



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2742nd meeting

Held at the Palais des Nations, Geneva, on Wednesday, 7 August 2019, at 10 a.m.

Chair: Mr. Amir

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

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined twenty-second to twenty-fourth periodic reports of Poland (continued)
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1. *At the invitation of the Chair, the delegation of Poland took places at the Committee table.*
2. **Mr. Broilo** (Poland) said that Government officials continued to commemorate the Warsaw Ghetto Uprising every year on 19 April. A monument to the ghetto casualties and the chief organizer, Mordechai Anielewicz, had been erected at the spot where the uprising had occurred. Another important monument stood at Umschlagplatz, where thousands of Jews from the ghetto had been taken before being transported to the Treblinka death camp. Recently, an educational campaign had been carried out by the Museum of the History of Polish Jews under the slogan “the memory connects us”. Warsaw also housed three monuments to Dr. Korczak, a Polish-Jewish educator and social activist, including one at the Jewish Cemetery.
3. **Mr. Jaros** (Poland) said that the Office of the Commissioner for Human Rights, also known as the Ombudsman, was one of the major offices of the State, as enshrined in the Constitution. The role of the Commissioner was to protect the rights and liberties of citizens, including by combating all forms of racial discrimination. National legislation provided a number of guarantees of the independence and impartiality of the Commissioner, who was appointed directly by the parliament for a five-year term. The Commissioner had the power to undertake visits to penitentiary and other institutions at any time. He or she also had the ability to require criminal proceedings to be initiated and the power to appeal legal provisions before the Constitutional Tribunal. The Commissioner enjoyed legal immunity and therefore could not be arrested or tried without it being lifted. The Government exerted no influence over the budget allocated to the Office of the Commissioner for Human Rights. Rather, the parliament assessed the Office’s requests for financial resources and approved an amount accordingly. Although the number of cases examined by the Office had fallen from 70,000 in 2013 to 52,000 in 2017, its annual allocated budget had continued to increase. There was thus no reason to suppose that its operations were being hindered or threatened by financial constraints.
4. **Mr. Król** (Poland) said that, upon receiving a report of a crime from either a member of the public or the Commissioner for Human Rights, the police evaluated the available evidence and made the necessary inquiries. In accordance with the Code of Criminal Procedure, the prosecutor’s office then made the decision, within 30 days, whether to launch preparatory or pretrial proceedings. That decision could be appealed by the victim of the crime or by the Office of the Commissioner if it had reported the crime. Case files were made available to the Commissioner on request.
5. **Ms. Sosnowska** (Poland) said that the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance had been dissolved in April 2016 owing to the fact that its actions to prevent xenophobia, intolerance and discrimination had failed to produce sufficient tangible results. As the Council’s activities had mainly been limited to the organization of conferences and workshops and other planning responsibilities, the decision had been taken to redistribute its tasks to already existing institutions, including the police and the Ministry of the Interior and Administration, which worked in close cooperation with the Government Plenipotentiary for Equal Treatment. In 2018, another forum for continuing the work carried out by the Council had been established in the form of the Interministerial Team for combating the promotion of fascism and other totalitarian systems as well as crimes consisting in incitement to hatred on the grounds of national, ethnic, racial or religious differences or lack of religious denomination. In addition, three working groups had been established to identify and resolve issues relating to the prosecution of such crimes. The Minister of the Interior and Administration was responsible for monitoring and assessing the recommendations developed by the three

working groups, through regular meetings held with their respective heads. The most recent such meeting had taken place in June 2019.

6. A new national action plan for the prevention of trafficking in human beings from 2019 to 2021 had been devised and adopted. The Government was placing particular emphasis on improving the support offered to victims of trafficking in human beings and also on increasing the effectiveness of the institutions that prosecuted those responsible. The national action plan also included activities aimed at raising awareness of the problem among the general population. Combating forced labour was a key priority of the Ministry of the Interior and Administration, which cooperated in that field with a number of external institutions, including the Council of the Baltic Sea States. Regional teams for the prevention of trafficking in human beings were also being strengthened in all of the country's 16 regions.

7. According to the Government's central prisoner database, as at 31 July 2019 there were over 1,100 foreign detainees held at Polish correctional facilities, including 83 women. Nearly 40 per cent of those were from Ukraine, while the next most represented countries of origin were Georgia, the Russian Federation, Viet Nam, Bulgaria, Belarus and Germany.

8. On 7 May 2019, the Minister of the Interior and Administration had replied to the questions raised by the Commissioner for Human Rights regarding the prevention of hate speech in the public realm. Owing to the nature of the Internet and social media, and the fact that some servers were located outside of the territory of Poland, the State could not easily identify all the perpetrators of racially motivated crimes or implement pre-emptive measures. However, the authorities had appointed coordinators within the police force to combat cybercrime at the national and regional levels. Lastly, public education measures had been implemented with a view to preventing hate speech, hate-related crimes and antisocial phenomena such as intolerance of cultural diversity.

9. **Mr. Grochowski** (Poland) said that, according to the Act of 12 December 2013 on foreigners, a foreign national was any person who did not have Polish citizenship. Stateless persons were therefore treated in the same manner as foreign nationals and had the right to obtain a permit to remain in the country on either a temporary or a permanent basis. Foreigners who had no citizenship were issued with an identity document that could be used in daily life as well as in legalization of stay proceedings. As a result, Polish laws effectively prevented statelessness. Polish citizenship was recognized and awarded in accordance with the criteria set out in the Act of 2 April 2009 on Polish citizenship and summarized in the periodic report.

10. **Mr. Łaszkiewicz** (Poland) said that overall, the rate of crime, including hate crime, was falling in Poland, thanks to increased police training and the work of cybercrime prevention units. According to independent studies, 75 per cent of the residents of Poland trusted the police. Failures to report hate crimes did not, therefore, stem from mistrust in law enforcement officers, but rather from other obstacles, including language barriers. The improved effectiveness of the police at recognizing and investigating hate crimes provided a partial explanation of why the number of reports of hate-related crimes had increased from 145 in 2013 to 508 in 2018, while the number of suspects identified had increased from 129 in 2013 to 447 in 2018. Nevertheless, there had been a slight decrease in the number of hate-related offences recorded between 2016 and 2017.

11. The racial profiling of suspects was strictly prohibited, including in cases of terrorism. Any Polish citizens who met the basic criteria and passed the required entrance exam could be recruited to the police, without discrimination on grounds of race, nationality, ethnicity, religious affiliation or sexual orientation.

12. **Ms. Goździk** (Poland), referring to a letter of the Commissioner for Human Rights of January 2019 that mentioned the commission of a number of racially motivated crimes, said that the decision had been taken to review the cases in question and to prepare a comprehensive response to the letter. In 2014, the Prosecutor General had issued guidelines for proceedings related to hate crimes. The guidelines were binding for all public prosecutors tasked with such cases, and each decision issued by a prosecutor was monitored by a supervisory body. The Prosecutor General had also issued guidelines on hate crimes

committed via the Internet, which advised prosecutors how to secure and record evidence. Such cases were monitored on an ongoing basis, and a report on the cases in question was published every six months. Legal instruments were in place to prohibit political parties and associations that incited racial discrimination. The National Prosecutor's Office monitored the activities of such organizations and the Prosecutor General could submit a motion to the Constitutional Tribunal for their dissolution. However, it had to be proven that the operations of the associations in question violated the law in order for them to be dissolved. From 2017 to 2019, no grounds had been identified to ban any political parties or associations. However, a number of motions had been filed, and decisions were pending. For example, the former leader of the *Nowoczesna* political party had sought a ban on the Independence March, and the case was currently under consideration. Similarly, a case involving an attempt by the mayor of Warsaw to outlaw the National Radical Camp was under review.

13. **Mr. Król** (Poland) said that 100 prosecutors had been appointed across the country to deal specifically with proceedings relating to hate crimes. They had received relevant training from the National School of Judiciary and Public Prosecution and the Organization for Economic Cooperation and Development (OECD). The National Prosecutor's Office had held a training course via video conference in 2015 on how to conduct criminal proceedings for hate crimes, and another training session in 2016. All public prosecutors were able to register for training sessions on the dedicated website.

14. **Mr. Charkiewicz** (Poland) said that a range of legal provisions in the Criminal Code ensured the protection of victims of crimes of discrimination on grounds of race, ethnicity, nationality and religious affiliation. The 2019 amendment to article 256 of the Criminal Code expressly listed Nazi and communist ideologies as totalitarian and prohibited the public dissemination or promotion of such thought. Article 53 of the Criminal Code was also currently in the process of being amended.

15. **Mr. Cytrynowicz** (Poland) said that there had been an increase in migration to Poland since 2014. In 2018, Poland had been the leading target country for legal migration in the European Union and had issued the highest number of resident permits among all member States over the same year. Migrants were mainly from Ukraine, Belarus and the Russian Federation, although there were also migrants arriving from China, India, Viet Nam, Germany and the United Kingdom. The majority were men, and over 60 per cent were between 20 and 39 years old. The main reasons for their migration were employment, study and family reunification. Migrant students, researchers and spouses of Polish nationals had full access to the labour market, and procedures were simplified for Ukrainians and Belarusians.

16. **Mr. Kopec** (Poland) said that the Chief Labour Inspectorate ensured compliance with labour law. Non-Polish citizens who worked legally were subject to the same rules as Polish citizens and therefore enjoyed equal access to protection mechanisms. The minimum wage was guaranteed under a law dating from 2002. The Labour Code prohibited direct and indirect discrimination on the basis of age, gender, nationality, ethnicity, race and religion, among others. Free counselling on labour laws was available. A hotline had been established by the Chief Labour Inspectorate, which provided information on labour rights, and information brochures had also been disseminated in a number of languages. The Chief Labour Inspectorate cooperated with the Border Guard and, in December 2018, an agreement had been signed to undertake joint actions to combat forced labour and the illegal employment of foreigners. Between 2012 and 2019, the Chief Labour Inspectorate and Border Guard had carried out over 1,000 joint labour inspections. The Inspectorate also shared information on labour violations with other relevant institutions in an effort to foster communication.

17. **Ms. Przybyłowicz** (Poland) said that the amendment to the Act of 12 December 2013 on foreigners stipulated that the Border Guard could not return foreigners to their countries of origin if the employer had violated the law by hiring the foreigner illegally. Employers were obliged to provide foreign employees with a written contract and to ensure the translation of the contract into the necessary language. Pursuant to the amended Act on employment promotion and labour market institutions, foreigners were not liable for labour violations committed by employers, such as the failure to provide a contract. In accordance

with the Act on foreigners, all migrants in an irregular situation, including pregnant women, had access to medical care. Upon admission to a detention centre, pregnant women were subject to a basic medical examination which included an electrocardiogram (ECG) and screening for infectious diseases. They were also examined by a gynaecologist and issued with a pregnancy card. The right to medical care, hospitalization, medication and dental care, among others, was enshrined in the Act on foreigners and in the Criminal Code. The cost for such services was covered by the State budget. The Act on foreigners also provided that illegal migrants in the process of being returned to their country of origin were to be released from detention if they were in ill health. An initiative currently being implemented in its initial stage entitled such persons to social welfare benefits and medical care.

18. **Ms. Kostrzewa-Zorbas** (Poland) said that the National Action Programme of Equal Treatment of 2013–2016 had been evaluated first in 2016 by an interministerial team established pursuant to a decree of the Prime Minister, and later by means of an independent evaluation conducted in 2018 by consultants from the European Union, who had been selected through public tender. The findings of the evaluations were consistent with one another and it had been recommended to continue the Programme. The evaluations had commended both the engagement of all ministries in the implementation of the Programme and its scope across all areas of social life, including labour, education and access to goods and services. They had also recommended that the Government Plenipotentiary for Equal Treatment should be maintained. The second National Action Programme of Equal Treatment was envisaged for 2021 to 2030. The actions to be included in the second Programme would be proposed by the end of 2019, public consultations would be held in the first quarter of 2020 and the submission of a draft to the Council of Ministers was scheduled for the second quarter of 2020, with an anticipated approval taking place in 2021. The Government Plenipotentiary for Equal Treatment was coordinating a project for a gender equality monitoring system which would take an intersectional approach to discrimination. That project would examine existing internal procedures within various bodies as well as opportunities to conduct external outreach activities at the regional and national level.

19. Regional equal treatment initiatives and networks were still being developed. Regional equal treatment coordinators and officials of the provincial governors' plenipotentiaries served an important role as liaison officers, ensuring communication with the Government Plenipotentiary for Equal Treatment. In 2018 they had received training on combating discrimination. The Government Plenipotentiary for Equal Treatment was the main institution tasked with ensuring equal treatment. The Plenipotentiary received funding from the budget of the Council of Ministers and the European Union. The campaigns it had carried out in 2016 had not directly addressed the themes included in the Convention, as the scope of the Plenipotentiary was much broader. Regional debates on combating discrimination had been held, however. Since 2012, the Ministry of Justice had conducted surveys to collect data on the number of court cases under Act of 3 December 2010 on implementation of certain provisions of the European Union in the field of equal treatment. The Act was actively enforced, and numerous legal remedies were available to victims of discrimination.

20. **Ms. Różycka** (Poland) said that Statistics Poland, the national statistical agency, consulted representatives of national minority groups regarding questions on the national census about minority status. Consultations were already under way in preparation for the next census, to be conducted in 2021. The most recent census showed that all minorities in Poland enjoyed a standard of living comparable to that of the general population, with the exception of the Roma community. For some 20 years, the Government had been running the Programme for Social Inclusion of Roma Communities in Poland, which among other things served as a tool for combating discrimination by promoting education in the Roma communities. According to independent public surveys and focus groups, attitudes towards Roma people in Poland had improved significantly in recent years. Although some success had been achieved in improving enrolment among Roma students, the dropout rate at secondary level remained high. Although many Roma people were enrolled in university education or were active at the international level, they were usually not from typical Roma communities, for whom education was not traditionally a priority. An increasing number of Roma children were being enrolled in nurseries, however, and the number of Roma

children placed in special needs schools was decreasing, as the attitudes of parents – who were often the ones responsible for placing their children in such schools – were changing. While 4 per cent of children in the general population attended special needs schools, the proportion among Roma children remained high, at 10 per cent.

21. The information on employment rates among Roma people was meagre, because many people from that community were employed informally. The Government was increasingly turning to European Union funding to improve employment rates in the community, since such funding was both more available and more flexible. Under a programme known as Family 500+, Roma families received a 500 zloty monthly allowance for each child. Roma women were also entitled to a pension. Although there had been two recent cases of local conflict related to the Programme for Social Inclusion of Roma Communities in Poland, it was generally not true that the Programme was a source of conflict.

22. **Ms. Skórka** (Poland) said that the history and culture of national minorities and their significant positive contributions to Polish culture were included in school curricula, with a view to strengthening national cultural and ethnic identity, combating stereotypes and fostering respect for their cultures. In 2012, a government-backed project to promote the use of minority and regional languages had been launched. The study of such languages was mandatory for all students whose parents had enrolled them in the subject, and teaching was subsidized by the State. Minority and regional languages were also taught as extracurricular activities at nurseries. Public schools were able to teach the geography of States with which minority students identified, and schools and nurseries were able to run arts classes for minority groups. Final school examinations could be taken in minority and regional languages, and classes were sometimes taught in both Polish and a minority language where it was the second language of instruction. Textbooks in minority languages were produced with State support. All such benefits were also made available to Roma students. Furthermore, the Ministry of National Education launched a tender each year to procure support for educational initiatives to benefit students from ethnic and national minorities.

23. **Mr. Avtonomov** said that he wished to know whether the Government intended to participate in the International Decade for People of African Descent. Noting that the delegation had used the term “positive discrimination”, he expressed the view of the Committee that discrimination could never be positive. The Committee therefore preferred the term “special measures”, as used in the Convention, or “affirmative action”.

24. **Mr. Murillo Martínez** said that he wished to know what proportion of the total prison population were foreign nationals. He asked whether any alternatives to detention had been considered for dealing with irregular migrants, whether migrants were given access to free medical attention outside of detention centres and, if so, at what stage in the regularization process such access was granted. He inquired whether the increase in the budget for the Office of the Commissioner for Human Rights had had a visible impact on the number of cases processed and whether it represented an increase in real terms.

25. **Mr. Yeung Sik Yuen** said that questions concerning the independence of the judiciary did not fall beyond the remit of the Convention. Judicial independence entailed the due exercise of the principle of non-discrimination, including on the grounds of race. Given the concerns kindled by the post-2015 reform of the legal system, it was appropriate that such questions should be raised. He questioned whether it was acceptable for the posts of Minister of Justice and Public Prosecutor General to be held by the same person. The former was the principle legal advisor to the Government, who was subject to the control of the Prime Minister, whereas the latter was responsible for the application of criminal law to all citizens.

26. **Ms. Shepherd** said that she would appreciate information regarding how the Government was participating in the International Decade for People of African Descent. She would be interested to know whether the Government had been able to measure the impact of the human rights component of the school curriculum in terms of fostering understanding and mutual respect and breaking down racial stereotypes.

27. **Mr. Diaby**, noting the absence of a representative from the national human rights institution in the delegation, said that he would like the Government to indicate whether it might consider providing further financial resources to it with a view to enabling its representatives to appear before the treaty bodies. He would also like to know whether Polish civil society organizations had been involved in the drafting of the periodic report; whether there were civil society organizations in the country campaigning against racial discrimination, xenophobia, Islamophobia and anti-Semitism; and whether the members of such organizations were subject to persecution of any kind.

28. **Ms. Izsák-Ndiaye** said that, while survey results demonstrating higher acceptance of the Roma community were encouraging, it was also important to ensure a greater presence of Roma people in public bodies in order to increase their participation and trust in those bodies. The term “typical Roma” should not be used, as the Roma population was diverse and should not be stereotyped. Given that 2019 marked the 75th anniversary of the Roma Holocaust, she would like to know whether the Government had supported any remembrance or educational activities related to that tragedy.

29. **Ms. Li** said that the Committee often requested information from States parties regarding the independence of the judiciary in order to gain a full understanding of the legal system in a given country. The delegation should provide the information that the Committee had requested.

30. **Ms. McDougall** said that she would like to receive information regarding the outcomes of legal cases involving hate crimes rather than statistics on the number of pending cases. She would like to know whether since 2015 any organizations had been dissolved as a result of allegations of hate speech and whether any cases of hate speech had been found to be in violation of article 4 of the Convention. Noting that all the bodies tasked with combatting racial discrimination were now part of the executive branch, and that many cases of racial discrimination had been dismissed, the Committee had serious concerns about the independence of the judiciary. She would therefore appreciate more concrete information to support the conclusion that robust legal action was being taken to combat hate speech, which was a serious issue. She would like to know whether the 31 cases that had been flagged by the Commissioner for Human Rights were still being investigated and how many cases of hate speech, hate crimes and crimes motivated by racial hatred had led to convictions.

31. **Mr. Broilo** (Poland) said that the delegation was in a position to answer only some of the questions in the meeting and that further information would be provided on other questions in writing.

32. **Ms. Sosnowska** (Poland) said that foreign nationals made up 2 per cent of the Polish prison population. With regard to the International Decade for People of African Descent, the Government had participated by responding to a survey on the number of people of African descent in the country.

33. **Mr. Cytrynowicz** (Poland) said that, in general terms, foreign nationals were given equal treatment with Polish citizens in respect of health care and health insurance. Exceptions were made for persons seeking international protection, who received medical assistance throughout their asylum procedure, and foreign nationals placed in detention centres during their return procedure.

34. **Ms. Różycka** (Poland) said that the commemoration of all the lives lost during the Second World War was accorded much importance in Poland, and that the commemoration of the Roma Holocaust was of particular importance because it had been disregarded for many years. The Government had taken the lead in remembering the Roma Holocaust by designating 2 August as a day of remembrance and had financed yearly commemorative events at Auschwitz, which took place alongside commemorative events organized by the Roma community. Memorials had been erected in locations where Roma people had been murdered. Several academic conferences on the Roma Holocaust had been organized, and the Government was considering strengthening education on that subject.

35. **Ms. Skórka** (Poland) said that education on the Jewish Holocaust was mandatory at both elementary and post-elementary levels. Information on the Jewish and Roma Holocausts was included in the school curriculum and, consequently, in textbooks.

36. **Ms. Goździk** (Poland) said that the Pride and Modernity Association (*Duma i Nowoczesność*) had recently been dissolved following a complaint that it had publicly disseminated Nazi ideology. The Ministry of Justice was conducting further investigations into the 31 cases flagged by the Commissioner for Human Rights and also into 295 other cases. Concrete information could be supplied following the conclusion of those investigations.

37. **Mr. Król** (Poland) said that, between 2016 and 2018, cases of hate crimes had made up 0.14 per cent of all cases pending before Polish courts. The provision of training sessions and guidelines for public prosecutors had resulted in more effective prosecution and the conclusion of a higher number of cases. The proportion of cases resulting in indictments had increased significantly between 2013 and 2018. Over 400 sentences had been handed down in 2018.

38. **Mr. Charkiewicz** (Poland) said that the budget of the Commissioner for Human Rights had been increased by 1.4 million zlotys. There had been no deficit in the Commissioner's budget and there had been 1 million zlotys carried over from the 2018 budget. Consequently, from 2018 to 2019, the Commissioner's budget had increased by over 2 million zlotys.

The meeting rose at 1 p.m.