intended to establish a monitoring mechanism within the Government and whether a set of indicators had been developed for evaluation purposes.

10. She noted with satisfaction the adoption of a comprehensive National Action Plan for children, even though it had taken a long time for the Government to take action in that regard; it was hoped that NGOs and all ministries would be able to participate in the Plan and that it would reflect the needs of children at grass-roots level, in particular with regard to the provision of services.

11. Ms. AL-THANI said that further information should be provided about the preparation of the report. For example, had children's views been taken into account? She would appreciate further details on the role of the Spokesperson for the Rights of the Child. Would he or she be answerable to the Government? According to some sources, children with disabilities and children with HIV/AIDS continued to face discrimination. It would be interesting to know whether the Government had taken any steps to sensitize the population in that regard.

12. Ms. OUEDRAOGO noted with satisfaction the efforts made by the State party to withdraw its reservations to the Convention and encouraged the Government to continue its work in that direction. It was unclear whether the Office of Government Plenipotentiary for Family Matters and Equal Status of Women and Men mentioned in the written replies would also be responsible for coordinating governmental policy on children; if so, it would be interesting to learn how that body coordinated its work with the Ministry of National Education and Sport. The report revealed that there was no single institution in Poland responsible for the totality of children's affairs although there were different State agencies responsible for children's health, education, work, sports and culture. How did the Ministry of National Education and Sport intend to organize the situation?

13. Although the report revealed that training programmes on children's rights had been organized for educational supervisors and teachers, it was unclear whether the Convention had been incorporated into the school curriculum. It would be interesting to know whether other professionals working with children had received any training in the provisions of the Convention.

14. She asked why the legal marriageable age was lower for girls than it was for boys, and whether the Government had considered harmonizing that limit. The delegation should also confirm whether judges were entitled to allow girls to marry earlier in certain circumstances. It was unclear whether any mechanism had been established to promote and protect the child's right to be heard at the national and local levels.

15. Mr. AL-SHEDDI said he failed to understand which government department had most responsibility for coordinating implementation of the Convention. Since the head of the delegation came from the Ministry of National Education and Sport, he asked whether the Committee could assume that his Ministry had the key role in that regard. He wished to know whether there were any plans to establish a single, inter-ministerial body to supervise implementation. He would like to hear more about how the Government worked with civil society to review child rights issues. Referring to the failure of the State party to provide

comprehensive disaggregated data in the written replies, he asked for further details concerning the method of data collection used by the Government. In particular, he would be interested to learn whether each department compiled its own statistics separately, or whether there was a more comprehensive approach. Lastly, did the Government plan to develop a database for the whole range of indicators concerning children?

16. Ms. KHATTAB welcomed the positive role that Poland had played at the General Assembly special session on children. However, she expressed concern that it had failed to ratify Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The underlying attitudes behind that failure could be detected in some of the concerns expressed by human rights treaty bodies regarding discrimination against women in the State party. While withdrawal of its reservations was an encouraging sign, she would welcome more concrete evidence that attitudes towards women were changing in Polish society.

17. She asked for an explanation of why the first Ombudsman had resigned, and why it had taken so long to appoint a replacement to the post. The age of criminal responsibility was 17 years, although that could be reduced to 15 years for serious crimes. She would like to know whether there was a precise definition of what constituted a serious crime. The minimum age for sexual consent was 15 years. Given that the sexual exploitation of women and girls was a growing problem in the State party, she asked whether the Government had considered raising that age limit. Moreover, the delegation should describe any other measures that the Government planned to take to protect girls from sexual exploitation.

18. Mr. CITARELLA said that no specific data had been provided on the proportion of the overall budget allocated to children. It was encouraging to see economic development, but the Committee needed to see evidence that it translated into increased expenditure on children. He asked why, for instance, national spending on education had fallen between 1999 and 2001. The delegation should explain whether decentralization meant that more resources were coming from local sources.

19. According to Polish law, international treaties took precedence over domestic legislation. Nevertheless, he would appreciate concrete examples of cases in which the Convention had been invoked or applied by judges in the absence of relevant domestic laws. Pointing out that some of the statistics provided in the written replies referred to the 0 to 17 year age group, he asked why the figures failed to take children aged 18 years into account. While he welcomed the fact that education was compulsory until the age of 18 years, he noted that the minimum age for undertaking paid employment was 15 years. He would like to know how children could continue compulsory education and still hold down a job between the ages of 15 and 18 years.

20. Ms. TIGERSTEDT-TÄHTELÄ said that, although the Ombudsman had been introduced successfully, it would be useful to know whether government ministries were required to report regularly to Parliament on their activities relating to the Convention, including details of progress made in relation to recommendations made by the Ombudsman. She was very concerned at the decrease in budgetary resources for the educational sector. She wanted to hear whether that trend was set to continue, or whether the Government had already reversed it.

21. It had been indicated that the provision of social services was being delegated increasingly to the local level. She would welcome further details of how those services were financed. In particular, she asked whether the Ministry of Labour and Social Policy retained control over the allocation of resources, or whether local authorities were themselves responsible for raising funds through taxation. The head of the delegation had spoken of a major reform of alternative care, which involved transferring as many children as possible from institutions to foster families. She would like to know how that policy change was being financed. On a general note, she failed to understand why no details of the financing of policies had been included in the report.

22. The CHAIRPERSON said, in relation to the financing of social services, that it would be useful to hear what criteria the Government used to allocate resources to local authorities. Having received reports of harassment and discrimination against Roma children, he had been surprised at the failure to refer to those problems in the report. He asked whether the Government was concerned enough to consider specific programmes to curb such discrimination. An amendment to criminal law had been proposed, with a view to increasing the minimum age for involvement in pornography to 18 years. He wished to know whether that amendment had been adopted because, in his view, it was unwise to allow girls to become involved in pornography at the age of 15 years. While he welcomed the amendment to the Constitution concerning parental responsibility, he asked what initiatives had been taken to raise awareness of the change in emphasis. It was important to change attitudes at grass-roots level in order for new laws to have a meaningful impact.

The meeting was suspended at 11.15 a.m. and resumed at 11.30 a.m.

23. Mr. GOBAN-KLAS (Poland) said that the sectoral division of labour between government departments in his country meant that several sectors were often entrusted to a single ministry. The Ministry of National Education and Sport was responsible for coordinating three sectors: general education, higher education and sports. Since May 2002, it was also the Ministry with principal responsibility for child rights. In that capacity, it had begun to organize inter-ministerial teams to formulate a national strategy and coordinate policy, but those efforts were still in their early stages.

24. Replying to questions concerning the budget, he said it was important to realize that Poland was a large and densely-populated country. The compilation of statistics was therefore a difficult and costly undertaking. The Central Statistical Office was the body charged with collecting and organizing data for all sectors, and the Government made informed choices on budget expenditure in the light of those statistics. The economy had been in recession for the past two years, and unemployment had risen to almost 17 per cent. Imposed spending cuts had affected many sectors, and an immediate improvement was difficult to predict. Nevertheless, in his view, education had received more support than had other sectors, for instance from private investment, local government resources and the sacrifices families made to provide a good future for their children.

25. Ms. WASZKIEWICZ (Poland) said that she herself was a judge in the family courts and the current president of the Association of Family Judges. The latter had close contacts with the Commission for Child Rights and other organizations associated with child welfare, with which it helped to organize conferences for judges, social workers and others concerned by the subject of children and young persons.

26. Poland had signed the two Optional Protocols to the Convention in 2001. The ongoing efforts to coordinate the work of all ministerial departments, following the changes already referred to, included arrangements, with the participation of all government departments and NGOs, to establish two teams. The task of one, pursuant to a directive of the Prime Minister, would be to ensure the protection of children and youth against social maladjustment; that of the other would be to prepare a national programme for the prevention of traffic in children, child pornography and child prostitution, pursuant to the 1996 Stockholm Convention.

27. In accordance with the new Constitution, especially article 97, the provisions of international instruments ratified by Poland took precedence over domestic law; in fact, they were already being invoked in legal proceedings, particularly those in which it was felt that the child should be heard. Such instances had admittedly been few, since the Family and Guardianship Code, which was binding on judges, did not require them to hear children in court. Measures were being considered, however, to remedy any shortcoming in that regard. For example, proposed amendments to the Family and Guardianship Code and the Code of Civil Procedure would include provisions to enable children from the age of 13 years, whose agreement was required before they could be adopted, to be heard in adoption proceedings. Provisions would also be made for young persons and children involved in court cases to be heard in suitable surroundings.

28. State bodies were aware of a certain lack of cohesion, which occurred in all countries, between legislation and practice, and were taking constant steps to improve matters, involving consultation with relevant international organizations and NGOs. Such steps included the planning of training and awareness-raising programmes for family court judges and the holding of events such as a meeting convened in April 2002, at which the participants included the Ombudsman for children and representatives of civil rights bodies, and a conference held in June 2002, organized by the Ministry of Justice, on the subject of children under the protection of the law. Although training and information programmes embraced others involved in child welfare, they focused mainly on judges, in view of the obvious influence in interpreting the law. Great importance was attached, in that regard, to family mediation and conciliation with a view to preventing or resolving domestic conflicts.

29. Poland's likely accession to membership of the European Union in the near future, and the consequences for border control, would doubtless heighten the problem of abandoned children and those of unknown parentage. Under current legislation such children could not qualify for Polish citizenship and, although they could be placed with foster families, could not be adopted.

30. The definition of the child was taken to be that stated in the Law on Social Welfare Assistance, namely, 0-18 years. The age of legal responsibility was 15-18 years. With regard to juvenile delinquency, those aged between 13 and 17 years indicted for punishable offences were

deemed minors, an exception being that a young person aged 15 years or over could be arraigned as an adult in respect of an offence punishable by imprisonment for over three years. Draft legislation was currently before Parliament for provisions in the Penal Code and the Code of Criminal Procedure with a view to raising the age limit in regard to cases of sexual exploitation.

31. Ms. ULIASZ (Poland) said that, although the involvement of non-governmental organizations in policy formulation was a relatively new development in Poland, the Ministry of Labour and Social Policy had been involved in such work from the outset. Currently no statutory provisions governed cooperation with NGOs, but draft legislation on public welfare, which had reached a final stage of negotiations, would determine their status and financing, as well as the role of voluntary workers. The Ministry of Labour and Social Policy and the Ministry of National Education and Sport had established target budget allocations for action by the authorities to deal with children's problems, including special allocations for cases of homelessness, social exclusion and children at risk. As part of the related programmes, the Ministry of Labour and Social Policy signed bilateral arrangements with NGOs.

32. The support of NGOs to public authorities' efforts provided many advantages, stemming from their flexibility, initiative and ability to respond swiftly to new phenomena. The former Ministry of National Education had been responsible, in the past, for cooperation with NGOs; under the new division of competences, however, the Ministry of Labour and Social Policy was competent to deal with them in regard to certain social problems such as those relating to the family as a whole, which involved adults as well as children. Likewise involved was the Ministry of Health and Social Welfare, as part of the new approach to the philosophy of childcare, which gave preference to keeping the child within the family environment as long as possible, with local authority support where necessary, rather than placement in other homes or institutions. Where family care was not possible, one alternative was an established system of foster families; some 35,000 such families were currently caring for approximately 46,000 children. In that regard, young persons attaining the age of 18 years could continue to receive other forms of assistance but were deemed adults. The basic financial allowance to a foster family, which could vary according to the child's income, was 600 zlotys, and the benefit for a person living alone was 408 zlotys.

33. Ms. TIGERSTEDT-TÄHTELÄ asked what budgetary rearrangement had accompanied the ministerial restructuring and transfer of responsibilities, and whether increases in the respective budget allocations were envisaged.

34. The CHAIRPERSON asked what proportions of expenditure were borne by the national and local authorities, who made the relevant decisions, and on what criteria.

35. Ms. ULIASZ (Poland) said that the tasks were in the domain of the powiat but, since they currently lacked the resources to act alone, they received State budget allocations. In general, therefore, social assistance was largely funded by the State, accounting for some 3 per cent of the national budget; of that amount, foster families received some 8 per cent. Work was currently in hand, including draft legislation, to reform the basis of funding by means of a transfer to local authorities; if adopted it would enhance funding at powiat level. State budget allocations, however, were envisaged for 2003.

36. Ms. CHUTIKUL asked specifically how resources were allocated to the various powiats. Were they given lump-sum subsidies, or did the amounts vary according to certain criteria? Were local administrative units able to raise their own funds, for example by levying taxes?

37. Ms. ULIASZ (Poland) said that while the ultimate aim of decentralization was to enable powiats to raise their own funds, that was generally not yet the case. Currently, each powiat drew up its own budget plan, which included information on the number of children covered. The plans were then forwarded through the voivodships to the Ministry of Labour and Social Policy, which determined the amounts to be earmarked for each powiat. Although Poland faced financial difficulties, the effect on childcare was minimized by the fact that the Government could tap State reserves if resources were lacking.

38. Ms. TIGERSTEDT-TÄHTELÄ asked whether more resources were earmarked for childcare in the eastern part of the country, which was reportedly the poorest region.

39. Ms. ULIASZ (Poland) said that resources were earmarked for foster family care or other forms of childcare on the basis of actual needs. The eastern part of Poland, though poorer, had stronger family traditions and care was often provided by members of the extended family in that region. For that reason, the corresponding appropriations were not necessarily higher.

40. Social welfare and assistance, including social work, childcare, accommodation and food for children were provided at the gmina level, with resources from the gmina and also State subsidies funding such activities. Unlike the powiats, the gminas had been given the ability to raise funds some 10 years before, for example through taxation. At the voivodship level there were family social assistance centres which provided alternative care, placement in special homes, shelters for women and mothers and legal and social advice. The voivodships were also responsible for the coordination of regional policy and for the training of staff, including childcare personnel.

41. Educators were trained to seek children's views in schools. School governments were elected by the pupils, and were able to express the views of the student body to school principals and administrations. There was a spokesperson for pupils' rights who could advocate for the interests of schoolchildren at the powiat level. Every June, a children's parliament was held in the Sejm, allowing children to express their views to the members of both houses of parliament. Children cared for by the Society of Friends of Children took part in a special children's parliament and expressed their opinions openly.

42. Mr. GOBAN-KLAS (Poland) said that the Convention had been invoked during discussions of the comprehensive education reforms. The new text called upon school administrations to respect the rights of pupils and to raise awareness of children's rights not only among teachers but also among students. The views of the child were taken into account both in court and at school.

43. Ms. ULIASZ (Poland) said that child labour was limited to work which was not strenuous or difficult. The purpose of allowing children to work from the age of 15 was not so much to permit them to earn money, but rather to allow them to gain vocational experience, for example in apprenticeships. Children who worked 30 hours a week must spend at least 18 hours

in school, and they received instruction in occupational safety and health. Their employers must monitor their conditions of work more closely than for other workers, and must provide special vocational training and regular medical check-ups. The conditions of work were also closely monitored by the national labour inspectorate.

44. Ms. CHUTIKUL noted that the Government kept statistics on children up to the age of 17, and asked whether efforts would be made to include them up to the age of 18 so as to bring them into line with the definition of the child under the Convention. At the same time, the Government should attempt to provide more data disaggregated by gender and age. In many countries, data collection activities were carried out by a team consisting of a coordinating body, a monitoring body and the government statistical service, with the aim of ensuring that the resulting data would be pertinent and sufficiently complete. What body was responsible for analysing statistical information with a view to planning policies?

45. According to the report, Polish citizenship was granted to a child if one of the parents was of Polish nationality and the other's citizenship was unknown or unidentified. What happened in cases where the other parent had a foreign nationality, whether that person resided legally or illegally in Poland? How did the various legal provisions prohibiting violence, cruelty, exploitation and depravation function in practice? Had any cases of violence or corporal punishment in families or schools been prosecuted?

46. Ms. AL-THANI noted that a large number of disabled children were kept in institutions. Did the Government have a comprehensive plan to collect and analyse information on children with disabilities, ascertain the major causes of disability to find preventive courses of action and encourage integration in mainstream education? Did the Government provide support to families of disabled children as a way of avoiding institutionalization?

47. The State party had done a commendable job of improving medical care. Were there disparities in the health situation between rural and urban parts of the country? What measures were taken to ensure that breastfeeding would be sustained for the necessary period?

48. She asked whether a comprehensive programme of adolescent health existed. Were sex education and reproductive health taught at school? How did the Government deal with the question of teenage sexual activities in a society that was so attached to traditional and religious values? Lastly, the delegation should inform the Committee of steps taken to combat discrimination against children who had HIV/AIDS.

49. Mr. CITARELLA said he was confused about the various definitions of the age of criminal responsibility, which was reportedly 17, although for certain acts it was 15. The report, however, stated that there was no clearly defined lower age limit for responsibility for violating criminal law, but that in practice the age of 10 was accepted as such a limit. Could the delegation clarify at what age a child became criminally responsible?

50. The Catholic Church had a great deal of influence, extending even to freedom of choice. Was it true that Catholic children at State schools were given the opportunity to have religious instruction, while those of other religions were not?

51. Children under 16 were not allowed to take the initiative to establish associations for political purposes. He asked the delegation to comment on reports that child abuse and domestic violence were widespread, both in homes and in families, and that the legislation afforded teachers immunity from prosecution in the event of corporal punishment.

52. Ms. KHATTAB, endorsing Ms. Al-Thani's concerns regarding reproductive health and sex education for adolescents, asked whether the prohibition of abortion was applied strictly, or whether it was possible to obtain authorizations in some cases. There had been an increase in illegitimate births since 1993, and many of the mothers were apparently under 19 years of age.

53. What policies had the Government adopted to address the decline in population growth and the ageing of the population? According to the information she had received, the incidence of HIV/AIDS was quite high, and the disorder was mainly contracted through drug use. Did the Government take any measures to combat the use of drugs and tobacco, such as courses in school curricula? What measures had the State party taken to offset the adverse effects of the privatization of dental care?

54. Ms. TIGERSTEDT-TÄHTELÄ asked what measures were being taken to combat poverty, whether that problem was becoming more acute in certain regions of Poland, and if so, which regions. She had heard of a pilot programme of the Ministry of the Interior and Administration aimed at assisting the Roma community in Malopolska Province. Was that programme currently being implemented? There had been reports of racist attacks against Roma youths, in which the police had failed to intervene. Were such incidents common in Poland?

The meeting rose at 1 p.m.