



## International Covenant on Civil and Political Rights

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### Human Rights Committee 100th session

#### Summary record of the 2747th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 13 October 2010, at 10 a.m.

*Chairperson:* Mr. Iwasawa

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Consideration of reports submitted by States parties under article 40 of the Covenant  
(*continued*)

*Sixth periodic report of Poland (continued)*

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Sixth periodic report of Poland* (continued) (CCPR/C/POL/6; CCPR/C/POL/Q/6;  
CCPR/C/POL/Q/6/Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Poland took places at the Committee table.*
2. **The Chairperson** invited the delegation of Poland to continue its replies to the questions that had been raised by the Committee members at the previous meeting.
3. **Mr. Górszczyk** (Poland), replying to a question concerning the definition of terrorism under domestic law, said that Poland had not adopted any general law containing a definition of terrorism. Nevertheless, pursuant to the Council of Europe's framework decision on combating terrorism (2002/475/JAI), article 115 of the Penal Code had been amended in 2004 to include a definition of terrorism. Terrorist acts were punishable under the general provisions of the Penal Code. The Law of 25 June 2009, amending the Law of 16 November 2000 on prevention of the entry into financial markets of material resources of illegal or anonymous origin and prevention of the financing of terrorism, had introduced in the Penal Code a new article which criminalized the financing of terrorist activities. There was accordingly no specific legislation on terrorism but several provisions relating to different aspects of the phenomenon.
4. **Ms. Glowacka-Mazur** (Poland) said that as a general rule, every suspect had access to his or her file, but for reasons of State security — which was at stake in the case of terrorism — that access could be restricted.
5. **Ms. Osiecka** (Poland), replying to the question of whether a racist motivation for an offence was an aggravating circumstance, said that under the Polish Penal Code, the court must take account of the racist character of an offence when it determined the sentence. Purchase, storing, possession, exchange and diffusion of racist elements or content or promotion of fascism, as well as incitation to racial hatred, were punishable by criminal penalties.
6. **Mr. Ozga** (Poland) said that a committee composed of representatives of various public bodies and non-governmental organizations, and a special team composed of representatives of the Ministry of Interior and Administration, were responsible for evaluating the implementation results of the national programme for the prevention of racial discrimination, xenophobia and related intolerance.
7. **Ms. Glowacka-Mazur** (Poland), replying to questions concerning the situation of the Roma, said that there were 13,000 Polish citizens of Roma origin, which represented 0.03 per cent of the population. There were no data on Romas who did not have Polish nationality because the law did not allow for the collection of statistics disaggregated by ethnic origin. At the national level, the Government had launched a comprehensive programme for that community, one chapter of which, entitled "Education", sought to foster school enrolment of Roma children. In addition, pilot projects for the Roma were being conducted in the voivodships in the south of the country. It was to be hoped that those measures would help change people's attitudes towards the Roma community in general. More detailed information about government programmes for the Roma was available on the Ministry of Interior and Administration website. With regard to the desecration of cemeteries of national minorities, preventive measures had been taken to ensure close surveillance of those places; a list of places that were particularly at risk had

been drawn up. Patrols were more frequent and the police cooperated with cemetery guardians.

8. **Ms. Kozłowska** (Poland) said that the sale or purchase of children did not fall within the purview of the new legislation relating to trafficking in persons, which had entered into force in 2009, because it did not cover exploitation of the parties concerned. Those practices were punishable under the Penal Code provisions relating to illegal adoption.

9. **Ms. Maciejewska** (Poland), replying to a question concerning the refugee integration programme, said that in accordance with the Law on Social Security, provision of integration assistance to refugees was compulsory. The majority of refugees who benefited from integration programmes were from Chechnya, Belarus, Somalia, Iraq, Sri Lanka and Afghanistan. In 2008, of the 267 refugees who had received integration assistance, 71 were women, and of the 1,492 aliens eligible for supplementary protection, 346 were women. Some integration programmes benefited families as a whole although the statistics did not provide information on the composition of those families. Given that integration assistance was compulsory, there were no cases of sexual discrimination. Unaccompanied minors were protected under the Law on Social Security, regardless of whether their presence on Polish territory had been formalized. An unaccompanied minor was placed in an educational institution or a foster home. A guardian was appointed to represent the minor in all legal and administrative procedures, including those required to legalize his or her status. Unaccompanied minors also had the right to integration assistance, like any person who was accorded the status of refugee or supplementary protection. All unaccompanied minors placed in educational institutions benefited automatically from individual assistance, even before their case was reviewed.

10. Concerning the combat against hostile attitudes towards foreigners, the Aliens Office, in partnership with civil society organizations, was conducting awareness-raising activities intended to prepare local communities to deal with migrants. Information meetings and workshops were held for local authorities, employment bureaux and social services offices. Teachers were also given advice on bringing children of migrants into their classrooms.

11. The legal retirement age was different for men and women. By a decision dated 15 July 2010, the Constitutional Court had considered that the difference did not violate the constitutional provisions relating to the principle of equality. The amount of the pension was calculated on the basis of the contributions made throughout a person's professional career and an estimation of the number of years of life remaining; that estimation was in fact the same for both sexes even though women's life expectancy was higher. The result of that calculation method was that men and women whose income and period of contributions were identical would receive the same pension.

12. With regard to ratification of the Convention on the Rights of Persons with Disabilities, a list of amendments to Polish law had already been drawn up and draft legislation with a view to ratification of that instrument would be introduced in Parliament at the beginning of 2011.

13. **Mr. Krych** (Poland) said that requests of asylum-seekers were denied if they failed to satisfy the conditions set out in article 1 of the 1951 Convention Relating to the Status of Refugees. Even when those conditions were met, any asylum-seeker guilty of international crimes, such as war crimes, crimes against peace or crimes against humanity, would be refused. In the event that asylum was refused, other forms of protection were available. If those were not granted to the asylum-seeker, he or she would be expelled. Four centres for asylum-seekers had recently been renovated; they were currently equipped with playgrounds, sports areas and computer equipment. The centres were supervised by

representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR). Poland had recently received aid from the European Refugee Fund to help it improve living conditions in centres for asylum-seekers. It had also signed a cooperation agreement with the UNHCR regional office aimed at detecting and preventing sexual violence against aliens being held in refugee centres. Any asylum-seeker could, at any stage in the procedure, make a request for family reunification, the cost of which, if the request were granted, was assumed by Poland.

14. **Ms. Ksieniewicz** (Poland) said that Poland had adopted a national action plan for women's employment, which included solutions that enabled them to reconcile professional and family life. The plan also contained employment assistance measures for young women, mothers who wished to go back to work, women over 50 years of age living in rural areas, vulnerable women and disabled women. There was also a programme covering the period 2007 to 2013 to improve living conditions for women in rural areas. With regard to representation of women in the political sphere, draft legislation on that issue was currently before the Parliament, which at its most recent session had decided to impose a quota of 35 per cent of women on electoral lists. Even though the bill was still under consideration, political parties in Poland had already decided to apply the quota.

15. **Mr. Lewoc** (Poland) said that the law relating to the prevention of domestic violence, which had entered into force on 1 August 2010, gave the police new powers in terms of arresting perpetrators of acts of domestic violence. Police officers had to arrest perpetrators of acts of domestic violence suspected of having used dangerous objects such as a firearm or a knife. The law also provided, which was something new, that the prosecutor's office could, once the arrest had been made, prohibit the perpetrator from having contact with the victim, for example, by obliging him to leave the home that he shared with the victim. The prosecutor's office could also issue a restraining order. The main reason that proceedings relating to domestic violence were discontinued was the lack of adequate proof, in particular testimony.

16. **Ms. Korbasińska** (Poland) said that measures had been taken to ensure that women who were authorized by law to have an abortion met with less difficulty in obtaining one. The question of the conscience clause, which could be invoked to justify a refusal to perform an abortion, had been debated several times at meetings of the national body overseeing the activity of gynaecologists. The Ministry of Health had in addition issued a declaration to the governors of all the voivodships in order to draw their attention to the necessity of ensuring that the Law of January 1993 relating to family planning, protection of the human foetus and requirements for abortion was duly applied. Steps had also been taken to make physicians more aware of cases in which they were justified in invoking the conscience clause. Remedies had been adopted that made it possible to initiate an appeal procedure when a physician refused to perform an abortion. Contraceptives were sold at reasonable prices; the "morning-after pill", which could cost from 16 to 70 euros, was more expensive. Owing to their hormonal composition and their possible consequences for women's health, contraceptives could only be obtained by medical prescription. According to estimates, there had been between 80,000 and 150,000 clandestine abortions in Poland since the entry into force of the 1993 law. Access to medical files was governed by very strict legal provisions, given the sensitive nature of the data they could contain. Every person who was hospitalized had to list the family members, if any, who could have access to their file. If the family was not authorized to have access to the patient's medical file, the only means of consulting the information in the file was to take legal action to that end.

17. **Ms. Syroka** (Poland) said that the Commissioner for the Protection of Patients' Rights, a recent institution, had not to date received any request from a patient contesting a medical decision.

18. **Ms. Glowacka-Mazur** (Poland) said that the Commissioner for the Protection of Civil Rights, as an independent authority responsible for examining complaints relating to police misconduct, had received 80 complaints and 93 claims — concerning the use of instruments of restraint or acts of physical or psychological violence — between 1 January and 1 September 2010. Those complaints and claims had been deemed admissible in 22 cases. Any alien arrested and placed in a detention centre must be informed in writing, in a language which he or she could understand, of his or her rights and obligations. It was true that the interpretation services were not always of the highest quality, especially if the language spoken by the alien was not a common one.

19. **Ms. Osiecka** (Poland) said that when a police officer was suspected of having committed an offence, the prosecutor's office instituted proceedings automatically if there was sufficient proof. If that was not the case, the prosecutor's office dismissed the case and the victim could appeal that decision before a court.

20. **Mr. Jaros** (Poland) said that Poland had established its own model of justice for minors, which excluded them from criminal liability. Minors were judged in family courts. In exceptional cases, hearings concerning a minor could be conducted by the police. Nevertheless, in all cases, minors were heard in the presence of their parents, guardian or lawyer or, in the absence of those persons, in the presence of a teacher, a representative of a regional family assistance centre or a representative of a social organization. Despite all those guarantees, four cases of police misconduct with regard to minors had been reported and those matters were currently being examined by the Ombudsman for Children.

21. **Mr. Zoń** (Poland) said that prisons had surveillance mechanisms that recorded detainees' acts and gestures, with the sole aim of ensuring their security. In 2009, owing to that mechanism and the rapid response of prison guards, 200 prisoners had been resuscitated following suicide attempts. Detainees were informed of the existence of the surveillance mechanism at the time of their admission into prison. The use of that mechanism, which was provided for by law, might in some ways violate human rights and, accordingly, cameras installed in the toilets and bathrooms did not film detainees' private parts.

22. **Ms. Glowacka-Mazur** (Poland) said that Polish law did not recognize same sex marriages in a country where such unions were legal. Article 18 of the Constitution defined marriage as the union of a man and a woman. By virtue of a decision handed down in 2008 by the administrative tribunal of Gdansk, the certificate that had to be produced by any person wishing to marry, to prove his or her single status, did not mention the future marriage partner.

23. **Mr. Jaros** (Poland) said that discriminatory activities, for whatever reason, were incompatible with the fundamental principle set forth in article 30 of the Constitution, under which public authorities were bound to protect the dignity and the rights and freedoms of every human being. Even though hate speech was not a specific offence under the Penal Code, effective protection against discrimination based on sex or sexual orientation was guaranteed by the application of other articles of the Penal Code, including those punishing defamation and threats.

24. **Mr. Ozga** (Poland) said that there had recently been some positive developments regarding the participation of lesbians, gays, bisexuals and transsexuals in social and public life in Poland. The general public was increasingly aware of matters relating to discrimination, in particular owing to the efforts of the Office of the Plenipotentiary for Equal Treatment, which had supported for example the exhibition on homosexuality "Ars Homo Erotica" presented from 11 June to 5 September 2010 at the Warsaw National Museum, and EuroPride. The Office of the Plenipotentiary for Equal Treatment took action in every case of discrimination that was reported to it. Refusal to employ a person because

of his or her sexual orientation was punishable by law and a homosexual teacher who worked in a Catholic school was fully protected by the Labour Code. Lesbians, gays, bisexuals and transsexuals could purchase property with a partner or on their own, and could do with it what they wished.

25. **Mr. Sobczak** (Poland) said that in 2000 Poland had ratified Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning abolition of the death penalty and that the Penal Code of 2007 had abolished capital punishment, thereby giving effect to the objective of the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. That had not stopped the authorities from pursuing their efforts to get the second Optional Protocol ratified.

26. **Ms. Skórka** (Poland) said that religious and ethical instruction in kindergartens and schools was duly governed by regulations. The grades that pupils received for the knowledge and skills acquired in those classes did not affect their promotion to the next level. The curricula and religious instruction manuals were drawn up and approved by the religious authority of the denomination concerned and were communicated to the Ministry of Education. Schools were obliged to offer ethics courses if pupils or parents so requested. At the request of the religious authorities of various denominations, 25 religious instruction centres had been opened in Warsaw and were attended by 1,400 pupils. In Warsaw's kindergartens and schools, religious instruction was provided for 14 denominations. Those good practices were applicable in other regions of Poland.

27. **Sir Nigel Rodley** asked under what category of criminal offence did terrorist acts fall since the legislation did not contain a definition of terrorism. He was surprised to learn that the perpetrator of a terrorist act was subject to a maximum of 5 years' imprisonment and wished to know whether proceedings had already been brought and sentences handed down on the basis of that legislation, which provided that the terrorist nature of an offence constituted an aggravating circumstance.

28. According to information from non-governmental sources, aliens awaiting expulsion had no access to the information and recommendations concerning them, held by the internal security services (ABW) and the border authorities and on the basis of which the decision to expel was taken. There were no protection measures against the use of such information, most of which was confidential. It was important to know whether the State party planned to take steps to readjust the system and to make it possible for recommendations to be reviewed.

29. **Mr. Thelin** was surprised at the small number of convictions in cases of human trafficking compared to the number of cases reported, which could be due either to ineffective action by prosecutors or to the large number of legal protection measures available to the accused. Furthermore, according to the information available to him, the number of cases reported officially was far from reflecting the true magnitude of the problem. He would appreciate clarification on that matter.

30. **Ms. Keller** asked how many of the cases of violence against minors that were currently before the Ombudsman for Children concerned foreign minors. She was very preoccupied by the information provided by NGOs, according to which 150,000 clandestine abortions were performed each year. In view of the size of that figure and the danger of such operations to women's health and lives, the question might be raised as to whether the current legislation on abortion was not too restrictive.

31. **Mr. El-Haiba** said that according to information that he had received, some news media were diffusing racist messages, in particular with anti-Semitic overtones. Yet, the ethical charter of Polish television journalists prohibited any discrimination based on race, religion or culture. Further information on the work of the media ethics council, which was

responsible for ensuring respect for that principle by journalists, would be welcome. The delegation might also indicate whether an ethics code of that kind existed for news media using new technologies, such as the Internet, and whether judicial precedents had been established in that field.

32. **Ms. Motoc** asked whether it was true that the fact that a pupil had not attended religious classes at school was mentioned in his or her school-leaving certificate.

33. **Mr. Górszczyk** (Poland) said that the definition of the terrorist nature of an act contained in the Penal Code was very general and made it possible, under the circumstances set out in paragraph 20 of article 115, to qualify various offences as terrorist acts. That would be the case, for example, of an act that led to a public transport disaster and gave rise to significant disturbances in public services, or of a bomb attack that resulted in the death of several persons. The maximum sentence of 5 years imprisonment referred to in that article did not mean that some acts could not carry heavier sentences since the Penal Code provided for up to 25 years imprisonment for certain offences. The courts had not heard any cases concerning terrorist acts since the entry into force, in 2004, of the provisions of paragraph 20 of article 115 of the Penal Code.

34. **Ms. Glowacka-Mazur** (Poland) said that the decision relating to expulsion of an alien was taken by the governor (Voivode) of the voivoidship concerned. An appeal against that decision could be filed to the chief of the Aliens Office. When the decision was based on the need to protect state security, it was executed immediately. However, if the alien had applied for refugee status, the execution of the expulsion order was postponed.

35. **Mr. Działuk** (Poland) added that the information and recommendations concerning aliens awaiting expulsion were in principle accessible to all unless they were classified as confidential for reasons established by law.

36. **Ms. Glowacka-Mazur** (Poland) said that those documents and recommendations could be classified as confidential for reasons relating to State security and under circumstances set out in the law relating to protection of confidential information. When an alien appealed an expulsion decision, the court had access to all the information in the file.

37. **Mr. Ozga Dziurkowski** (Poland) said that the documents containing recommendations made by the security services were accessible only to persons specially authorized to consult confidential documents. Lawyers could obtain such authorization and the rights of aliens were therefore fully respected.

38. **Ms. Kozłowska** (Poland) said that, prior to amendment of the Penal Code in September 2010 and the incorporation into law of a definition of trafficking in persons, acts of trafficking had fallen within the scope of articles of the Penal Code that punished, for example, kidnapping for the purpose of prostitution abroad. The Ministry of the Interior took the question of trafficking in persons very seriously and was determined to provide better protection to victims. It had recently produced a very detailed report on the phenomenon, in which it had analysed statistics provided by the border authorities, the police and the International Organization for Migration (IOM). It had also begun collecting data on Polish and foreign victims of trafficking, directly assisted by the organization La Strada, which carried out a programme set up by the Government. Lastly, it had developed, in cooperation with the National College of Magistrates, a training programme for judges and prosecutors on the combat against trafficking.

39. **Mr. Lewoc** (Poland) said that none of the cases currently before the Ombudsman for Children involved foreign minors.

40. **Ms. Korbasińska** (Poland) said that abortion was authorized in cases where the pregnant woman's health and life were in danger, or when it appeared, during the pregnancy, that the foetus had serious and irreversible abnormalities, or when the

pregnancy was the result of a criminal act such as rape. The Government wished the law to be applied and had not undertaken to modify it. The figure of 150,000 clandestine abortions per year, provided by representatives of non-governmental organizations, did not appear to be realistic and it would be interesting to know what method had been used to collect that data.

41. **Ms. Skórka** (Poland) said that grades obtained in religious and ethics classes were mentioned on the school-leaving certificate.

42. **Mr. Sobczak** (Poland) said that the competent authorities had reacted immediately to the numerous allegations of secret detention that the media had begun circulating in 2005. As early as December 2005, the matter had been submitted to the parliamentary commission for the secret services, which had concluded that there had been no violation of domestic law or of the international instruments ratified by Poland. In response to several reports by international bodies, including the report of the Committee on Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly, new steps had been taken to investigate those allegations. An investigation had been launched in March 2008 by the district prosecutor's office in Warsaw, and had then been referred to the appellate prosecutor's office.

43. **Mr. Górszczyk** (Poland) explained that the scope of the investigation conducted by the prosecutor's office was not limited to offences under article 231 of the Penal Code, which concerned abuse of power by state officials, but also concerned all information that would enable it to elucidate the circumstances of alleged cases of illegal detention and transport of CIA detainees to Polish territory. That investigation, entrusted to the highest judicial authorities, was being conducted independently. It was taking some time because of the complexity of the case and the need for international judicial assistance. It was impossible at that stage to provide further information on the content or the conclusions of the investigation because the evidence collected was classified.

44. **Mr. Lewoc** (Poland) said that some measures had been taken to reduce the length of pretrial detention, pursuant to the recommendation on that matter made by the Committee in 2004. For example, certain grounds for prolonging pretrial detention had been eliminated, the psychiatric observation period had been reduced and deduction of the pretrial detention period from the term of imprisonment had been made mandatory. Those measures had led to a significant reduction in the number of persons in pretrial detention. Any party could bring legal action for excessive length of proceedings. If the court hearing the matter concluded that there had been an excessive delay in view of the facts and points of law involved in the case, it could grant compensation of 500 to 5,000 Euros. In 2009, 4,000 complaints had been lodged on those grounds, approximately half of which concerned civil cases. In nearly 600 cases, the court had granted compensation, for an average amount of 750 Euros.

45. **Mr. Zón** (Poland) said that the measures taken by the Government to reduce prison overcrowding had been successful because in September 2010 the number of detainees and prisoners had dropped to 81,000, which corresponded to 97 per cent of the capacity of detention centres and prisons. Several innovations had contributed to that result, including the introduction of electronic surveillance, from which persons sentenced to less than 1 year in prison could benefit under certain conditions, and the establishment in June 2010 of the obligation to work associated with prison sentences. Costs relating to the employment of prisoners (medical examinations and insurance premiums, in particular) were covered by the State. Government efforts to promote social integration of prisoners had been recognized worldwide. In June 2009, the penitentiary administration had received the "Crystal Scales of Justice" prize, awarded by the European Commission and the Council of Europe in recognition of national projects to improve the functioning of the justice system.

46. Protection of detainees who submitted complaints to the Ombudsman or the European Court of Human Rights was fully guaranteed. Complaints could be lodged directly with the competent bodies and remained confidential. To facilitate the delivery of correspondence, the General Office of Prison Services had decided to install in each prison a special box for complaints. In 2009, more than 1,000 complaints had been received, of which only 29 had been found to be justified.

47. **Ms. Glowacka-Mazur** (Poland) said that the Law on National and Ethnic Minorities provided for the right to use a minority language as an auxiliary language in dealing with the authorities, orally and in writing, in communes where the number of inhabitants belonging to a minority represented at least 20 per cent of the population and which were registered on that account in the official register of communes using an auxiliary language. The register currently included 30 communes. The law also provided for the possibility of using traditional place names in the minority language, at the same time as the official names. To date, three communes had taken advantage of that option.

48. **Mr. Thelin** asked when the conclusions would be known regarding the investigation under way on allegations of the existence of a secret detention centre in Poland. With regard to pretrial detention, he noted that the progress accomplished was mainly due to the supervision exercised by the Ministry of Justice over the activities of the courts, which gave rise to questions about the independence of the judiciary. Comments on that point would be welcome. It would also be interesting to know whether other measures were envisaged to reduce pretrial detention, such as setting a maximum length of time that could not be extended. Given the significant gap between the compensation awarded by national courts and that granted by the European Court of Human Rights for excessive length of proceedings, it might be asked whether the Polish courts could not interpret the European norm and apply it directly.

49. With regard to the treatment of illegal aliens, the delegation might indicate whether alternative measures to detention, such as house arrest, were envisaged and whether the law fixed the maximum length of the detention period for persons awaiting expulsion. The State party's efforts to reduce prison overcrowding had been effective but they were mainly short-term measures. It would therefore be useful to know the Government's long-term strategy in that field.

50. According to the Committee's information, it appeared that persons arrested by the police and interrogated were not informed at the same time of their right to legal counsel and the possibility of receiving free legal aid. Did the State party plan to modify current practice in that area? Correspondence between detainees and their lawyers was also a matter of concern since any mail exchanged between them was sent through the prosecutor's office which, in addition to raising problems of confidentiality, considerably slowed down the process. Were measures planned to correct that situation? Similarly, did the State party plan to or had it already taken measures to ensure that communications addressed to the European Court of Human Rights were delivered directly without being opened?

51. It was striking to note that only 2 per cent of the complaints lodged by detainees had been considered on the merits in 2009. One possible explanation could be the lack of transparency of the procedure and detainees' poor understanding of the phases and requirements to be met, which resulted in inadmissible complaints. Comments on that matter would be welcome.

52. **Ms. Keller** said that organizers who appealed a decision prohibiting an assembly did not always receive a ruling on their appeal before the date planned for the assembly. She would like to know the delegation's views on that problem and on what could be done to

address it. She also asked when the draft amendments to the Law on Assemblies would be adopted.

53. According to the written replies to the list of issues, auxiliary languages were used to communicate with the authorities in only 18 of the 30 communes listed in the official register established under the Law on National and Ethnic Minorities. Moreover, apparently not a single commune had taken advantage of the possibility of adding street names in a minority language. It would be interesting to know why members of the communities concerned had not made more use of those new rights under the law and whether information and awareness-raising campaigns on the subject had been or were going to be conducted.

54. **Mr. El-Haiba** asked for more detailed information on the role of the Institute of National Remembrance (IPN), responsible for elucidating crimes committed against the Polish people during the Communist era. He was especially concerned about the consequences of the amendments made in 2006 to the lustration law. Journalists were currently among the categories of persons covered by that law, which meant that there was a risk of interfering with freedom of expression. He also highlighted the paradox of that situation where individuals had to prove what they had not done. He wished to know therefore what guarantees existed to ensure that the application of the law did not lead to a witch hunt and to prevent IPN from being transformed into a tribunal. He would appreciate in particular more information on the case of the Under-Secretary of State for International Affairs who had resigned but in relation to whom it had finally been proved that he had never collaborated even though he had signed an agreement to work with the Communist police.

55. It would be interesting to know the holding capacity of quarters for minors in police stations in order to compare it to the total number of minors detained by the police. Questions relating to the access of those minors to adequate food, to education and to health care were governed by the Order dated 21 January 2002 of the Ministry of Interior and Administration. More information concerning measures to guarantee minors' effective access to those services and the role played by the Ministry of Education and the Ministry of Health in their implementation would be useful. It would be useful to know what provisions governed the way in which visits were organized, whether those provisions included grounds on which a juvenile detainee could be deprived of the right to receive visits and what sanctions were applicable in the case of illegal deprivation of that right.

56. The legislative measures taken by the State party to protect children against all forms of violence and exploitation were certainly welcome, but would be usefully supplemented by a national action plan dealing with all the legal issues involved. Several initiatives had already been taken in that field by the Ombudsman for Children and should be encouraged. More information on the contents of ethics courses would be welcome, because the values taught in those courses should not be contrary to basic human rights principles.

57. **Ms. Motoc**, noting that the proposed amendment to the Penal Code aimed at reducing the sentence for the offence of slander (question No. 30) was to have been submitted to Parliament in 2009, asked what stage the examination process had reached and when the text was likely to be adopted. With regard to minorities, it would be useful to know whether the State party recognized the Kashubians as an ethnic minority or whether it still considered them to be a linguistic minority. More information on the status of the Silesians, a population that was difficult to classify owing to its ethnic and linguistic diversity, would be useful. Was the Roma community, which was much smaller in Poland than in other countries of the region, considered to be a national minority?

58. **Mr. Bhagwati** wished to know whether the right to legal aid was provided for by law and, if so, what were the applicable provisions and criteria governing the granting of legal aid and at what stage in the proceedings was such aid effectively ensured. Recent figures on the number of cases in which legal aid had been provided would be useful.

59. **The Chairperson** thanked the members of the Committee and invited the delegation of Poland to reply to the additional questions that it had been asked.

60. **Mr. Dzialuk** (Poland) said that the draft legislation to eliminate deprivation of liberty as a penalty for slander under the Penal Code had been rejected by the Parliament but a new bill was currently under consideration by the Government. The offence of slander had nevertheless been considerably restricted in scope by a recent decision of the Constitutional Court, which had considered that disclosure of information concerning public figures was always in the public interest.

61. While the delegation was not able to say when the investigation on allegations concerning the existence of secret detention centres in Poland would be concluded, the Committee could rest assured that everything possible was being done to ensure that it would be completed within a reasonable time. Training for judges and prosecutors took account of the different perspectives associated with the two functions and was generally provided separately. Given that judges and prosecutors could move from one function to another with relative ease, the risk of a certain confusion of roles might arise, but appropriate attention was paid to that issue.

62. **Mr. Lewoc** (Poland) said that the reduction in the number of persons placed in pretrial detention and of the average length of pretrial detention had several explanations. Crime had been regularly declining for several years as a result of government policies to that end. The numerous legislative measures taken at the initiative of the Ministry of Justice to limit the scope of application and the length of pretrial detention had led to the amendment to that effect of several provisions of the Code of Criminal Procedure. Training sessions on the new legislation had been held for judges and prosecutors and monitoring of decisions relating to pretrial detention and their implementation had been reinforced.

63. **Mr. Dzialuk** (Poland) said, with regard to compensation, that the Ministry of Justice could not issue directives imposing obligations on judges. It had sent to judges an information note explaining the rules applied by the European Court of Human Rights to calculate the amount of compensation to award in the case of unreasonably prolonged proceedings, in order to encourage judges to change their practice. With regard to undocumented migrants, the Ministry of Justice had for several years been making substantial educational efforts to encourage judges to accept the idea that placement in detention should be a measure of last resort; however, attitudes were slow to change.

64. **Ms. Glowacka-Mazur** (Poland) confirmed that a proposed amendment to the Law on Assemblies was under study. Under the amendment, the authority considering an appeal against the prohibition of an assembly would be required to issue its decision before the date planned for the assembly. The Law on National Minorities guaranteed the right of persons belonging to a minority that represented at least 20 per cent of the population of a commune to use their language as an auxiliary language in their relations with the municipal authorities, provided that the commune was listed in the official register of communes using an auxiliary language. Currently, 30 of the 54 communes that met the 20 per cent criterion had requested and obtained a listing in the official register. The Kashubian language was protected as a regional language and the Kashubian minority enjoyed the same protection as national minorities. The debate continued on whether Silesian could be considered a regional language. It was difficult to regard the peoples of Silesia as an ethnic or national minority; they were closer to being a regional minority, but that question remained open. The Roma had the status of an ethnic minority; they benefited

from a special protection programme financed jointly by the State, local municipalities and the European Union.

65. **Mr. Zón** (Poland) said that the strategy adopted by the Ministry of Justice and the prison administration to combat prison overcrowding was aimed more towards measures that were likely to reduce the prison population — alternatives to deprivation of liberty, replacement of prison sentences by other sentences not requiring imprisonment for certain offences — than towards increasing prison capacity. Several laws had been adopted to that end. With regard to the confidentiality of detainees' correspondence, a letter could only be opened by a prison official under exceptional circumstances, when there were reasonable grounds for believing that its contents were dangerous or illicit, and it had to be opened in the detainee's presence. Detainees were informed as soon as they arrived of the procedure for lodging a complaint. The confidentiality of the complaints lodged by detainees was guaranteed. Efforts were made to ensure that detainees could communicate with their families both by mail and by receiving visits. The prison administration paid the costs of postage for detainees who could not afford to buy stamps. The visiting rooms were arranged to be as congenial as possible – no bars, play areas for children and so forth.

66. **Mr. Dzialuk** (Poland) thanked the Committee for the relevance of its many questions, to which the delegation had striven to reply in as complete and satisfying a manner as possible. The oral replies that it had not been able to give owing to lack of time would be transmitted subsequently in writing.

67. **The Chairperson** thanked the delegation of Poland for its frankness and its cooperation, which had led to a fruitful dialogue. He invited it to transmit the additional replies as soon as possible so that account could be taken of them in the concluding observations.

*The meeting rose at 1.05 p.m.*