



**General Assembly**

Distr.  
GENERAL

A/HRC/8/30  
23 May 2008

Original: ENGLISH

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HUMAN RIGHTS COUNCIL  
Eighth session  
Agenda item 6

**UNIVERSAL PERIODIC REVIEW**

**Report of the Working Group on the Universal Periodic Review**

**Poland** \*

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\* Previously issued under the symbol A/HRC/WG.6/1/POL/4; minor revisions have been added under the authority of the secretariat of the Human Rights Council, on the basis of editorial changes made by States through the ad referendum procedure. Annex is circulated as received.

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## **Introduction**

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its first session from 7 to 18 April 2008. The review of Poland was held at the 12th meeting on 14 April 2008. The delegation of Poland was headed by H.E. Mr. Witold Waszczykowski, Under-Secretary of State at the Ministry of Foreign Affairs of Poland. For the composition of the delegation, composed of 27 members, see annex to the present report. At its 16th meeting held on 16 April 2008, the Working Group adopted the present report on Poland.
2. On 28 February 2008, the Human Rights Council selected the following group of Rapporteurs (troika) to facilitate the review of Poland: Brazil, Japan and Angola.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Poland:
  - (a) A national report submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/1/POL/1);
  - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/1/POL/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/1/POL/3).
4. A list of questions prepared in advance by Denmark, Finland, Italy, the Netherlands, Sweden and the United Kingdom of Great Britain and Northern Ireland, France and Japan was transmitted to Poland through the troika. These questions are available on the extranet of the UPR.

## **I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS**

### **A. Presentation by the State under review**

5. At the 12th meeting, on 14 April 2008, H.E. Mr. Witold Waszczykowski, Under-Secretary of State at the Ministry of Foreign Affairs of Poland introduced the national report. He indicated that the approach to human rights changed in Poland as a result of the democratic transformation instigated by the Solidarity movement after 1989. Within the internal context, this process of fundamental change led to the construction and consolidation of a rule of law State. Within the external context, this meant that the promotion and protection of human rights was recognized as one of the priorities of the Polish foreign policy. Poland attaches particular significance to reinforcing the rule of law, democracy and good governance as indispensable elements for the protection of the rights of individuals as well as conditions for sustainable development and security. Poland has also actively participated and supported the work of the Commission of Human Rights and the Human Rights Council. Poland is a member of the Convening Group of the Community of Democracies and stands ready to strengthen its involvement in the works of international human rights institutions. In this regard, the Polish Ministry of Foreign Affairs, in cooperation with OHCHR, organized an international conference in Warsaw in November 2006, focused on the role of anti-corruption activities in the context of human rights protection.
6. The Under-Secretary also stated that the national report presents major achievements and contains information on problems and challenges in specific areas, as well as on specific programmes and activities. He referred to information on the legal framework of the Ombudsman,

and noted that the Ombudsman fulfils the task of a national human rights institution, according to the Paris Principles, an issue raised in one of the advance questions. Regarding the involvement of civil society in the elaboration of the report, an issue also raised in one of the questions, he noted that the draft report was shared with a number of institutions, including the Ombudsman's Office, relevant Parliamentary Committees, as well as with NGOs; however, the period for submitting comments was short, which they acknowledged. This experience will allow Poland to improve communication and cooperation with NGOs in the future. He announced the initiative of the Ministry for Foreign Affairs to establish the Forum for Cooperation with Non-Governmental Organizations, which held its first meeting in March 2008.

7. He indicated that the Constitution of Poland, and the conventions and international treaties to which Poland is a party are implemented by the courts directly, without the need to introduce the principles contained therein into the national legislation. The issues relating to countering discrimination and ensuring equal treatment of all persons, irrespective of their sex, religion, beliefs, ethnic origin, nationality, race, age, disability or sexual orientation and other reasons, become more and more important in the changing international reality, determined by growing migration and interweaving of various cultures and customs. At present Poland is working on a draft act on equal treatment to complement the regulations already in force. The act is expected to be adopted by Parliament in November 2008. Poland has also been implementing measures of institutional and educational nature, as well as long-term plans and operational strategies aimed at countering discrimination, racism or social exclusion. He referred also to a programme to benefit the Roma minority, which is being implemented since 2004 in the areas of education, employment, improvement of living conditions and health care. The duties of public authority organs in the domain of supporting activities aimed at protecting, maintaining and developing cultural identity of minority groups are determined in the Act of 6 January 2005. These include transferring subsidies for financing cultural institutions, artistic movements and artistic activities of minority groups (this represents about two hundred cultural events a year). Attention is also paid to equal treatment of women and men. A number of initiatives have been undertaken to change stereotypical attitudes with regard to the role of women in the life of the society. The situation of persons with disabilities remains difficult. In order to ensure equal opportunities for persons with disabilities in the labour market, the Act on the vocational and social rehabilitation and employment of the persons with disabilities was amended in 2007. A range of programmes supporting education, vocational training and professional activities of persons with disabilities is being implemented.

8. Regarding discrimination based on sexual orientation, he indicated that provisions of the Polish Penal Code do not distinguish it as a separate offence. Prosecutors and courts treat crime victims in the same manner, regardless of whether they are homosexual or heterosexual. The national Training Centre for the Staff of Courts and Prosecutors's Offices conduct training designed to counteract discrimination. He indicated that the Government has also commissioned research which should allow the situation of particular groups exposed to discrimination to be diagnosed in a reliable manner and to address the situation of person in the lesbian, gay, bisexual and transgender (LGBT) group in a comprehensive way. Media campaigns, coach training, preparation of textbooks and elaboration of methods of teaching about diversity were also undertaken. A working group on discrimination based on sexual orientation, in collaboration with LGBT community organizations was also established. The group may submit its opinions and recommendations to the Minister of Labour and Social Policy. In order to raise awareness of various forms of discrimination and prejudice towards persons of other nationalities, race, ethnic origin, sexual orientation and towards

the elderly, and to sensitize the society to manifestations of discrimination towards these groups, he noted that the Ministry of Labour and Social Policy commissioned the production of a TV spot which was granted the main prize for the best audiovisual programme within the framework of the 2007 European Year of Equal Opportunities for All.

9. He also noted that the issue of domestic violence is subject of the Act on Domestic Violence adopted in 2005 and the National Action Plan of Countering Domestic Violence. He noted that since 1998, the police has been implementing a special procedure called “Blue Cards” which defines a set of measures to deal with complaints of domestic violence, including remedial responses and cooperation with non-police entities. Both the police and the prosecutors cooperate with crisis intervention centres and district centres for family assistance. Regarding activities for the benefit of women and families, he pointed out several issues related to health-care services, such as the access to family planning services and health-care services including prenatal testing.

10. Regarding the Polish prison system, he indicated that Poland has been facing a problem of overcrowding in prisons and lengthy pre-trial detention periods. A decision issued by the Council of Ministers in 2006 foresees the creation of 17,000 new places in the organizational units in the prison system. 4,142 places were obtained in 2006 and 4,402 in 2007. In 2008, a draft of a decision by the Council of Ministers aimed at establishing the “Programme of Modernizing the Prison Service in the period 2009-2011” was to undergo inter-ministerial consultations. Moreover, the application of alternative forms of punishment has been extended and electronically monitored probation has been implemented for selected custody-bound offenders. In addition to activities aimed at increasing the number of places in penitentiary institutions, certain measures have been taken to improve the condition of persons deprived of their liberty. Regarding the issue of lengthy pre-trial detention raised in one of the advance questions, he noted that this still remains a serious issue. The Code of Criminal Procedure determines the duration of pre-trial detention, the circumstances in which it can be applied, and leaves no room for discretionary decisions. The application of this measure is the exclusive competence of an independent court and is subject to control by higher-instance courts. The cases in which pre-trial detention has exceeded the duration of one year are subject to constant monitoring by the National Prosecutor’s Office as they arise.

11. On the current status of the lustration process and on how the Polish Government ensures that human rights of all individuals are protected in the process, an issue also raised in the advance questions, he noted that the activities of State organs are governed by the Act of 18 December 1998 on the Institute of National Remembrance and the disclosure of information about documents of State security organs from 1944 to 1990. He noted that the relevant acts regulating the process of lustration were subject to constitutional control by the Constitutional Tribunal, which invalidated some of the provisions and formulated postulates addressed to the legislature concerning others. The judgement of the Constitutional Tribunal led to a subsequent amendment of the Act by Parliament aimed at adapting the rule of lustration to the constitutional principles of the protection of civil rights. The right to court hearing and defence is implemented at every stage of the lustration process.

12. On the question on the procedure for the selection of judges and guarantees of their independence, he noted that the guarantees of the independence of judges are contained in the Constitution of Poland. Judges are appointed for life. A judge may not be detained or charged without the consent of a disciplinary court. Judges are appointed by the President of Poland, at the recommendation of the National Judicial Council. Following the recent refusal by the President to appoint a judge recommended by the Council, a competency dispute has developed which will be resolved by the Constitutional Tribunal at the motion of the First President of the Supreme Court.

13. With regard to the question of violence against children, Polish authorities undertake a number of long-term measures. In 2006, a nationwide social campaign under the name of “Childhood under Protection” was also launched to sensitize the public. As far as corporal punishment is concerned, the Polish legal system penalizes every form of physical or psychological violence against children, including violence inflicted by parents and legal guardians. Acts of such nature are prosecuted ex officio, as the police gathers information, assuming that an offence has been committed. No complaint by the victim is needed. The Family Code article 95.2, provides for the institution of “reprimanding a minor” as a form of carrying out a parental authority. The provision however, cannot be considered as an endorsement of corporal punishment, since the provision has to be construed jointly with the definition of parental authority specified in the Code as actions exclusively for the good of the child. The acts of reprimanding a minor may only be inflicted in cases where the lack of such actions might endanger the health or security of a child and the situation requires an urgent response.

14. On the question of the International Convention for the Protection of All Persons from Enforced Disappearance, Poland is a party of a number of conventions which cover the issue of enforced disappearances. The Polish law provides adequate punishments for the crimes defined in this Convention and guarantees proper standards in preventing such crimes. Poland is ready to consider establishing the relevant procedure, with a view to signing the Convention, although there is no actual need for it in Poland.

#### **B. Interactive dialogue and responses by the State under review**

15. During the ensuing interactive dialogue, 26 delegations made statements praising Poland for both the quality of its presentation and the national report.

16. Angola noted with interest the efforts made by Poland to promote human rights in all areas of Polish society. It also noted that the Polish national report addressed the issue of racial discrimination and appreciated the efforts made in this area, notably by creating a monitoring mechanism aimed at ensuring respect of equality of treatment for all ethnic groups. In that respect, Angola asked what further measures Poland could take to reinforce its fight against discrimination. Referring to the protection of children, Angola requested further information on legislative and administrative measures taken to tackle violence against children. Angola expressed the opinion that Poland should endorse the recommendations made by the Committee on the Rights of the Child and the Human Rights Committee on the adoption of legislative measures to ensure compliance of national legislation with the principles and provisions of the Convention on the Rights of the Child.

17. Ukraine commended on the broad cooperation between Poland and NGOs in the field of human rights. It welcomed the activities undertaken aimed at nurturing in Polish society a broadly perceived culture of tolerance, enhancing public awareness concerning the need to counter discrimination for racial, national or ethnic reason, and changing public attitude towards violence. Ukraine emphasized the importance of such an approach as a prerequisite for the elimination and prevention of these negative phenomena. Ukraine emphasized that the establishment of the posts of human rights advisers in the police force is a remarkable achievement of Poland. With regard to this innovation, Ukraine asked Poland to elaborate further on the efficiency of this mechanism and its impact on the protection of human rights in the context of police activity.

18. Turkey acknowledged the considerable efforts exerted by the Polish authorities against racism, xenophobia, racial discrimination and intolerance. It noted the introduction of a national programme and the establishment of the Monitoring Team within the Ministry of Interior and Administration as well as training activities for government officials to counter discrimination. Turkey also noted the implementation of the long-term Government “programme for the Roma

community in Poland” aimed at contributing to wider participation of Roma in civil society since 2004. Turkey noted the adoption of an action plan to address shortcomings in different areas, the National Programme against Domestic Violence and the inclusion of human rights in primary and secondary school curricula as clear indications about the determination of Poland to reach international norms and standards. Turkey believed that some bold steps have already been taken to implement the legal framework in an effective manner and encouraged Poland to continue with determination to overcome these challenges. Turkey asked Poland to provide further information about the state of affairs regarding the process of ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty.

19. Consistent with its long-standing strong support to national human rights institutions, Australia enquired on approach and support provided by the Government of Poland to national human rights institutions. In particular, Australia enquired about the role the national human rights institution has played in the promotion and protection of human rights in the country.

20. France acknowledged the commitment of Poland to the promotion and protection of human rights notably by its effective preparation for the UPR. In this context, France raised the issue of the incidence of physical and psychological violence as well as discrimination showed against certain individuals because of their sexual preference. According to France, it seems that the number of incidences is quite high and they are rarely dealt with through complaints by the police. Above and beyond the measures already mentioned in the national report and the introductory statement, France enquired on steps already taken by Poland or which it plans to take to protect people from violation of their human rights on the basis of their sexual preference. Also, with respect to the International Convention for the Protection of All Persons from Enforced Disappearance, France recommended to Poland that it should set a date for its ratification.

21. Brazil welcomed the quality of Poland’s national report which reflects achievements as well as challenges concerning the human rights situation in the country. Brazil recognized the efforts undertaken by Poland to eliminate discrimination in the labour market, particularly by preparing a draft law on equal treatment among different social groups to ban discrimination for reasons of sex, race, ethnic origin, nationality, religion, political views, disability, age, sexual orientation, marital status or family situation. Brazil also stressed advancements concerning the adoption of policies to counter racism and xenophobia, specially the implementation of the National Programme against Racial Discrimination, Xenophobia and Related Intolerance, which demonstrates its commitment to its international obligations. In that spirit, Brazil wished to address two specific questions to Poland. In spite of the fact that there have been important achievements related to the enhancement and the efficiency of the judiciary, Poland recognizes the problem of prison overcrowding. In this context Brazil asked how Poland assesses the system of electronic surveillance, which might be a useful instrument in the reduction of prisons overcrowding. Also, considering that Poland has taken important measures to promote and protect the rights of discriminated groups, Brazil enquired about concrete steps which have been taken by Poland to combat discrimination based on sexual orientation in the country.

22. The United Kingdom of Great Britain and Northern Ireland noted that the Polish Constitution enshrined respect for minorities and that, as indicated in the national report, awareness of minority rights appears to be increasing rapidly. It also noted that the Government demonstrated an impressive interest in – and commitment to – improving the rights of people belonging to minorities. However, the United Kingdom noted that this has fallen short of the introduction of reforms and effective legislation, a process severely hampered by the current bureaucracy. The United Kingdom thus recommended that Poland consider forming twinning relationships or

partnerships with countries that have been through a process of legal reforms on minority issues to work closely with them on the legal, technical and institutional challenges involved in introducing change. The United Kingdom noted that Poland has broadly homogenous society, in terms of its ethnic and religious breakdown. The United Kingdom sought information on whether the Government promotes awareness and discussion among the general population of diversity issues and the need to avoid discrimination in all its forms. It asked if the delegation could inform them of how and by when the Polish Government will introduce equality legislation in order to widen participation and progression in the labour market, including for women and disabled people. It also asked further details on how the equal treatment law will apply to discrimination on the grounds of sexual orientation and how this will be implemented. In that respect, the United Kingdom recommended that Poland take further steps to outlaw discrimination in all forms, including on the grounds of sexual orientation.

23. Azerbaijan noted the monumental changes undertaken by Poland after the end of the communist era and the difficulties it still encounters. Azerbaijan indicated its genuine interest and even admiration of the achievements that Poland gained in many fields, including in the promotion and protection of human rights. Azerbaijan noted a number of steps undertaken and welcomed the establishment of the posts of human rights advisers in the police system with a view to monitoring police activity and operations. Azerbaijan also welcomed with interest the Polish efforts aimed at combating trafficking in human beings and assisting the victims. Azerbaijan also praised the activity implemented to ensure rights of mental patients and the fact that human rights have been included into the curriculum of primary and secondary schools in Poland. Azerbaijan also indicated that it believes that Poland will overcome all problems with regard to unemployment and reduction of poverty. It also noted with satisfaction that in the last years Poland witnessed improvement in the labour market. In this regard Azerbaijan commended the Government on plans and programmes, the National Strategy of Employment Growth and the National Employment Action Plan for 2008 in particular. Azerbaijan noted that due to its geographical location, Poland is used as a transit country for illegal migration and trafficking in human beings. It put forward a question on the difficulties Poland is facing in this field and the measures taken by the authorities to address them. With respect to the Human Capital Operational Programme, Azerbaijan asked the delegation to elaborate on this document and lastly, Azerbaijan asked the delegation to elaborate on the social assistance provided by the Government to the poor families.

24. The Republic of Korea noted with encouragement the efforts made by Poland to adopt the Action Plan which implements the decision of the European Court of Human Rights and to further strengthen the promotion and protection of human rights and fundamental freedoms. The Republic of Korea noted with appreciation the efforts to expand access to courts in order to ensure essential protection and pay close attention to the issue of delays in courts and administrative bodies. It also noted the actions taken to eliminate the discrimination in employment practices based on the National Strategy for the Growth of Employment and Development of Human Resources and the various approaches used to meet this aim. In that respect, the Republic of Korea enquired about specific measures taken to eliminate entry barriers for women in employment, to increase hiring of persons with disabilities and to educate elderly workers. The Republic of Korea noted with appreciation the continued efforts of Poland in dealing with the problems of prison overcrowding and delays in court proceedings. In line with this, the Committee against Torture expressed concern in May 2007 about the period of pre-trial detention. The Republic of Korea however noted the various policy measures to address these concerns and challenges, as noted in the presentation of the Under-Secretary of State at the Ministry for Foreign Affairs of Poland, and encouraged the Government to continue its efforts in that regard.

25. Japan welcomed the very extensive presentation and the detailed explanations given in the national report, both of which clearly identify constructive steps taken by the Polish Government, particularly in the last decade, in a wide range of areas such as the eradication of racial discrimination, judiciary reforms, the fight against domestic violence and human rights education. Concerns, however, seem to remain, as the other reports indicate, about prison overcrowding, persisting racial discrimination cases purported to target Asian and African children in educational institutions, delays in court proceedings and resulting prolonged detention. On the other hand, immense efforts which the Polish Government has been making to upgrade human rights education appear remarkable. Japan asked Poland to elaborate on these developments and challenges and believes that it will continue to tackle those issues squarely.

26. Pakistan noted the comprehensive approach adopted for the preparation of the national report and details of constitutional mechanisms provided for promotion and protection of human rights. Pakistan highlighted some of the important indicators expressing Polish commitments, which include: the system of civil rights ombudsman, which provides an important functional element in the judicial system with lesser bureaucratic hurdles; acceptability of individual complaints mechanism under United Nations and European systems; active cooperation with an involvement of civil society in its planning and execution phases; updating of legislation and policies and the introduction of a number of action plans to address specific issues of concern in the field of human rights; and the extensive human rights training and education plan, which not only involve Government officials but also address the issue at grass-roots level by including it in the curricula of primary and secondary schools. Pakistan sought further information on efforts to deal with some of the outstanding concerns of treaty bodies, which relate to continuing discrimination against women and gender equality, curbing the scourges of xenophobia, racism and racial discrimination, and in particular actions taken in line with article 4 of ICERD to prohibit hate speech as well as the treatment of some of the ethnic and migrant minorities.

27. Slovenia commended the hard work and impressive developments in the country in all areas. While noting the significant progress achieved, Slovenia asked the following questions and recommended further efforts and sustained measures: What has the State done so far to ensure a gender perspective in the UPR in its consultations and national report? What steps and concrete actions are envisaged to ensure that gender perspective is fully integrated in the next stages of review, including the outcome of the review? Slovenia recommended to systematically and continuously integrate a gender perspective in the follow-up process to the review. With respect to the draft law on equal treatment, Slovenia noted that it does not include gender orientation grounds. Slovenia therefore recommended to Poland to adopt an anti-discrimination law that would ensure equal treatment and non-discrimination on any grounds, including sexual orientation and gender identity. Slovenia also urged Poland to implement the recommendations issued by the Human Rights Committee and the CAT to put in place legislative measures to sanction manifestations of repeated hate speech and intolerance. Slovenia also enquired about the status of the legislative proposal aimed at “punishing anyone who promotes homosexuality or any other deviance of a sexual nature in education establishment”. If it has not yet been withdrawn, Slovenia recommended to do so. Slovenia also recommended reinstating the Office of the Government Plenipotentiary for the Equality of Men and Women or a similar governmental structure to serve as an effective mechanism at the highest possible political level for the promotion of gender equality and to coordinate the integration of gender perspective across all sectors. Slovenia also noted that Poland came 56<sup>th</sup> in the 2007 Reporters Without Borders worldwide press freedom index, mainly due to its refusal to amend laws about press offences. Noting that since freedom of expression is one of the most important principles of democracy, Slovenia enquired about the concrete steps undertaken by the Government of Poland to harmonize this part of its legislation with international norms. Slovenia also recommended to Poland that laws on press offences be liberalized.

28. Canada noted that in 2004, the Human Rights Committee recommended that discrimination based on sexual orientation be specifically prohibited in Polish law and appropriate training be provided to law enforcement and judicial officials in order to sensitize them to the rights of sexual minorities. Canada commended the Government on the measures already taken and outlined in the presentation, in particular the draft act on equal treatment, the system of human rights advisers, and related research and training, and recommended that steps continue to be taken to follow up on these recommendations. It noted that the Special Representative of the Secretary-General on the situation of human rights defenders has expressed concern about the reported harassment of groups campaigning for equality and against discrimination based on perceived sexual orientation. Canada thus recommended that Poland ensure that human rights defenders are allowed to carry out their work in a secure environment, and that the rights to freedom of expression and association are respected. On the issue of domestic violence, Canada indicated that CEDAW expressed concerns about the remaining gaps in the 2005 Law on Combating Domestic Violence. CEDAW and the Human Rights Committee recommended that law enforcement officers be properly trained and that appropriate measures be taken to address domestic violence. In 2007, CEDAW further recommended that Poland conduct awareness-raising campaigns to combat violence against women and undertake research on the root causes of such violence. Canada noted with interest that Poland's national report indicates steps to combat violence against women, inter alia, the inauguration of the National Programme against Domestic Violence in 2006 and public campaigns to raise awareness of this issue. Canada commended the Government on the measures already taken, and recommended that steps continue to be taken to follow up on these recommendations.

29. Malaysia commended Poland for undertaking various policy measures in several areas of human rights in the country. These measures mirror the high commitment of the Government in improving the promotion and protection of human rights of its population. Malaysia noted the numerous programmes which reflect a multifaceted approach taken in fighting against domestic violence. Such programmes can be a good example of best practices that could be shared with other countries. In this spirit Malaysia expressed its willingness to learn about the successes and challenges encountered so far in the implementation of the National Programme against Domestic Violence.

30. The Russian Federation, having studied all the background information, recommended that a national programme to combat overcrowding in prisons be developed in order to bring Polish places of detention into line with international standards. The Russian Federation also recommended that Poland publish the results of the study carried out by the Government in order to detect on Polish territory any secret detention centres for foreign citizens accused of terrorist activities. The Russian Federation also recommended that Poland ensure that adequate measures provided for in the law on lustration comply with Polish obligations under fundamental international human rights instruments.

31. Cuba noted that the Polish national report sets forth a description of the human rights situation in the country, reflects the difficulties and progresses faced by Poland and explains various programmes and measures implemented to tackle the problems faced by the Government. Cuba noted that Poland is a party to ICERD and that it did not make any reservation against article 4 of the Convention. In this context, Cuba asked what measures Poland has taken in order to comply with its obligations under ICERD and in particular with article 4 which prohibits all organizations' activities which promote or incite racial hatred or racial discrimination. Cuba also asked what measures have been taken by Poland to promote the participation of women in the public and political life of the country. In reference to the Council of Europe's report on the alleged use of the Polish territory by the CIA for secret flights for extraordinary renditions of terrorist suspects, Cuba

noted that Poland has not yet replied to the two communications sent by the European Commission requesting clarification on these allegations. In this context, Cuba asked Poland to elaborate on these allegations and asked whether it has undertaken any investigation on the possible participation of the Polish authorities in the programme of extraordinary renditions and secret detention centres. Cuba suggested, as a recommendation, that Poland continue to promote the participation of women in the public and political life of the country until they have gradually achieved a level of gender equality.

32. Following the discussion, the delegation of Poland responded to most of the questions raised during the interactive dialogue. On the issue of secret detentions and prisons, the delegation recalled that all the reports on the subject were not substantiated and were of purely speculative character. However given the seriousness of these allegations, the competent authorities acted immediately in order to investigate the matter. The outcome of these inquiries were presented in an official statement released on 10 November 2005, in which it was unequivocally stated that the Polish Government strongly denies the speculations occasionally appearing in the media as to the existence of secret prisons on the territory of Poland supposedly used for the detention of foreigners suspected of terrorism. The Polish Parliament reiterated the same position in 2006 in a letter to the Council of Europe whereby it was re-stated that these allegations were groundless in respect to Poland. On the question raised by Australia on the Office of the Ombudsman, the delegation indicated that it was noted as a national human rights institution in accordance with the Paris Principles. With respect to the question put by Turkey, the delegation of Poland indicated that in February 2008 the Ministry of Justice launched the ratification of the ICCPR-OP2 and stressed that inter-ministerial consultations were currently under way.

33. On the draft act on equal treatment, the delegation indicated that it will complement the regulations already in force and will comprehensively regulate issues of equal treatment of persons, without regard to sex, race, ethnic origin, nationality, religion, political views, disability, age or sexual orientation and marital or family status. On the action taken in favour of groups discriminated on the basis of sexual orientation, a part of the research commissioned in 2007, as mentioned in the presentation, Poland used budget funds and EU funds to finance activities informing about diversity and collaborated with groups representing rights of sexual minorities, such as “Campaign Against Homophobia” and “Lambda”. A working group on discrimination based on sexual orientation was also established which can submit opinions and recommendations to the Minister of Labour and Social Policy.

34. On the issue of violence against children, the delegation of Poland indicated that in 2005 a law was enacted to fight against violence within family, which also contains provisions addressed to the offenders in order to prevent similar acts of violence from occurring in the future. For the effective implementation and enforcement of the law, it was indicated that in 2006 the National Programme for Fighting against Domestic Violence was adopted, which is assessed annually. Institutional measures have been taken to provide assistance to victims of violence; in particular, 33 specialized centres were created to provide legal, medical, psychological and social assistance, with the aim to prepare victims to resume their normal life. In addition, Poland has also crisis centres, shelters and orientation services and homes for mothers and children at the local level. The delegation also indicated that a follow-up programme for children from birth to the age of 18 is being prepared, the aim of which will be to detect as early as possible any deficiencies in children’s upbringing and education, including cases of violence, in order to prevent an exacerbation of the situation.

35. On the question of poverty, the delegation indicated that despite all efforts poverty remains an ongoing problem and that a national strategy was set up in 2004 as well as a number activities for

target groups, families and unemployed in particular. The delegation also indicated that actions to improve the situation of vulnerable groups in the labour market have been undertaken, in particular by adopting special measures to achieve their sustainable social inclusion. Innovative measures stipulated by the law on social cooperatives and the law on social employment are geared to long-term unemployed people and those who have trouble to be integrated socially. The delegation noted that an assistance programme for rural areas has been also put in place, co-financed by the World Bank, and that social integration measures targeting children, families and senior citizens are part of the programme.

36. On the question addressed by Azerbaijan on the Human Capital Operational Programme, the delegation indicated that this is part of the European Social Fund to support countries in developing human social conditions. In 2008-2013, among others activities, two national projects aimed at gender equality in the labour market were adopted: one is about reconciliation of professional and private life and the other is about the vocational activation of women at the local and regional level. On the question put by Slovenia on monitoring the gender equality system in Poland, the delegation indicated and referred to the national monitoring programme, which is described in the leaflet distributed to the delegations.

37. On the issue of criminal responsibility of minors, the delegation indicated that this concept does not exist in the Polish legal system. It indicated that the Polish law only uses educational or reformatory measures with respect to juveniles who seem to be demoralized or to have committed punishable offences. Educational and correctional measures aim at helping parents and avoiding the minor to be demoralized. On the question by Brazil concerning the electronic surveillance system, the delegation informed that the law which creates the possibility of short-term sentences being served outside prisons with the convict subject to electronic surveillance was adopted in 2007 and will come into force on 1 July 2008.

38. Denmark noted that the national report indicates that Poland is striving to enhance the efficiency of the judiciary focusing on the main challenges which include elimination of undue court delays and prison overcrowding. In that regard, Denmark put forward a question on whether measures are being undertaken to reduce the application of pre-trial detentions. Denmark also noted that the human rights bodies such as CAT (2007) as well as a number of human rights organizations have highlighted significant problems as regards overcrowding of prisons in Poland. In this respect, while welcoming the various measures taken to tackle this issue by 2009, Denmark urged the Government of Poland to give priority to implementation of outstanding necessary improvements of prison conditions.

39. Sweden noted the comprehensive statement made by the head of the Polish delegation and asked two follow-up questions and recommended further efforts in the following areas: civil society organizations have reported continued discrimination against homosexual, lesbian, bisexual, transgender and transsexual persons in Poland, as well as shortcomings on the part of the State in dealing with such offences. Sweden referred to the national report's mention of anti-discrimination legislation the Government is preparing to present to Parliament, including with regard to sexual orientation, as well as to training programmes for judicial staff. Sweden asked whether Poland could elaborate on these and other measures it is taking to ensure full equality before the law of individuals regardless of sexual orientation. As regards the issue of corporal punishment of children, Sweden noted that there is no unequivocal legal prohibition of corporal punishment of

children in Poland. While noting the measures taken by Poland to address the continuing occurrence of violence against children, Sweden asked what measures it is taking to ensure the sufficient legal protection of the freedom of children from physical or mental violence.

40. Cameroon noted with great interests the measures taken and provisions made by Poland with a view to diligently implement the judgements of the European Court of Human Rights which demonstrates the effectiveness of these rights for all people living in Poland. Cameroon joined the recommendations made by a number of treaty bodies, and encouraged Poland to intensify its efforts to fight against all forms of discrimination and to promote and protect dignity and equality which are the guiding principles of concrete and effective implementation of human rights.

41. Mexico acknowledged the efforts made by Poland in the area of human rights, specifically to fight racism and discrimination, to improve conditions of detention, to provide assistance to victims of crimes such as trafficking of persons, to improve human rights in a number of different public offices and its programmes to combat domestic violence and unemployment. Mexico welcomed the Polish open invitation to all special procedure mandate holders. In view of these achievements, Mexico invited Poland, to the extent possible, to ensure that practical policies in the area of immigration be geared to the standards set forth by the principles enshrined in the ICRMW, and recommended that Poland ratify the Convention. While noting Polish efforts to strengthen the judiciary, Mexico encouraged Poland to make legal amendments that will make it possible to effectively prosecute offences related to torture and other cruel, inhuman or degrading treatment. Mexico further encouraged Poland to continue its efforts to ensure compliance of its domestic legislation with the CRC, specifically with regard to juvenile justice. Mexico also invited Poland to consider the ratification of CPD and signing the Optional Protocol thereto.

42. China welcomed efforts to improve the judiciary and to strengthen national human rights mechanisms. China noted with appreciation the constructive cooperation with various treaty bodies and the implementation of the suggestions on torture and equity between men and women. China encouraged Poland to continue to make efforts in promoting and protecting human rights. China had taken note of the fact that some organizations think that there still is discrimination against Jews and people of Asian and African origin, and asked whether Poland has taken any specific measures to improve the situation.

43. Algeria referred to paragraph 2 of the summary prepared by OHCHR, which states that there continue to be racially motivated acts of discrimination against people of African and Asian origin and Roma. Algeria noted the concern of the European Commission against Racism and Intolerance that authorities rarely investigate and prosecute cases of racial hatred and racially motivated crimes. Algeria recommended that Poland fulfil the recommendation, elaborated on in paragraph 2 of the OHCHR summary, made by the Council of Europe Commissioner for Human Rights, who in 2007 called upon Poland to enact a comprehensive body of anti-discrimination legislation and to set up a body to combat discrimination. Algeria further recommended that Poland give adequate training and instruction to law enforcing bodies and to the judiciary on how to address complaints stemming from racially motivated crimes. Algeria referred to paragraph 17 of the compilation report and the concern expressed by CAT about the overcrowding in prisons and noted that pre-trial detention can last up to two years and that there is an absence of legislation for setting a time limit to it. Algeria further referred to the concern about the conditions of detention in transit zones and the lack of specific laws for the detention of aliens. In this regard, Algeria called upon Poland to alleviate the overcrowding of detention centres and to review the conditions of detention centres so that they conform with minimum international standards. Algeria also recommended that limits be set for pre-trial detention according to minimum international standards.

44. Austria highlighted that the establishment of “Human Rights Advisers” to the police is a particular interesting and exemplary measure and requested Poland to elaborate more on this, on the nature of these posts, by whom they are filled and who appoints them. Austria recommended that Poland continue this practice in the future and share experiences on this measure with other interested States. Austria further noted that in the Concluding Observations made by CEDAW last year, the Committee voiced concern at the promotion of gender equality in Poland, in particular at the abolition of the Government Plenipotentiary for Equal Gender Status in 2007. In this regard, Austria asked Poland to elaborate on the reasoning behind this abolishment and what measures the Government has taken to promote gender equality in all spheres of life and not only in the labour market. As a recommendation, Austria encouraged Poland to use a comprehensive approach in the promotion of gender equality, in particular by adopting a comprehensive law on gender equality as recommended by CEDAW.

45. Norway noted that under Polish law access to therapeutic abortion is granted on certain conditions, including when a women’s health or life is at risk. On this matter, Norway requested further elaboration on what is done to facilitate access to abortion for women who qualify for this under Polish law. Norway also noted that a draft law on equal treatment on various grounds, including sexual orientation, has been prepared by Poland but that its adoption has been delayed. Norway requested Poland to indicate when the equality legislation was expected to be adopted, however, since this question had already been addressed by the Polish delegation in its initial statement, Norway refrained from asking.

46. Israel referred to the Office of the Civil Rights Ombudsman described in the Polish national report and particularly to its capacity to hearing complaints from anyone within Poland regarding allegations of human rights violations by public authorities. Israel noted with interest that there was no specified application procedure, which undoubtedly makes the office of the Ombudsman available to a much larger segment of the population. Israel asked Poland to elaborate on how this informal complaint procedure functions.

47. Slovakia noted with appreciation that the resolution on good governance introduced amongst others by Poland and adopted at the seventh session of the HRC focused on the issue of the fight against corruption in the context of human rights. Slovakia asked Poland to elaborate on the issue of how human rights and good governance principles can help fighting corruption. It further asked whether Poland could share with other States some of its own experiences in this regard.

48. Following the discussion, the delegation of Poland responded to most of the questions raised during the interactive dialogue. Regarding Poland’s actions to combat racism and xenophobia, it was indicated that this is not a very widespread phenomenon, but that it is important from the point of view of Polish society. It indicated that Poland has introduced training for public officials, such as the police, prosecutors and judges, and also cooperates closely with civil society, including Jewish organizations, so as to better monitor and identify cases of racism and xenophobia. Within the Ministry of Interior and Administration, there is a team tasked with collecting information on situations of discrimination both from non-governmental organizations and from individual persons. Poland has initiated a programme to combat hate-based crimes and it has already undertaken certain measures. In cooperation with NGOs, it has elaborated standards to provide advice to victims of racism and other ethnically motivated crimes.

49. On the question raised by Israel concerning the Ombudsman, Poland indicated that everybody in Poland can submit complaints to the Office of the Ombudsman. The Ombudsman can for example make written recommendations to relevant organizations, and join or initiate any kind of judicial proceedings before the Polish Courts. The Ombudsman can also initiate and lodge a constitutional complaint before the Constitutional Tribunal.

50. Regarding the question raised on the work of the Human Rights Advisers, Poland indicated that there is currently one Human Rights Adviser to the Chief Commander of the Police and 17 others to the regional commanders. These are experienced police officers appointed through competitive processes by the respective chiefs of the police, to whom they report directly. Their general task is to monitor whether human rights are respected by the police in their activities. They also deal with complaints and propose solutions to strengthen the respect of human rights by law enforcement officials and are also responsible for human rights education and training, which they do in cooperation with NGOs. Priorities for the Human Rights Advisers for 2008-2009 include actions for the implementation by the police of the recommendations of CAT and the Council of Europe High Commissioner for Human Rights, as well as training of police officers on discrimination issues, in cooperation with the OSCE Office of Democratic Institutions and Human Rights (ODIHR) and the Helsinki Foundation for Human Rights.

51. On the question on abortion raised by Norway, Poland indicated that prenatal testing in Poland is increasing, providing recent data to illustrate genetic ascertainment. Poland indicated that the cost of the prenatal testing carried out in specialized medical centres is covered by the national health system. In the event of detection of a severe incurable defect or disease, the parents have the right under the law to decide to carry out an abortion. The detection of a foetal defect can also have a significant impact on the management of the pregnancy and birth, and in many cases creates a chance of saving the baby through the planning and performance of intrauterine treatment or surgery immediately after birth. It also indicated that a doctor in Poland may refuse to perform an abortion that meets the requirements of the 1993 law on family planning by invoking the conscientious clause. However, health-care facilities that do not perform abortions due to the above-mentioned reasons are obliged to have an agreement with a subcontractor who is willing to perform the abortion. Recently, and as a result of a case against Poland, new provisions have been introduced that permit an appeal when a doctor refuses to conduct an abortion in circumstances permitted by Polish law.

52. In response to Slovakia, on the connection between good governance, human rights and the fight against corruption, Poland replied that corruption is a serious obstacle to ensuring an environment conducive to the full enjoyment of human rights. It needs to be tackled both at the national and international level. It is crucial to engage different actors and build alliances between them and to define anti-corruption policies. The administrative and political spheres need to be separated in order to maintain integrity and ensure accountability. From Poland's own experience, it becomes clear that one of the first steps in the fight against corruption should include judicial reform and providing clear rules of evidence that allow for prosecution. Effective sanctions should be developed. On the other hand, Poland sees the importance of preventive measures, such as legal education, and the importance of creating a coherent and stable legal system. In other words, justice should be accessible, swift and efficient. The judicial system should be subject to public scrutiny. In this case, Poland indicated that it values the potential role of the national institution in this process.

53. In his closing remarks, H.E. Mr. Witold Waszczykowski, Under-Secretary of State at the Ministry of Foreign Affairs of Poland, highlighted that as a country with a long history of struggle for independence and human rights, all transformations which occurred in Poland after the peaceful revolution of 1989 were based on the belief that it is impossible to build a free and democratic country without fully respecting human rights. Poland also thanked the troika - Angola, Brazil and Japan - for their work, as well as countries which entered into dialogue with them for their constructive and valuable assessments, questions and comments. Poland noted that it is convinced that the review will allow it to continue efforts aimed at strengthening the democratic law-governed State in Poland, for the benefit of all its citizens.

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

54. In the course of the discussion, the following recommendations were made to Poland:
1. Recommended to Poland to endorse the recommendations made by the Committee on the Rights of the Child and the Human Rights Committee on the adoption of legislative measures to ensure compliance of national legislation with the principles and provisions of the Convention on the Rights of the Child (Angola);
  2. While noting the measures taken by Poland to address the continuing occurrence of violence against children, recommended that measures be taken by the Government to ensure the sufficient legal protection of the freedom of children from physical or mental violence (Sweden);
  3. Encouraged Poland to continue its efforts to ensure compliance of its domestic legislation with the Convention on the Rights of the Child, specifically with regard to juvenile justice (Mexico);
  4. Recommended that Poland set a date for the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (France);
  5. Recommended to Poland to consider forming twinning relationships or partnerships with countries that have been through a process of legal reforms on minority issues to work closely with them on the legal, technical and institutional challenges involved in introducing change (United Kingdom);
  6. Recommended to Poland to adopt an anti-discrimination law that would ensure equal treatment and non-discrimination on any grounds, including sexual orientation and gender identity (Slovenia, United Kingdom and Sweden);
  7. Encouraged Poland to continue its efforts to address the issues of overcrowding of prisons and delays in court proceedings (Republic of Korea);
  8. Urged Poland to give priority to the implementation of outstanding necessary improvements of prisons conditions (Denmark);
  9. Having studied all the background information, recommended that a national programme to combat overcrowding in prisons be developed in order to bring Polish places of detention into line with international standards (Russian Federation);
  10. Called upon Poland to alleviate the overcrowding of detention centres and to review the conditions of detention centres so that they are in conformity with minimum international standards. Also, recommended that limits be set for pre-trial detention, according to minimum international standards (Algeria);
  11. Recommended to systematically and continuously integrate a gender perspective in the follow-up process to the review (Slovenia);
  12. Urged Poland to implement the recommendations made by the Human Rights Committee and the Committee against Torture to put in place legislative measures to sanction manifestations of repeated hate speech and intolerance (Slovenia);

13. **While enquiring about the status of the legislative proposal aimed at “punishing anyone who promotes homosexuality or any other deviance of a sexual nature in education establishment”, recommended to withdraw it if it has not yet been done (Slovenia);**
14. **Recommended reinstating the Office of the Government Plenipotentiary for the Equality of Men and Women or a similar governmental structure to serve as an effective mechanism at the highest possible political level for the promotion of gender equality and to coordinate the integration of gender perspective across all sectors (Slovenia);**
15. **Recommended to Poland that laws on press offences be liberalized (Slovenia);**
16. **While commending the Government on the measures already taken, in particular the draft act on equal treatment, the system of human rights advisers, and related research and training, recommended that steps continue to be taken by Poland to follow up on the recommendations of the Human Rights Committee (Canada);**
17. **Recommended to Poland to ensure that human rights defenders, in particular groups campaigning for equality and against discrimination based on perceived sexual orientation, are allowed to carry out their work in a secure environment, and that the rights to freedom of expression and association are respected (Canada);**
18. **While commending the Government for the measures already taken in combating violence against women, recommended that steps continue to be taken to follow up on the recommendations of the Human Rights Committee and CEDAW (Canada);**
19. **Encouraged Poland to use a comprehensive approach to the promotion of gender equality, in particular by adopting a comprehensive law on gender equality as recommended by the CEDAW (Austria);**
20. **Recommended that Poland publish the results of the study carried out by the Government in order to detect on Polish territory any secret detention centres for foreign citizens accused of terrorist activities (Russian Federation);**
21. **Recommended that Poland ensure that adequate measures provided for in the law on lustration comply with Polish obligations under fundamental international human rights instruments (Russian Federation);**
22. **Recommended to Poland to continue to promote the participation of women in the public and political life of the country until they have gradually achieved a level of gender equality (Cuba);**
23. **Encouraged Poland to intensify its efforts to fight against all forms of discrimination, be it racial, national or social, and to promote and protect dignity and equality which are the guiding principles of concrete and effective implementation of human rights (Cameroon);**
24. **Invited Poland, to the extent possible, to ensure that practical policies in the area of immigration be geared to the standards set forth by the principles enshrined in the International Convention on the Protection of the Rights of All Migrant**

**Workers and Members of Their Families (ICRMW) and recommended Poland to ratify the Convention (Mexico);**

- 25. While noting the efforts to strengthen the judiciary, encouraged Poland to make legal amendments that will make it possible to effectively prosecute offences related to torture and other cruel, inhuman or degrading treatments (Mexico);**
  - 26. Invited Poland to consider the ratification of the Convention on the Rights of Persons with Disabilities as well as its Optional Protocol (Mexico);**
  - 27. Recommended that Poland fulfil the recommendation, elaborated on in paragraph 2 of the OHCHR summary, made by the Council of Europe Commissioner for Human Rights, who in 2007 called upon Poland to enact a comprehensive body of anti-discrimination legislation and to set up a body to combat discrimination (Algeria);**
  - 28. Recommended that Poland give adequate training and instruction to law enforcing bodies and to the judiciary on how to address complaints stemming from racially motivated crimes (Algeria);**
  - 29. Recommended that Poland continue to use “Human Rights Advisers” to the police in the future and share experiences on this measure with other interested States (Austria).**
- 55. The response of Poland to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighth session.**
- 56. All conclusions and/or recommendations contained in this report reflect the position of the submitting state(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.**

## **Annex**

### **Composition of the delegation**

The delegation of Poland was headed by H.E. Mr. Witold WASZCZYKOWSKI, Under-Secretary of State at the Ministry of Foreign Affairs, and composed of 27 members:

H.E. Mr. Zdzislaw RAPACKI, Ambassador, Permanent Representative of the Republic of Poland to the United Nations Office at Geneva;

Mr. Zbigniew ROMASZEWSKI, Vice Speaker of the Senate of the Republic of Poland, Honorary Head of Delegation;

Ms. Danuta GLOWACKA-MAZUR, Director of the Department of Control, Complaints and Petitions at the Ministry of Interior and Administration;

Mr. Miroslaw LUCZKA, Deputy Director of the Department of the United Nations System and Global Issues, Ministry of Foreign Affairs;

Mr. Wojciech KLOSINSKI, Deputy Director of the Public Health Department at the Ministry of Health;

Mr. Andrzej MISZTAL, Minister-Counsellor, Deputy Permanent Representative of the Republic of Poland to the United Nations Office at Geneva;

Mr. Marian SZAMATOWICZ, Delegate from the Ministry of Health;

Ms. Krystyna ZUREK, First Counsellor, Permanent Mission of the Republic of Poland to the United Nations Office at Geneva;

Mr. Marcin WYDRA, Representative of the Office of the Chief Commander of the Police;

Mr. Maciej JANCZAK, Second Secretary, Permanent Mission of the Republic of Poland to the United Nations Office at Geneva;

Mr. Mariusz LEWICKI, Third Secretary, Ministry of Foreign Affairs;

Ms. Barbara CWIORO, Assistant to the Under-Secretary of State at the Ministry of Foreign Affairs;

Ms. Aleksandra MIKULA, Expert at the Ministry of Foreign Affairs;

Mr. Włodzimierz SZYSZKOWSKI, Expert at the Ministry of Justice;

Mr. Sławomir PIWOWARCZYK, Expert at the Ministry of Justice;

Mr. Andrzej SZYDŁOWSKI, Expert at the Ministry of Justice;

Ms. Marzena GORZYŃSKA, Expert at the Ministry of Justice;

Ms. Małgorzata SKORKA, Expert at the Ministry of National Education;

Ms. Joanna MACIEJEWSKA, Expert at the Ministry of Labor and Social Policy;

Ms. Monika KSIENIEWICZ, Expert at the Ministry of Labor and Social Policy;

Mr. Lukasz GABLER, Expert at the Ministry of Labor and Social Policy;

Ms. Agnieszka BIENCZYK-MISSALA, Expert from the Polish Institute of International Affairs;

Ms. Aleksandra MEZYKOWSKA, Expert from the Ministry of Foreign Affairs;

Ms. Zofia ROMASZEWSKA, Expert in Human Rights;

Ms. Wanda NOWICKA, NGO's Expert;

Mr. Pawel WOSICKI, NGO's Expert;

Ms. Katrzyna GORSKA-LAZARZ, Interpreter.

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