



**Convention against Torture  
and Other Cruel, Inhuman or  
Degrading Treatment  
or Punishment**

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**Committee against torture**

Forty-third session  
2–20 November 2009

**List of issues prior to the submission of periodic reports by  
State parties\***

**Fifth and sixth periodic reports of Poland  
(CAT/C/POL/5-6)**

**Specific information on the implementation of articles 1 to 16 of the  
Convention, including with regard to the Committee's previous  
recommendations \*\***

**Articles 1 and 4**

1. Please provide updated information on any changes in the State party's position on incorporating the Convention into Polish law, as recommended by the Committee in its previous concluding observations (para. 6).
2. In its previous concluding observations, the Committee expressed its concern about the absence of a specific crime of torture, consistent with articles 1 and 4, paragraph 2, of the Convention, in the Polish Criminal Code (para. 6). Please provide information on steps taken to address this concern.

**Article 2**

3. In light of the Committee's previous concluding observations, please provide information on steps taken by the State party to ensure that its pretrial detention policy meets international standards and is only used as an exceptional measure for a limited period of time (para. 7). Please indicate if, and which, alternatives to pretrial detention are being implemented.

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\* The present list of issues was adopted by the Committee at its forty-third session, according to the new optional procedures established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

\*\* Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee published under symbol CAT/C/POL/CO/4.

4. With reference to the Committee's previous concluding observations, please provide information on steps taken by the State party to guarantee, in practice, all fundamental legal safeguards for persons detained by the police, including the right to access a lawyer and to consult with him/her in private, the right of access to a medical doctor of their own choice and the right to inform a relative, from the very outset of the detention, including during the stages of the preliminary investigation (para. 8).

5. In its previous concluding observations, the Committee expressed its concern about the lack of an appropriate system of legal aid (para. 10). Please provide information on steps taken to address this concern. In this respect, please provide updated information on the status and content of the draft law on access to free legal aid. Furthermore, please provide information on the resources made available by the State party to fund the legal aid system. Data should also be provided on the conditions that have to be fulfilled to receive free legal aid, on the number of requests made for free legal aid and the number granted. In particular, please describe steps taken by the State party to ensure that an accused applying for the "shortened trial procedure" (art. 387 Code of Criminal Proceedings), is granted free legal aid in all cases when he/she has no defence counsel of his/her choice.

6. Regarding violence against women, please:

(a) Describe steps taken by the State party to combat violence against women, including domestic violence. In this respect, please indicate if such violence is criminalized under the legislation of the State party. Please indicate if the State party has adopted a National Programme on Counteracting Domestic Violence, as imposed by the 2005 law on counteracting domestic violence;

(b) Provide statistical data on the prevalence of violence against women, including rape and sexual harassment. Statistical data should also be provided on complaints relating to violence against women and on the related investigations, prosecutions and penal sanctions, and on any compensation provided to victims.

7. Regarding human trafficking, please:

(a) Indicate if the State party has included in its Penal Code a definition of human trafficking in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as recommended by the Committee in its previous concluding observations and the Special Rapporteur on Trafficking in Persons (para. 18). Please also provide detailed information on the content and implementation of the National Plan for Combating and Preventing Trafficking in People;

(b) Provide updated statistical data on the prevalence of human trafficking, on the number of complaints relating to human trafficking, and on the related investigations, prosecutions, convictions and sanctions, and on compensation provided to victims.

### **Article 3**

8. Please provide information on the outcome of the review of the refugee status determination system, initiated by the Regional Representation in Budapest of the United Nations High Commissioner for Refugees (UNHCR), in particular regarding the right of access to a lawyer, a medical doctor of their own choice and an interpreter.

9. Please provide information:

(a) on steps taken by the State party to take all the necessary measures to fulfil its obligations under article 3 of the Convention, in particular to consider all elements of an individual case and provide, in practice, all procedural guarantees to the person expelled, returned or extradited;

(b) On any requests for extradition received and detailed information, including the outcome, on all cases of extradition, return or expulsion that have taken place since the previous report, and the countries to which these persons were returned.

10. Please provide information on steps taken to undertake an impartial investigation into the alleged CIA “rendition flights” through Poland and to ensure accountability of anyone responsible for a breach of the Convention in this regard.

11. In its previous concluding observations, the Committee expressed its concern about the absence of specific laws concerning the detention of aliens after the deadline for their expulsion and the fact that some have been detained in transit zones beyond the deadline of their expulsion without a court order (para. 12). Please provide information on steps taken to address this situation. Furthermore, please describe steps taken to ensure that, if detention were to be extended beyond a few days, the decision is adopted by a court.

#### **Articles 5 and 7**

12. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceeding.

#### **Article 10**

13. Regarding training and educational programmes for all relevant personnel, please:

(a) Provide updated information on further educational programmes developed and implemented by the State party to ensure that law enforcement officials, prison staff and border guards are trained in the human rights implications of their work;

(b) Indicate if the State party has developed and implemented a methodology to assess the effectiveness and impact of such training/educational programmes on the reduction of cases of torture, violence and ill-treatment. If so, please provide information on the content and implementation of such methodology as well as on the results of the implemented measures;

(c) Indicate the measures taken to ensure that all relevant personnel receive specific training on how to identify signs of torture and ill-treatment? Please indicate whether the Istanbul Protocol of 1999 effectively has become an integral part of the training provided to physicians? How many physicians have received such training?

14. Please provide updated information on steps taken by the State party to review and strengthen its education and training programmes relating to the use of force and weapons by law enforcement officials in order to ensure that the use of force is strictly limited to that required to perform their duties.

15. Please describe steps taken to further develop and implement sensitivity and awareness training for law enforcement officials, prosecutors and judges as well as training on the application of the existing trafficking law.

16. Please provide updated information on the implementation of the programmes “Law Enforcement Officer Programme Combating Hate Crime” and “Role of prosecutors in effective counteracting of discrimination”.

#### **Article 11**

17. Please provide information on any new interrogation rules, instructions, methods and practices as well as arrangements for custody that may have been introduced since the

consideration of the last periodic report. Please also indicate the frequency with which these are reviewed.

18. With reference to the Committee's previous concluding observations, please provide information on measures taken to review the regime and material conditions of deportation detention centres, including size of cells and the regime of activities of the detainees (para. 13). Please elaborate on the outcome of this review and steps taken to bring the conditions in conformity with minimum international standards.

19. Please provide information on steps taken by the State party to implement the Optional Protocol to the Convention against Torture. In this respect, please provide information on the mandate of the Commissioner for Civil Rights Protection (Ombudsman) as the National Preventive Mechanism, as well as on the number of visits they have undertaken, the outcome of these visits and the impact thereof on the State party's policy regarding detention facilities.

### **Articles 12 and 13**

20. Regarding competent authorities mandated to investigate or receive complaints, please:

(a) Provide information on the mandate of the Commissioner for Civil Rights Protection (Ombudsman) as the National Human Rights Institution related to the Convention, on the number of complaints received related to violations of the provisions of the Convention, the actions taken as well as their outcome;

(b) Indicate whether any other body is mandated to investigate, promptly and effectively, allegations of torture and ill-treatment when such complaints are submitted;

(c) Provide information regarding the independence of these bodies and what measures are in place to ensure that independence of these bodies is maintained and ensured.

21. In light of the Committee's previous concluding observations, please:

(a) Describe measures taken to ensure prompt, impartial and effective investigations into all complaints or allegations of torture and ill-treatment by law enforcement officials, in particular when a person dies or is seriously injured following contact with law enforcement officials (para. 14). Please indicate if all suspects in prima facie cases of torture and ill-treatment are as a rule suspended or reassigned during the process of investigation?

(b) Elaborate on the composition and mandate of the special group of experts established within the framework of the Office of the Commissioner for Civil Rights protection, to investigate police misbehaviour. Please indicate whether any other body is mandated to investigate, promptly and effectively, allegations of torture and ill-treatment by law enforcement officials;

(c) Describe steps taken by the State party to ensure that the alleged perpetrators of acts of torture and ill-treatment, including law enforcement officials, are brought to justice, and to impose appropriate sentences, when convicted. Furthermore, information should be provided on the compensation provided to the victims;

(d) Provide detailed statistical data, disaggregated by crime, ethnicity, age and sex, on complaints relating to torture and ill-treatment allegedly committed by law enforcement official and on the related investigations, prosecutions, and penal or disciplinary sanctions.

22. Please describe steps taken by the State party to ensure prompt, impartial and effective investigations into all allegations of attacks and threats against minorities and vulnerable groups because of their race, religion, sex, political affiliation, sexual orientation or national origin, as well as to bring the perpetrators to justice.

23. Please provide information on steps taken by the State party to investigate the legality of investigation methods used by police, the Prosecutor's office, the Central Bureau of Investigation and the Central Anticorruption Bureau. Please provide information on the outcome of these investigations, including whether legal proceedings were brought against the persons involved.

#### **Article 14**

24. Please provide information on redress and compensation measures ordered by the courts and actually provided to victims of torture, and their families, since the examination of the last periodic report. This information should include the number of requests made, the number granted, the amounts of compensation ordered and those actually provided in each case, disaggregated by crime, ethnicity, age and sex.

#### **Article 16**

25. Please provide information:

(a) On steps taken by the State party to address the allegations regarding the existence of secret detention facilities for aliens suspected of terrorist activities in its territory. Please provide updated information on steps taken to conduct an impartial investigation into these allegations and to ensure the accountability of those responsible.

(b) On the scope, methodology and outcome of these investigations. In this respect, please elaborate on the status and, if possible, the outcome of the new investigation into these allegations by the National Prosecutor's Office.

26. In light of the Committee's previous concluding observations, please:

(a) Provide information on measures taken to address the situation of overcrowding in prisons without compromising the regime and material conditions of detention (para. 17). In this respect, please provide information on the material, human and budgetary resources that are made available by the State party to ensure that the conditions of detention are in conformity with minimum international standards;

(b) Provide updated information on the progress made in creating 17,000 new places in the organizational units in the prison system, as decided by the Council of Ministers in 2006;

(c) Elaborate on the status and content of the "Programme of Modernizing the Prison Service in the period 2009-2011";

(d) Provide detailed information on the application of alternative forms of punishment and electronically monitored probation. This information should include, inter alia, which alternative forms of punishment are used and in how many cases these forms have been used;

(e) Indicate the steps taken to execute the ruling of the Constitutional Court which established that the provision in the criminal code, which allows the Ministry of Justice to keep prisoners in overcrowded cells for unlimited periods of time, violates the Constitution and the law on cruel and degrading treatment.

Please provide detailed data on the impact and effectiveness of these measures in reducing overcrowding and improving prison conditions.

27. Please indicate steps taken to adequately prevent and combat inter-prisoner violence in places of detention. Please indicate if, whenever injuries are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the matter is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by him. Furthermore, information should be provided on measures taken to prevent, investigate, and prosecute or punish persons found responsible. Data should also be provided on the impact and effectiveness of these measures in reducing cases of inter-prisoner violence.

28. Please provide:

(a) Updated information on further measures developed and implemented to eradicate hazing in the armed forces. In this respect, please elaborate on the content and implementation of the “Programme of Counteracting Crime and Pathology in the Armed Forces of the Republic of Poland”;

(b) Updated statistical data on the impact and effectiveness of these measures in reducing cases of hazing as well as on the number of complaints relating to hazing, and the related investigations, prosecutions, convictions and sanctions;

(c) Information on the measures taken to guarantee the rehabilitation of victims, including appropriate medical and psychological assistance. Statistical data should be provided on the number of victims that have received such rehabilitation.

29. Please provide updated information on further measures taken to adequately prevent, combat and punish discrimination against and ill-treatment of minorities and vulnerable groups because of their race, religion, sex, political affiliation, sexual orientation or national origin. In this respect, please provide information on:

(a) The status of the proposal to amend the Penal Code in order to incorporate an offence to punish hate crimes as acts of intolerance and incitation to hatred and violence based on sexual orientation;

(b) Steps taken to implement the National Programme for Counteracting Racial Discrimination, Xenophobia and Related Intolerance of 2004-2009;

(c) Steps taken to ensure that the relevant existing legal and administrative measures are strictly observed.

Please provide detailed statistical data on complaints relating to actions directed against minorities and vulnerable groups because of race, religion, sex, political affiliation, sexual orientation or national origin, and on the related investigations, prosecutions, and penal sanctions as well as on any compensation provided to victims.

### **Other issues**

30. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and describe if, and how, these measures have affected human rights safeguards in law and practice, and how the State party has ensured that those measures comply with all its obligations under international law. Please describe the relevant training given to law enforcement officers; the number and types of convictions under such legislation; the legal remedies available to persons subjected to anti-terrorist measures; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

**General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

31. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report, including any relevant jurisprudential decisions.

32. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

33. Please provide any other information on new measures and developments taken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2007, including the necessary statistical data, as well as on any events that have occurred in the State party and are relevant under the Convention.

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