



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the combined third and fourth periodic reports of Poland\*

#### I. Introduction

1. The Committee considered the combined third and fourth periodic reports of Poland (CRC/C/POL/3-4) at its 2033rd and 2034th meetings (see CRC/C/SR.2033 and 2034), held on 18 September 2015, and adopted the following concluding observations at its 2052nd meeting (see CRC/C/SR.2052), held on 2 October 2015.

2. The Committee welcomes the submission of the combined third and fourth periodic reports of the State party and the written replies to the list of issues (CRC/C/POL/Q/3-4/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

#### II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the ratification of or accession to:

(a) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in 2014;

(b) The Convention on the Rights of Persons with Disabilities, in 2012;

(c) The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, in 2015;

(d) The Council of Europe Convention on preventing and combating violence against women and domestic violence, in 2015.

4. The Committee also notes with appreciation the adoption of the following legislative measures:

(a) The Act on family support and the foster care system, 2011;

(b) The Act on foreigners, 2014;

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\* Adopted by the Committee at its seventieth session (14 September-2 October 2015).



- (c) The Act on the general obligation to defend the Republic of Poland, as amended in 2009.
- 5. The Committee also welcomes the following policy measures:
  - (a) The National Programme for Counteracting Domestic Violence 2014-2020.
  - (b) The National Action Plan against Human Trafficking 2013-2015.

### III. Main areas of concern and recommendations

#### A. General measures of implementation (arts. 4, 42 and 44 (6))

##### Reservations

- 6. The Committee welcomes the withdrawal of the State party's reservations to articles 7 and 38 of the Convention, on 4 March 2013. However, it remains concerned that the State party still has not withdrawn the declarations regarding articles 12 to 16 and 24.
- 7. **The Committee recalls its previous recommendations (CRC/C/15/Add.194, para. 10) and, in the light of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993, encourages the State party to consider withdrawing its interpretative declaration regarding articles 12 to 16 and 24 of the Convention.**

##### Comprehensive policy and strategy

- 8. The Committee notes that the Human Capital Development Strategy 2020 addresses certain issues relevant to children. However, the Committee is concerned that:
  - (a) Measures adopted under the Strategy do not encompass all the areas covered by the Convention;
  - (b) Some measures are not fully in compliance with the Convention, including the development of child-care institutions for children under the age of 3.
- 9. **The Committee recommends that the State party:**
  - (a) **Develop a comprehensive policy on children that encompasses all areas covered by the Convention and, on the basis of the policy, develop a strategy with the appropriate elements for its application and ensure that it is supported by sufficient human, technical and financial resources;**
  - (b) **Ensure that such policy and strategy are fully in line with the Convention;**
  - (c) **Ensure consultations with all stakeholders, including children, to develop such policy and strategy and to regularly assess the effectiveness of their implementation.**

##### Coordination

- 10. The Committee notes that the Ministry of Labour and Social Policy was mandated in 2014 to oversee the consistency of national laws, policies and programmes relevant to the Convention. However, the Committee is concerned that there is no coordination mechanism across ministries and between the national and local levels to ensure effective implementation of the Convention.

11. **The Committee recommends that the State party establish an appropriate institutional mechanism at a high interministerial level, with a clear mandate and sufficient authority to coordinate all activities relating to the implementation of the Convention at the cross-sectoral, national, regional and local levels. The State party should ensure that said coordinating mechanism is provided with the necessary human, technical and financial resources for its effective operation.**

#### **Allocation of resources**

12. The Committee is concerned that there is no system to identify budget allocations and spending on children by specific ministries to enable the assessment of the adequacy and effectiveness of public expenditure for children.

13. **The Committee recommends that the State party:**

(a) **Establish a budgeting process that includes a child rights perspective and specifies clear allocations for children in the relevant sectors and agencies, as well as specific indicators and a tracking system;**

(b) **Establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention;**

(c) **Ensure transparent and participatory budgeting through public dialogue, especially with children, and proper accountability of the authorities, including at the local level.**

#### **Data collection**

14. While noting with appreciation the system of data collection in the State party, the Committee remains concerned that the national data collection system does not encompass all areas of the Convention, and that there is a scarcity of disaggregated data on children under the age of 5 years as well as on children in the justice system, including child victims and witnesses.

15. **In the light of its general comment No. 5 (2003) on general measures of implementation, the Committee recommends that the State party:**

(a) **Improve its data collection system to cover all areas of the Convention and children of all ages and disaggregate the data in order to facilitate analysis on the situation of all children;**

(b) **Further facilitate the sharing of collected data and analyses thereof among the government institutions concerned as well as with the general public and promote their use for the effective implementation of the Convention.**

## **B. General principles (arts. 2, 3, 6 and 12)**

#### **Non-discrimination**

16. The Committee appreciates the State party's efforts to combat discrimination. However, it is concerned that:

(a) There is no comprehensive law on prohibition of discrimination on all grounds, in all aspects of life and in all forms, including multiple forms of discrimination;

(b) Gender stereotypes concerning the roles and responsibilities of women and men in the family and in society persist;

(c) Children belonging to ethnic, religious, linguistic and other minority groups, including Roma, Arab, Asian and African descendants, Muslims, Jews, non-citizens, including refugees, asylum seekers and migrants, persons with disabilities, and lesbian, gay, bisexual and transgender children face discrimination and may become targets of hate crimes;

(d) Incidents of racial violence and abuse, including hate speech, are increasing, as are acts of xenophobia and homophobia.

**17. The Committee recommends that the State party:**

(a) **Amend the Law on equal treatment so that it covers the issue of discrimination based on all grounds in all areas, including gender, sexual orientation, disability, religion or age, in the fields of education, health care, social protection, housing, and private and family life, and provides for the definition of multiple forms of discrimination;**

(b) **Amend the Penal Code to define hate speech and other hate crimes motivated by racism, xenophobia and homophobia as specific punishable offences and ensure that such incidents are thoroughly investigated and that perpetrators are brought to justice;**

(c) **Review and strengthen its measures to prevent and eliminate stereotypes, intolerance and discrimination among the general public and national and local authorities.**

**C. Civil rights and freedoms (arts. 7, 8 and 13-17)**

**Nationality**

18. The Committee is concerned that the 2014 Census indicates that 2,000 stateless persons, including children, and over 8,000 foreigners with undetermined nationalities, including children, reside in the State party.

**19. The Committee urges the State party to:**

(a) **Take all necessary measures without delay to grant Polish nationality to stateless children;**

(b) **Take appropriate measures to address the problem of children with undetermined nationalities residing in its territory;**

(c) **Consider acceding to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

**Right to identity**

20. The Committee is deeply concerned about the absence of regulation and the increasing number of baby boxes that allow for the anonymous abandonment of children in the State party, which is in violation of, inter alia, articles 6 to 9 and 19 of the Convention.

**21. The Committee urges the State party to prohibit the use of baby boxes, strengthen and promote existing alternatives and consider introducing, as a last resort, the possibility of confidential hospital births.**

**Freedom of thought, conscience and religion**

22. The Committee is concerned that there are occasions when children belonging to religious minorities are not offered classes in their own religion in public schools and have

to participate in Catholic religion classes instead. The Committee is also concerned that grades obtained in Islamic religion classes are not always recorded on school certificates.

**23. The Committee recommends that the State party:**

(a) **Guarantee that children belonging to religious minorities are not compelled to participate in religion classes in public schools that are not their own faith;**

(b) **Raise awareness among parents and students on the possibility and procedure to request the establishment of classes compliant with their religious affiliation, as provided for under the Education System Act (1991);**

(c) **Ensure that grades obtained from non-Catholic religion classes are recorded on school certificates.**

#### **D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

##### **Freedom of the child from all forms of violence**

24. The Committee commends the State party for legislating a total ban on corporal punishment in all settings. However, it is concerned that:

(a) While there have been no official complaints filed or convictions made in relation to inhuman or degrading treatment of children in police emergency youth centres, youth shelters or reform schools in recent years, some ill-treatment in such facilities have been identified, including extended periods of detention in a transitional facility, penalties not compliant with the regulations, constraints on correspondence, and complaints and restrictions on visits;

(b) Corporal punishment is still used in schools, youth centres and alternative-care facilities despite its legal prohibition.

**25. In the light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:**

(a) **Fully investigate all allegations of ill-treatment of children and ensure that such acts are given an appropriate response through judicial processes, in order to avoid impunity for perpetrators;**

(b) **Review existing complaints mechanisms and ensure that all children deprived of their liberty, including in the course of criminal or corrective procedures, have access to a safe and child-friendly mechanism to file complaints relating to their deprivation of liberty, conditions of detention or internment and treatment;**

(c) **Ensure that child victims of ill-treatment are provided with care and rehabilitation programmes;**

(d) **Ensure that the prohibition of corporal punishment is adequately monitored and enforced in all settings;**

(e) **Strengthen capacity-building programmes for teachers and staff of child-care facilities in order to promote positive and alternative forms of discipline and respect for children's rights and to raise awareness about the adverse consequences of corporal punishment on children;**

(f) **Further strengthen collaboration with the Ombudsman for Children and the Human Rights Defender in this regard.**

#### **Sexual abuse**

26. The Committee notes as positive that cases of sexual abuse of children by clergy are taken seriously and prosecuted. However, it is concerned that a number of cases may not yet have surfaced and that such abuse may still be ongoing.

27. **The Committee recommends that the State party:**

(a) **Continue its efforts to ensure that all cases of sexual abuse of children are investigated and prosecuted, including those allegedly committed by members of the Catholic clergy and representatives of other religions;**

(b) **Ensure that victims are adequately compensated and rehabilitated;**

(c) **Establish child-friendly channels for children and others to report such abuse;**

(d) **Protect children from further abuse by ensuring that persons convicted for abuse of children are deterred from having contact with children in their professional capacity;**

(e) **Put in place the necessary policies and measures to prevent the recurrence of such abuse.**

#### **Harmful practices**

28. The Committee notes with concern that the State party faces challenges in preventing forced marriages of girls in situations of migration as well as refugee and asylum-seeking girls.

29. **In the light of its general comment No. 18 (2014) on harmful practices, adopted jointly with the Committee on the Elimination of Discrimination against Women, the Committee recommends that the State party establish a system to track all cases involving forced marriages among migrants, refugees and asylum seekers, effectively investigate such cases with a view to bringing perpetrators to justice and provide victims with shelters as well as appropriate rehabilitation and counselling services.**

### **E. Family environment and alternative care (arts. 5, 9-11, 18 (1) and (2), 20-21, 25 and 27 (4))**

#### **Family environment**

30. The Committee is concerned that children are left without parental care for long periods when parents go abroad to find work.

31. **The Committee recommends that the State party:**

(a) **Conduct nationwide research on children left behind in the State party when their parents migrate for work and use it to establish the demographic profile of that segment of the population in order to guide policies and programmes;**

(b) **Adopt a comprehensive strategy to support parents to help them to find work in Poland so that they can stay with their children.**

#### **Children deprived of a family environment**

32. The Committee notes that the 2011 Family Support and Foster Care System Act facilitates deinstitutionalization of children deprived of a family environment. However, the Committee is concerned that:

- (a) In 2014, a large number of children under 10 years of age were placed in residential care, including 800 children under the age of 3 years;
- (b) Children with disabilities represent almost half of the children in residential care institutions;
- (c) The Family Support and Foster Care System Act still provides for the development of pre-adoptive centres for children under 1 year of age and regional care and treatment facilities may accommodate up to 45 children deprived of a family environment and with special health needs;
- (d) The progress made to develop family-based foster care is relatively slow, owing to, inter alia, the district level not being sufficiently dedicated to this task;
- (e) In practice, family court judges tend to choose placement of the child in institutional care, rather than prioritize support to the family of origin so that they can keep their children or choose placement in family-based care;
- (f) Restriction of contact with the family of origin is used as a form of punishment for children placed in foster care;
- (g) After a child has been taken into care, his or her parents are not provided with proper support in order to improve their caring capacities;
- (h) Support for social reintegration of children and young people leaving care, including those with disabilities, is insufficient and the lack of adequate housing results in homelessness or permanent placement in residential institutions.

**33. Drawing the State party's attention to the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex), the Committee recommends that the State party:**

- (a) Urgently reduce placement of children under the age of 3 years in residential-care institutions, including those with disabilities, and expedite placement in family-based care;**
- (b) Seek to prevent the need for alternative care, including for children with disabilities, by further developing the system of support and assistance to families with children;**
- (c) Review and consider amending the Family Support and Foster Care System Act and the Human Capital Development Strategy to abolish pre-adoption centres for children under 1 year of age and avoid large residential-care institutions;**
- (d) Speed up the process of developing family-based care by involving the district level more effectively;**
- (e) Ensure adequate legal safeguards and clear criteria for determining whether a child should be placed in alternative care, taking into consideration the views and best interests of the child, and enforce such criteria by raising awareness among family court judges;**
- (f) Support and monitor regular and appropriate contact between the child and his or her family, provided that it is consistent with the child's best interests, and in particular, prohibit the restriction of such contact as a form of punishment;**
- (g) Provide support and assistance to families whose children have been taken into care so that the children may return to their families if it is in his or her best interests;**

(h) **Strengthen support to children and young people leaving care, including those with disabilities, so as to enable them to reintegrate into society, by providing access to adequate housing, legal, health and social services, as well as educational and vocational training opportunities.**

**F. Disability, basic health and welfare (arts. 6, 18 (3), 23-24, 26, 27 (1)-(3) and 33)**

**Children with disabilities**

34. The Committee is concerned that:

(a) There is little data, research and analysis on the effectiveness of the implementation of laws and policies on the rights of children with disabilities;

(b) Despite the progress made in deinstitutionalization, many children with disabilities still live in institutions, owing to, inter alia, a fragmented system of social assistance, which does not sufficiently encourage and support families to keep their children at home, nor is it comprehensive enough to support children's autonomy and active participation in public life throughout the course of their life;

(c) Parents may decide that a child with disabilities will not attend inclusive education, resulting in a large proportion of children with disabilities still attending to special schools;

(d) In mainstream schools, funds designated for children with disabilities may be used for other purposes, which makes education less inclusive in those schools.

**35. In the light of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:**

(a) **Enhance data collection on children with disabilities and conduct studies and analyses on the effectiveness of the implementation of the Convention and existing laws and policies;**

(b) **Reform the system of social assistance for children with disabilities and their families in order to improve its coherence and coordination and avoid unnecessary institutionalization;**

(c) **Guarantee all children with disabilities the right to inclusive education in mainstream schools;**

(d) **Develop a system at the local level to monitor the management of education subsidies dedicated to children with disabilities in order to ensure the provision of reasonable accommodation and support for each child with a disability;**

(e) **Give priority to measures to facilitate full inclusion of children with disabilities, including those with intellectual and psychosocial disabilities, in all areas of public life, such as leisure activities, community-based care and provision of social housing with reasonable accommodation.**

**Health and health services**

36. The Committee commends the State party on its efforts in the area of children's health, but is concerned that:

(a) The State party lacks a framework law on public health that ensures consistency and coordination of existing health-related legislations;

(b) There is a growing number of children with depression and anxiety disorders, as well as a growing number of suicide attempts by children;

(c) Dental problems is the most widespread health issue among children;

(d) Both overweight and undernutrition among children appear to be increasing at the same time;

(e) Availability of quality primary and specialized health care, including paediatric care, dental and mental health care for children, is low overall in the State party and even lower in some provinces, and such care is not affordable to all children in the State party;

(f) Access to health and rehabilitation services by children with disabilities is particularly impeded, due to the physical barriers to health service facilities as well as a lack of available services, which results in long waiting times to receive treatments;

(g) The law of the State party provides for free medical care for Polish nationals, but this does not extend to Roma children living in poverty, who have difficulty accessing timely and quality medical care.

**37. The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health and recommends that the State party:**

**(a) Consider developing a framework law and a comprehensive policy on public health, taking into consideration the right of the child to health;**

**(b) Further raise the awareness of children, parents and teachers on children's mental health issues, continue and strengthen preventive work in schools and care centres, improve the availability of easily accessible services, such as school nurses and counsellors, and further increase the number of child psychologists and psychiatrists;**

**(c) Continue and strengthen the prophylactic work in the area of dental care and introduce a system of inviting children to go for a dental checkup regularly without the need for parental initiative;**

**(d) Collect data on child nutrition, covering both undernutrition and overweight, and further develop measures for improved child nutrition, which should include regulations to restrict advertising and marketing of junk, salty, sugary and fatty foods and their availability to children;**

**(e) Ensure availability of and equal access to quality primary and specialized health care for all children in the State party, including those living in rural areas and those from socially and economically disadvantaged groups;**

**(f) Integrate the rights of children with disabilities in national laws, policies and other measures aimed at strengthening the national health system in order to ensure their equal access to health-care and rehabilitation services;**

**(g) Ensure that all children within its jurisdiction, including Roma children, have equal access to free health-care services.**

#### **Adolescent health**

38. The Committee is concerned that:

(a) The compulsory Family Life Education course in schools (CRC/C/POL/3-4, para 570) does not provide comprehensive, age-appropriate education on sexual and reproductive health;

(b) Adolescent boys and girls face difficulties in accessing sexual and reproductive health services, including modern contraceptives;

(c) Official data and research on the prevalence of illegal and unsafe abortions is lacking;

(d) The strict legal requirements for abortion and the lack of a clear procedure for conducting legal abortions under current legislation, together with social stigma, hinder girls' access to legal abortion.

**39. In the light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention, the Committee recommends that the State party:**

**(a) Expand the scope of the compulsory Family Life Education course to provide comprehensive, age-appropriate education on sexual and reproductive health, including information on family planning and contraceptives, the dangers of early pregnancy and the prevention and treatment of sexually transmitted diseases;**

**(b) Ensure unimpeded access to sexual and reproductive health services, including confidential counselling and modern contraception for adolescent girls and boys and amend the 1993 Act on family planning, protection of the human foetus and conditions for legal abortion to make the conditions for abortion less restrictive and, in relation to adolescent girls, to reflect the right of the child to express her views and have her best interests taken into consideration;**

**(c) Establish clear standards for a uniform and non-restrictive interpretation of the conditions for legal abortion and the relevant procedures, including strict implementation of confidentiality of personal information.**

#### **Standard of living**

40. The Committee welcomes the measures taken to support families, but is concerned that:

(a) The number of children facing the risk of poverty has increased in recent years and that the poverty rate for children is highest in all age groups (0-18 years) compared to the rest of the population, with 10 per cent of children facing extreme poverty;

(b) Single-parent families, multi-children families (with more than three children) and families with children with disabilities are at a higher risk of experiencing multidimensional poverty;

(c) The number of homeless children has increased.

**41. The Committee recommends that the State party set concrete targets to reduce child poverty, in particular to eliminate extreme poverty and child deprivation, with a clear timeline and indicators in relevant policies and programmes, and in doing so:**

**(a) Consider holding targeted consultations with families and children, including those in vulnerable situations, and civil society organizations dealing with children's rights on the issue of child poverty, with a view to strengthening the strategies and measures for reducing child poverty;**

**(b) Strengthen the support to children living below the poverty line, in particular single-parent families, families with three or more children and families with children with disabilities, and ensure that social protection measures provide for the real costs of decent living of the children, including expenses relevant to their right to health, a nutritious diet, education, adequate housing, and water and sanitation;**

(c) **Review its legislation, policies and programmes on housing in order to prevent and eliminate homelessness, taking into account the special needs of children, including children with disabilities, their families and children leaving alternative care. Such measures can include the improvement of availability and adequacy of social housing at the municipal level and the provision of temporary emergency shelter for those at risk of homelessness.**

## **G. Education, leisure and cultural activities (arts. 28-31)**

42. The Committee welcomes the significant efforts made to reduce urban and rural disparities in accessing quality education, enhance the provision of early childhood education, integrate Roma children in mainstream schools and guarantee access to free public education and educational support services for foreign children, including asylum-seeking and refugee children. However, the Committee remains concerned that:

(a) Children living in rural areas and small towns still face inequality in accessing quality education;

(b) Participation in preschool, primary, secondary and vocational education of Roma children remains lower than that of other children, and many Roma children still face difficulties keeping up in mainstream schools or are misplaced in special schools due to their low level of the Polish language and culturally insensitive testing;

(c) Children with HIV/AIDS tend to be segregated in preschool and compulsory education;

(d) Asylum-seeking children placed in detention centres do not have access to full-time education.

43. **The Committee recommends that the State party:**

(a) **Further step up its efforts to improve access to quality education in rural areas and in small towns, including access to preschool, secondary and higher education;**

(b) **Facilitate the participation and inclusion of Roma children in education at all levels, including preschool, raise awareness of teachers and staff of psychological and pedagogical counselling centres on Roma history and culture, ensure the use of non-verbal and culturally sensitive tests, and strengthen the role and capacity of Roma education assistants in compulsory education, by clearly defining their status, improving their working conditions and providing capacity-building opportunities;**

(c) **Eliminate stigma and discrimination against children with HIV/AIDS and their segregation in education in line with the Committee's general comment No. 3 (2003) on HIV/AIDS and the right of the child and the 2006 International Guidelines on HIV/AIDS and Human Rights;**

(d) **Ensure the full enjoyment of the right to education by asylum-seeking children, regardless of their status, length of stay or residence, on equal footing with all other children in the State party.**

## H. Special protection measures (arts. 22, 30, 32-33, 35-36, 37 (b)-(d) and 38-40)

### Asylum-seeking and refugee children

44. The Committee welcomes the enactment of the Act on foreigners (2014), which introduced alternatives to the detention of asylum seekers. However, the Committee is concerned that:

(a) The Act on foreigners still provides for the possibility of placing asylum-seeking children in detention together with their family members if an adult family member is in detention;

(b) There are no procedures for systematically providing information to asylum-seeking children and their guardians on their rights and obligations, asylum procedures and available services;

(c) There is no State-funded, free legal assistance for asylum seekers, including unaccompanied children;

(d) The procedures for family reunification are not physically and economically accessible by many asylum seekers and refugees and are overly demanding in terms of requirements for documentation and physical verification of applicants;

(e) The majority of the beneficiaries of international protection in the State party face long-term homelessness and housing insecurity, in particular single-mother families and families with many children.

45. **The Committee recommends that the State party:**

(a) **Avoid all forms of detention of asylum seekers under 18 years of age and families with children and consider all possible alternatives, including unconditional release, prior to detention. Committee draws the State party's attention to the UNHCR's Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers (26 February 1999);**

(b) **In the light of the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, ensure that all asylum-seeking children and their guardians are systematically provided with information on their rights and obligations, asylum procedures and available services. In this regard, consider amending relevant national legislation, including the Act on protection of aliens within the territory of Poland (2003);**

(c) **Consider expanding the scope of free legal assistance to all asylum-seeking and refugee children at all stages of the application process for international protection, by amending relevant legislation and providing financial support to non-governmental organizations (NGOs) which provide legal assistance to asylum-seeking and refugee children;**

(d) **Take all necessary measures to safeguard the principle of family unity for refugees and their children, including by making administrative requirements for family unification more flexible and affordable;**

(e) **Improve the housing situation of children under international protection by ensuring access to adequate housing for groups with specific needs, such as single-mothers and families with many children, as well as by taking proactive measures to prevent homelessness among refugees.**

### Children belonging to minority groups

46. The Committee is concerned that:

(a) Stigma and discrimination against Roma, including children, are still widespread, resulting in violence and hate speech against them;

(b) Roma families with children living in informal settlements face forced eviction;

(c) Roma migrant children, in particular those from European Union member State such as Romania, face difficulties accessing social protection services and social integration programmes as most of those services and programmes are not sensitive to Roma culture or target Polish citizens or non-European Union citizens.

47. **The Committee urges the State party to:**

(a) **Conduct campaigns at all levels and in all provinces aimed at addressing the negative attitudes towards Roma in society at large and take effective measures to prevent violence and hate speech against Roma;**

(b) **Strengthen measures to prevent forced evictions and if an eviction is unavoidable, conduct it in accordance with international standards, such as the Basic principles and guidelines on development-based evictions and displacement (see A/HRC/4/18);**

(c) **Assess the particular situation of Roma migrant children, including those from European Union member States, and take measures to facilitate their access to social protection measures and social integration programmes, including by improving the cultural sensitivity of the services provided and readjusting the scope of social programmes.**

### Children in street situations

48. The Committee is concerned that there is no systematic effort to protect and support children engaged in begging, including those trafficked from abroad, nor a consistent policy as to what kind of protection measures would safeguard the best interests of the child, including in decisions to place the child in alternative care.

49. **The Committee recommends that the State party:**

(a) **Collect data on children engaged in begging and conduct a study to determine the root causes and assess the magnitude of the activity and provide effective responses;**

(b) **Develop a comprehensive strategy to prevent and eliminate child begging and to provide protection and support for rehabilitation and social integration to the victims and their families, ensuring the free, active and meaningful participation of children concerned, their families and civil society organizations in developing such strategy;**

(c) **Develop guidelines on how to provide adequate protection and support to child victims of begging, while safeguarding their best interests and their right to express their views and to a fostering family environment.**

### Sexual exploitation and trafficking

50. The Committee welcomes the amendment of the Penal Code aimed at adopting a definition of trafficking in persons that is more closely in line with international standards,

and which expands the scope of trafficking to include trafficking for labour exploitation. However, the Committee remains concerned that:

- (a) The existing law does not ensure that identified victims are not penalized for acts committed as a direct result of being subjected to trafficking;
- (b) Identification of child victims of trafficking remains a challenge;
- (c) Lack of awareness among prosecutors and judges has resulted in a low rate of conviction of perpetrators of trafficking, a high rate of less severe or suspended sentences, as well as inappropriate decisions on the protection of child victims, including their placement in institutions for socially maladjusted children without necessary counselling and other services;
- (d) There is no public service to provide specialized care and support for child victims of trafficking.

51. **The Committee recommends that the State party:**

- (a) **Amend existing legislation to include a provision prohibiting criminal prosecution, detention and punishment of trafficked children for activities they were involved in as a direct consequence of their being trafficked;**
- (b) **Establish adequate and coordinated mechanisms for identification and protection of child victims of trafficking, including systematic and timely information sharing among relevant officials, and strengthen the capacity of police officers, border guards, labour inspectors and social workers to identify child victims of trafficking;**
- (c) **Enhance the efforts to raise awareness and competency of family court judges and prosecutors on existing national and international standards as well as on how to respect the best interests of the child in the legal proceedings relevant to human trafficking, taking into consideration the specific protection needs of child victims of trafficking;**
- (d) **Based on the evaluation of the outcome of the National Action Plan against Human Trafficking 2013-2015, integrate, in the next national action plan, comprehensive measures to identify, protect and support child victims of trafficking which reflect their best interests and special needs.**

#### **Administration of juvenile justice**

52. The Committee is seriously concerned that:

- (a) A large number of children are still detained in juvenile shelters for extensive periods of time prior to and during correctional proceedings, with the average period of detention being longer than three months;
- (b) Children above the age of 13 years who are reasonably suspected of or convicted of a punishable act can be detained at police emergency centres.

53. **In the light of its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee urges the State party to:**

- (a) **Enforce the regulations that provide for a maximum stay of three months in juvenile shelters and provide legal safeguards for exceptional extensions of such detention with a clear limitation of the maximum period of such extension;**
- (b) **Promote alternative measures to detention, such as diversion, probation, mediation, counselling, or community service, wherever possible, and ensure that detention is used as a last resort and for the shortest possible period of time and that it is reviewed on a regular basis with a view to withdrawing it.**

54. The Committee is also concerned that:

(a) Children in conflict with law in police custody are often interviewed and requested to make statements and sign documents without the presence of a lawyer or another trusted adult to assist them, in violation of the relevant legislation;

(b) The amendment to the Juvenile Justice Act (2 January 2014) which established uniform juvenile justice proceedings that apply the procedures of the Civil Procedure Code may deprive children of procedural guarantees provided under the Penal Procedure Code, such as presumption of innocence, the obligation to ascertain the substantive truth or the principle of *in dubio pro reo* and the right to counsel.

**55. In the light of its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee recommends that the State party:**

**(a) Bring its juvenile justice system fully into line with the Convention and other relevant standards and guarantee the procedural rights of children;**

**(b) Make use of the technical assistance tools developed by the Interagency Panel on Juvenile Justice and its members, including the United Nations Office on Drugs and Crime, United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights and NGOs.**

**Follow-up to the concluding observations on the State party's initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/POL/CO/1)**

56. The Committee is concerned that:

(a) In criminal proceedings on crimes relevant to sexual exploitation of the child, the burden of proof tends to be placed on the child victims rather than offenders;

(b) Children who engage in prostitution do not have access to assistance necessary for full social integration and full physical and psychological recovery.

**57. The Committee recommends that the State party:**

**(a) Enhance the implementation of applicable legislation to ensure protection of child victims, including by shifting the burden of proof to perpetrators of offences covered by the Optional Protocol;**

**(b) Strengthen the provision of adequate free legal aid and psychological, medical and social support to child victims of offences prohibited under the Optional Protocol.**

58. The Committee is also concerned that the child sex tourism industry is reportedly growing in border regions, however, no data has been collected despite the Committee's previous recommendation (CRC/C/OPSC/POL/CO/1, para. 7).

**59. In the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, the Committee recommends that the State party:**

**(a) Undertake research on the extent and root causes of child sex tourism, in order to identify children at risk and to assess the extent of the problem;**

**(b) Examine and adapt its legislative framework (civil, criminal and administrative) to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the territory of the State party, especially in the tourism industry;**

(c) Establish monitoring mechanisms for the investigation and redress of children's rights violations, with a view to improving accountability and transparency;

(d) Undertake awareness-raising campaigns with the tourism industry and the public at large on the prevention of child sex tourism and widely disseminate the charter of honour for tourism and the World Tourism Organization global code of ethics for tourism among travel agents and in the tourism industry;

(e) Strengthen its international cooperation against child sex tourism through multilateral, regional and bilateral arrangements for its prevention and elimination;

(f) Take guidance from the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, accepted unanimously in 2008 by the Human Rights Council, while implementing these recommendations.

**Follow up to the concluding observations on the State party's initial report under Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/POL/CO/1)**

60. The Committee welcomes the amendments to the Act on the general obligation to defend the Republic of Poland (adopted on 27 August 2009), which guarantees that only persons who are over 18 years may be recruited to compulsory or voluntary military service. However, the Committee remains concerned that there are no procedures to identify asylum-seeking and refugee children who have been victims of violence, especially when they come from countries facing armed conflicts.

61. The Committee reiterates its previous recommendation (CRC/C/OPAC/POL/CO/1, para. 17) that the State party establish an identification mechanism for children, including asylum-seeking and refugee children, who may have been involved in armed conflict abroad. The Committee also recommends that the State party take measures to provide such children with appropriate assistance for their physical and psychological recovery and social reintegration.

**I. Ratification of the Optional Protocol on a communications procedure**

62. The Committee recommends that, in order to further strengthen the implementation of children's rights, the State party ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

**J. Ratification of international human rights instruments**

63. The Committee recommends that, in order to further strengthen the implementation of children's rights, the State party ratify the core human rights instruments to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.

## **K. Cooperation with regional bodies**

64. The Committee recommends that the State party cooperate with the Council of Europe for the implementation of the Convention on the Rights of the Child and other human rights instruments, both in the State party and in other Council of Europe member States.

## **IV. Implementation and reporting**

### **A. Follow-up and dissemination**

65. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined third and fourth periodic reports, the written replies to the list of issues of the State party and the present concluding observations be made widely available in the languages of the country.

### **B. Next report**

66. The Committee invites the State party to submit its combined fifth and sixth reports by 6 January 2020 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

67. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, prepared in accordance with the requirements for the common core document in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I) and General Assembly resolution 68/268 (para. 16).