



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

Seventieth session

### Summary record of the 2034th meeting

Held at the Palais Wilson, Geneva, on Friday, 18 September 2015, at 3 p.m.

Chairperson: Mr. Mezmur

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*The meeting was called to order at 3 p.m.*

**Consideration of reports of States parties (continued)**

*Third and fourth periodic reports of Poland (continued) (CRC/C/POL/3-4; CRC/C/POL/Q/3-4 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Poland took places at the Committee table.*

2. **Ms. Wesołek** (Poland) said that the Government had developed and implemented numerous measures to eliminate stereotyping and to improve public attitudes towards vulnerable groups and regularly carried out monitoring to ensure that legislation on equal treatment was implemented. The Government Plenipotentiary for Equal Treatment rebutted media articles that promoted stereotypes and unequal treatment, and worked with NGOs in that field. A national plan was being implemented to encourage fathers to play a more active role in bringing up their children and to establish a healthy work-life balance. A national programme on racial discrimination, xenophobia and intolerance had been initiated. The programme had done much to increase understanding of those issues among government and law enforcement officials, and a number of its components had been incorporated into training courses for public employees.

3. The implementation of the national action programme for equal treatment was still ongoing and related progress reports were prepared on an annual basis. The programme had raised awareness of non-discrimination and equal treatment, and had promoted cooperation among stakeholders. A final assessment, to be carried out in 2016, would be used as a basis for the next programme.

4. **Ms. Dąbrowska** (Poland), turning to the question on protection provided relating to sexual orientation and identity, said that, although such protection was afforded only by the Labour Code, under the Constitution, all were equal before the law and consequently equality was guaranteed in all spheres. Poland had implemented all the relevant European Union directives on equal treatment and the protection of the LGBT community. A law on the implementation of European Union legislation on equal treatment had been adopted, which covered all natural and legal persons and legal entities, regardless of age, race, sex, religion, nationality, sexual orientation or disability. The Government Plenipotentiary for Equal Treatment worked with NGOs on hate crime and hate speech, and coordinated the work of the various public institutions focusing on equal treatment. The Plenipotentiary had initiated a number of campaigns and organized several conferences on parenting and the elimination of stereotypes. During the 2012-2013 period, Poland had implemented a Council of Europe project to tackle discrimination on the grounds of sexual orientation, involving Internet and television-based publicity, the distribution of written materials among teachers, marches in Warsaw and the provision of support to members of the LGBT community who were victims of hate crimes.

5. **Mr. Mazurczak** (Poland) said that the Ministry of Interior and Administration had set up a unit to monitor hate crimes and to design related educational initiatives. A network of high-ranking police officials based across Poland were currently implementing a training programme on hate crimes in conjunction with the Organization for Security and Cooperation in Europe (OSCE). The programme focused on cooperation with victims, methods used by perpetrators, the legal aspects of the fight against hate crime, the use of IT systems and partnerships with NGOs. Since 2009, more than 77,000 police officials had taken part in the programme, on which standard procedures for dealing with hate crimes were directly based. In 2014, more than 300 cases involving hate crimes had been monitored to ensure that police

procedures were being followed. The Ministry of Interior and Administration had established a unit responsible for designing tools for interacting with victims, which took into account sexual identity. The Ministry used the OSCE definition of hate crimes, which covered sexual orientation.

6. **Ms. Korbasińska** (Poland), turning to the issue of intersex children, said that a new law simplifying the procedure for the amendment of information on sex included in birth certificates was awaiting adoption. Under existing guidelines, following the birth of an intersex child, medical intervention was postponed until the child was old enough to make an informed decision in the matter and intersex children should be given gender-neutral names in order to ensure their social development. A specialized centre for the diagnosis and therapeutic treatment of intersex children had been set up.

7. **Ms. Bartosiewicz** (Poland) said that, while the existing ban on the use of corporal punishment was effective, it should be expanded to cover the use of psychological violence. A unit had been set up to monitor domestic violence, which also issued recommendations. As a part of the National Programme for Counteracting Domestic Violence, nationwide and regional campaigns combating violence against children had been conducted on a yearly basis. Every two years, the Ministry of Labour and Social Policy developed guidelines for training courses on domestic violence held at the local level and more than 2 million zlotys in public funding was provided for that purpose each year. In 2013, 5,600 persons had taken part in the courses, compared to 4,500 in 2007. Over 3,000 persons had participated in a project designed to combat violence partly financed by the European Social Fund. More than 500 interdisciplinary teams would be trained to assist victims of domestic violence. All training courses on violence prevention contained a component on working with child victims. Compared to 2008, the number of members of the public who believed that the use of physical force against children was acceptable had fallen by 17 per cent and the number of killings of children and of cases of child abandonment had also dropped significantly. Telephone helplines for children had been set up by the Nobody's Children Foundation and the Polish Nationwide Emergency Service for Victims of Domestic Violence. In 2017, a nationwide 24-hour telephone helpline would be set up, which would receive annual funding of 320,000 zlotys from the Government. The main Polish NGOs working in the field of domestic violence and violence against children received funding under existing support programmes, from the Norway Grants or under the Civic Initiatives Fund.

8. **Mr. Madi** (Country Task Force) asked how the various telephone helplines for children would be coordinated in future and how children would know which one to call.

9. **Mr. Rodríguez Reyes** asked whether protection was afforded to adolescent victims of homophobic crimes by existing legislation on hate crimes or by other laws and whether education programmes designed to make students aware of the importance of tolerance and respect had been put in place, what their scope was, how extensive their coverage was and whether they were currently simply pilot projects.

10. **Ms. Ayoubi Idrissi** asked whether the State party had any plans to produce more specific data on child poverty that would allow it to improve policies in that field. As to torture and ill-treatment, during its 2013 visit to Poland, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had received numerous allegations of inhuman and degrading treatment of minors during arrest, police custody and questioning. There had also been reports of detainees being forced to wear distinctive clothing following failed escape attempts, the use of closed circuit television cameras in toilet facilities and restrictions relating to correspondence and visits. She asked for the delegation's views on those issues and for information on any measures taken to improve the situation in that regard.

11. **Ms. Bartosiewisz** (Poland) said that the “Blue Card” system had been introduced in 2010, under which victims of domestic violence were provided with cards bearing information on their rights, institutions offering assistance and free telephone helplines operated by the Police and the Office of the Ombudsman for Children. Information on telephone helplines was also made available to children through the national media.

12. **Mr. Mazurczak** (Poland) said that, under standard procedures for dealing with hate crimes, appropriate, targeted support services were provided to victims, including psychological counselling and protection measures. While there were at present no specific criminal provisions relating to homophobic offences, in practice the courts took into account the motivation of the perpetrators of offences in the determination of penalties. Parliament was currently considering amendments to the criminal code that would introduce sexual orientation as a prohibited ground of discrimination.

13. **Mr. Laszkiewicz** (Poland) said that, since the issuing in 2012 of new regulations governing police detention facilities by the Minister of the Interior and the Commander-in-Chief of the Police, respectively, and the subsequent introduction of practical measures in that connection, the treatment of juveniles held in police custody had improved considerably. Detained minors were immediately informed of their rights upon arrest, including the right to contact their parents and the right to make a complaint to a judicial or other independent authority. Video surveillance systems, which were operated with due regard for the need for privacy, ensured the personal safety and welfare of juveniles, in particular by providing protection against violence by other detainees. Juveniles could be held in police custody for no longer than five days. All officials working in remand facilities received specialized initial and ongoing training, including on human rights. Random inspection visits conducted by both government and non-government bodies had been stepped up to ensure that facilities were in line with the standards expected of a modern democratic State. Ten centres had been closed for failing to meet such standards; the funding that had been previously earmarked for the centres concerned had been diverted to upgrade the 19 remaining facilities. No complaints of degrading treatment of minors by police officers had been received in recent years.

14. **Ms. Wozniak-Rzazewska** (Poland) said that prosecutors at the regional and district levels specializing in civil, family and guardianship law had a duty to assist juveniles in civil proceedings in order to ensure that their best interests were served. Parents or children themselves who were in need of assistance were able to apply directly to special prosecutors, who could initiate proceedings on their behalf and intervene as parties in civil cases. Among other things, prosecutors ensured that, in line with the Code of Civil Procedure, a child’s testimony was taken outside the courtroom in the presence of an expert but outside the presence of the parties. Replying to a question about discrimination on the basis of sexual orientation, she said that no civil complaints in that regard had been filed with prosecutors.

15. **Mr. Madi** asked whether the recent reduction in the number of police detention facilities had resulted in children being taken into custody far from their homes and families. He also enquired whether the five-day maximum period during which children could be held in police custody was subject to judicial authority and whether it could subsequently be extended by a judge.

16. **Ms. Oviedo Fierro** asked whether the case of a priest banned for 15 years from engaging in the education of children referred to by the delegation concerned Father Gil and, if so, why he had not been barred permanently from working with children. She also enquired whether the Government had approached the Catholic Church with a view to ensuring that priests who had sexually abused children were not merely transferred to different parishes but removed permanently from the priesthood. She

asked whether children from the Dominican Republic who had been taken to Poland for purposes of sexual exploitation had been returned to their country. Lastly, she would like to know what the Government was doing to ensure that its policy to combat domestic violence, which prioritized a gender perspective, took full account of the needs of children and adolescents.

17. **Mr. Laszkiewicz** (Poland) said that juveniles were held in police detention facilities only temporarily pending a decision by the Family Court on any further action to be taken. Furthermore, the police were required to release children being held in custody if the grounds for their continued detention ceased to exist. The reduction in the number of such facilities had not resulted in any complaints by parents or lawyers regarding detainees' distance from home.

18. **Ms. Wesolek** (Poland) said that the case referred to by the delegation concerning a priest banned from working with children had indeed concerned Father Gil. He had in fact been sentenced to 7 years' imprisonment and banned from working with children for 15 years, which was the maximum period available under law. The ban related to all education activities involving children and concerned both Polish and Dominican children.

19. **Ms. Napiorkowska** (Poland) said that, following the introduction in 2011 of a new act on family support and foster care aimed at promoting deinstitutionalization, the number of institutional placements now accounted for only 24 per cent of all care placements in the State party. More than 50 per cent of current placements were in kinship care arrangements, where the caregivers were usually close relatives of the child, such as grandparents and siblings. Alternatively, children were placed in either non-professional foster families, who received child maintenance support but no payment for the care provided, or professional foster families, who cared mainly for children with special needs or disabilities and were paid by the State for that work. Both types of foster families received at least 60 hours of initial basic training, while additional specialist courses were available, as required. The act had also provided for the creation of so-called family children's homes, which operated in a similar fashion to professional foster families but were authorized to receive up to six children, as compared with three children in foster families.

20. A provision had been introduced into the act that enabled minors to be placed in institutional foster care in certain circumstances, such as where parents themselves were in institutional care or where a child's disabilities or medical requirements made it difficult for them to be placed in family foster care. A total ban on institutionalization was due to be introduced in 2020. Moreover, the new European Union Financial Framework 2014-2020 contained specific funding for reducing child institutionalization.

21. **Ms. Khazova** said that she was concerned by the increase in the number of baby boxes, a system that enabled mothers to abandon newborn babies anonymously. That practice effectively barred those children from knowing their origins and identities. In that connection, she wondered whether the State party intended to phase out the use of baby boxes and whether it had implemented any preventive measures to reduce unwanted pregnancies and baby abandonment. She also wished to know what procedures were in place to enable siblings placed in separate foster facilities to maintain their family ties.

22. **Ms. Aho Assouma** said that she wished to know whether there were any costs or time restrictions associated with the "Blue Card" system and whether the police hotline mentioned previously was toll free. It would also be useful to know how the State party intended to improve literacy among children, particularly street children,

so that they could read the content of such cards. Lastly, what support and information relating to abortions was available to girls of 14 years of age and under?

23. **Mr. Cardona Llorens**, while welcoming the move towards using foster families rather than institutions, said that almost half of all minors in institutions were children with disabilities. In that connection, he wished to know what the Government was doing to speed up the deinstitutionalization for children with disabilities.

24. **Mr. Nelson** asked what measures were being implemented to reduce the number of children living on the streets, particularly those involved in begging. He also asked whether the Government had conducted any research into the root causes of that phenomenon and, if so, what the findings had been.

25. After referring to a recent judgement of the European Court of Human Rights, which had ordered Poland to take legislative action to prevent juveniles from being held in pretrial detention without a court order, he asked whether the 340 juveniles being held in similar circumstances had now been released. While the Government seemed to have taken the necessary legislative action, the problem could only be solved by fast-tracking juveniles' cases or, where that was not possible, releasing them on licence until a trial could be held.

26. **Mr. Kotrane**, referring to the Optional Protocol on the sale of children, child prostitution and child pornography and the Committee's previous concluding observations, said that although recently amended, the legislation still did not encompass and punish all the various manifestations of sale of children, forced labour, illegal adoption or the use of adolescents for the purposes of prostitution. Similarly, while the involvement of children in armed conflict was prohibited, there was no explicit reference to criminal sanctions. Information on the steps being taken to remedy those deficiencies should be provided.

*The meeting was suspended at 4.35 p.m. and resumed at 4.55 p.m.*

27. **Ms. Korbasinska** (Poland), replying to questions posed by members of the Committee, said that all women and children in a regular situation in Poland had access to public services. Those in an irregular situation had limited access to certain services, but medical treatment could not be withheld where the person's life was in danger. Children with disabilities also had equal access to health care, although their individual needs meant that they often received more extensive medical treatment than non-disabled children.

28. After describing the routine screening, surgical interventions and specialized care provided to foetuses and newborns, she said that all children under 2 years of age were covered by a comprehensive range of health and rehabilitation services to prevent or limit disabilities. Where possible, treatment was delivered in outpatient clinics; specialized care was provided to children with autism, deaf children and deaf-mute children. Funding had been increased for health care and assistive devices for children with disabilities as well as for the diagnosis of and state-of-the-art treatment for rare and chronic conditions.

29. While children did not face lengthy hospital waiting times, Poland was suffering an acute shortage of paediatricians. Accordingly, the Ministry of Health had taken action to bolster the numbers of paediatric specialists by increasing salaries and investing in training. Overweight and obesity in children had increased sharply, prompting the Government to introduce a broad range of preventive measures and treatments. A joint project between the Ministry of Education and the Ministry of Sport and Tourism aimed to increase children's physical activity both in and out of school. In addition to a nationwide fitness programme, the Government had introduced

a law to limit children's access to sugary foods and drinks at school, although it was facing mounting pressure from confectioners to repeal it.

30. While progress was being made in the area of children's dental health, the gap was growing between children with healthy teeth and those suffering from severe tooth decay, even though dental care was free to all children. To tackle the problem, awareness-raising campaigns had been launched for expectant and new mothers, as well as nurseries and schools, to emphasize the importance of dental hygiene.

31. As to breastfeeding, mothers had two hours' uninterrupted skin-to-skin contact immediately after giving birth, and medical personnel were on hand to provide guidance on breastfeeding. The proportion of babies breastfed was 90 per cent upon leaving hospital; however, that figure fell sharply to 47 per cent at 6 weeks old and 11.9 per cent at 12 months. While extended maternity leave was helping to boost breastfeeding rates, exclusive breastfeeding was rarely seen and thus data was not collected on that point. The Ministry of Health carried out various activities to regulate the marketing of breast milk substitutes and to prevent them from being sold at discounted prices. Several specialist health centres had set up banks to collect breast milk, with donated milk being given to premature babies or in cases where the mother was unable to breastfeed. Lastly, various stakeholders, under the guidance of the Ministry of Health, were in the process of developing a national campaign to promote breastfeeding.

32. In response to a rise in diagnosed mental health disorders, a national programme had been launched to, *inter alia*, establish mental health centres and support groups; introduce preventive activities to strengthen mental health; and train teachers on mental health care in schools.

33. The number of children born to mothers under 19 years of age had remained largely stable. The day-after pill was available without prescription to girls over 15 years of age, and they could also obtain various forms of contraception. The issue of whether teenage girls should be able to access a gynaecologist without the consent of a parent or guardian was currently being debated.

34. Minors who were 15 years of age and over had an equal say in their medical treatment. Where there was no agreement between such minors and their parents, the courts would decide. Abortions could be performed on children 13 years of age or over only with their consent. In that connection, the increase in abortions was largely attributable to improvements in the diagnosis of foetal defects. In Poland, abortions could be carried out only where a foetal defect had been detected, the pregnancy was the result of rape or the health of the woman was at risk. While no steps had been taken to liberalize the abortion laws, a bill that would have completely banned abortions had been rejected by the Government.

35. **Ms. Sarzalska** (Poland) said that the use of baby boxes ("Window of Life") provided a last resort for mothers who were unable to care for their newborn child. It was a policy that secured the right to life and was operated by non-governmental organizations and the Catholic church. However, the use of baby boxes was negligible; only 85 children had been left in such facilities since 2006. Pregnant women could also consult with adoption centres before the birth of their child.

36. **Ms. Skorka** (Poland) said, regarding the education of children with disabilities, that a diagnosis had to be made and a certificate issued by a specialist to confirm the child's need for special education. Children with disabilities were free to attend any school, but the decision regarding the form of their education was made by their parents. Such children were provided with psychological and educational aid during classes whenever necessary, an individual and personal therapy programme was developed for each child, and consultations and workshops were held for both parents

and teachers to offer them psychological support too. There was a duty to employ teachers who were qualified to teach children with disabilities in integrated schools and schools with integrated units, and only pupils who were medically certified as suffering from autism or Asperger's syndrome could attend those special schools. Education subsidies had been introduced for the training of teachers of children with disabilities.

37. Municipalities were obliged to provide free transport for children with disabilities to their nearest school. Children with mental or motor-related disabilities were offered free transport to their secondary school, and children with severe mental disabilities were provided with free transport to support centres.

38. As to the disparity in education between children from rural and urban areas, the Government programme entitled "Development of education in rural areas in the years 2008-2013" had been implemented and much progress had been made in that regard. For example, scholarship programmes had been introduced for students from rural areas, extra funds had been made available for such pupils, and they were also given additional support in accessing information and communication technologies and cultural institutions. The Government programme also covered preschool education and enrolment in that level of education in rural areas had been steadily increasing since 2005.

39. In addition, efforts were being made to combat all types of violence at school, including violence based on sexual orientation. Non-discrimination had been included in the school curriculum, training courses had been organized to improve the skills of teachers in detecting and preventing such violence, and seminars had been held on combating hate speech on the Internet. Non-governmental organizations were also involved in such preventive efforts.

40. **Ms. Ayoubi Idrissi** said that she would appreciate a comment on how the Government approached the issue of refugees who had been married in a foreign country and wanted to register their marriage in Poland although they were under the minimum age of 18.

41. **Mr. Cardona Llorens** said that he was concerned that parents could decide against inclusive education for their child with disabilities based on considerations that were not in the best interests of the child, such as economic concerns. He also sought clarification as to whether parents had the power to sterilize daughters with mental disabilities.

42. **Ms. Korbasinska** (Poland) said that sterilization was banned in Poland under all circumstances and would result in prosecution if such a crime was found to have been committed.

43. **Mr. Laszkiewicz** (Poland) said that the marriage of minors was banned in Poland. Although the marriage of minors might be authorized under the law of certain countries, any attempts to register such a marriage in Poland would be refused. Poland considered any marriage concluded under force or the threat of force to be invalid.

44. **Ms. Sarzalska** (Poland) said that Poland was actively studying the possibility of ratifying the third Optional Protocol to the Convention on a communications procedure. In 2014, all Government ministries had begun to analyse the implications of implementing the Protocol. The ratification procedure would only begin in earnest once that process was concluded.

45. With regard to Government expenditure, an analysis of the State budget from the years 2009-2013 showed that the Government had managed to increase spending on social welfare despite the economic slowdown following the global economic crisis. The Ministry of Labour and Social Policy had taken measures to increase financial

support for families with children and to reduce the cost of childcare. Changes to the tax laws in 2013 reduced the tax liability of low-income parents and increased tax benefits for families with three or more children.

46. As for the monitoring of poverty, data on support for families with children was being collected by a number of ministries, including the Ministry of Labour and Social Policy and the Ministry of Agriculture and Rural Development. The Central Statistical Office regularly issued reports on the topic of children, and Government departments had access to such data and statistical inputs from other governmental sources, which they used when developing children's policy. A national programme to combat poverty and social exclusion (2014-2020) had been adopted and would, it was hoped, yield positive results.

47. **Mr. Gurán** (Country Task Force) said that he strongly encouraged the State party to ratify the third Optional Protocol as it would considerably improve children's lives within Poland.

48. **The Chairperson** said that he would appreciate a comment on whether children with HIV/AIDS were segregated from other children in preschools, and whether the State party intended to ratify the two United Nations conventions relating to statelessness.

49. **Ms. Sarzalska** (Poland) said that children with HIV/AIDS in kindergarten participated in the same classes as all other children.

50. **Mr. Laszkiewicz** (Poland) said that the Ministry of Interior and Administration had undertaken an analysis of domestic law to determine to what extent it was compatible with the provisions contained in the two conventions on statelessness. The Government was consulting with non-governmental organizations on the issue and the ratification procedure would begin once national legislation had been brought fully into line with the conventions.

*The meeting rose at 6 p.m.*