



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Periodic reports of States parties due in 1998**

**POLAND\***

[2 December 1999]

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\* For the initial report submitted by the Government of Poland, see CRC/C/8/Add.11; for its consideration by the Committee, see documents CRC/C/SR(s).192-194 and for the concluding observations see CRC/C/15/Add.31.

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## INTRODUCTION

1. On 20 November 1989, the United Nations General Assembly adopted the Convention on the Rights of the Child. Poland was an initiator of the Convention and one of the first States to join; it completed the ratification process on 7 July 1991.

2. The Convention is referred to as the world constitution of children's rights, which defines the status of children on the basis of the following assumptions:

- Children are separate individuals; owing to their mental and physical immaturity, they require particular care and legal protection;
- Children are human beings and deserve to have their identity, dignity and privacy respected;
- The family is the best environment in which to rear a child;
- The State should support the family, not relieve it of its functions.

3. In elaborating the Convention on the Rights of the Child, the States parties were guided by:

- The principle of the child's welfare, meaning that all activities should be undertaken with the child's best interests in mind;
- The principle of equality, by virtue of which all children, regardless of colour, sex and nationality, are equal before the law;
- The principle of absolute respect for the rights and responsibilities of both parents for a child's development and rearing;
- The principle of State assistance in ensuring suitable social and health conditions for the family.

4. The provisions of the Convention refer to children both before and after birth (Preamble to the Convention on the Rights of the Child). Poland's legal system, in accordance with the principle of equality enshrined in the Convention, does not make entitlements dependent on age and protects the life of children from the moment of conception until the age of majority. The Convention recognizes that children who are mentally or physically disabled or deprived of a family environment have special rights to care. It emphasizes the right of all minorities to retain their own culture, religion and language.

5. This report is submitted pursuant to article 44 of the Convention on the Rights of the Child, according to which "States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights."

6. The report covers the period 1993-1998 and was drafted in accordance with the guidelines issued by the Office of the High Commissioner for Human Rights (CRC/C/5 and HRI/1991/1).

## I. THE COUNTRY AND ITS PEOPLE

### A. Socio-economic indicators

#### Per capita income

7. A review of the economic situation from 1993 to 1998 has shown Poland to be one of Europe's most rapidly developing countries.

#### Gross domestic product (GDP)

8. After three years (1995-1997) of rapid, balanced development, with GDP growth in the vicinity of 6 to 7 per cent, GDP grew by 5.9 per cent in the first half of 1998. Calculated in terms of United States dollars, GDP amounted to \$143.1 billion in 1997.

9. Despite a slackening of the growth rate, Poland remains one of the most rapidly developing countries and a leader among the States of Central and Eastern Europe. As a result, it is bridging the gap that separates it from the countries of the European Union.

#### Per capita income

10. In 1992, the first year of economic growth during the transformation period, per capita GDP (in terms of purchasing power parity) amounted in Poland to \$4,700. By 1997 it had risen to some \$7,000, an increase of 31 per cent but a sum that still represents a mere 40 per cent of the average per capita GDP in the countries of the European Union.

11. In per capita terms the figures for the 1993-1998 period were as follows:

	1993	1994	1995	1996	1997	1998
In Polish zlotys	4 051	5 459	7 938	9 981	12 144	14 240
In US\$ (in exchange rate terms)	2 232	2 402	3 057	3 484	3 702	ca.4 100
In US\$ (in currency purchasing power terms)	5 114	5 459	6 350	6 663	ca.7 000	NA

#### Inflation rate

12. An analysis of inflationary trends indicates an annual decline in the rate of price increase. The rise in the price of consumer goods and services in 1990 (calculated in relation to the preceding year - average annual indicator) amounted to 585.8 per cent; by 1991 the figure had dropped to 70.3 per cent and by 1997 to 14.9 per cent. In 1998, an inflation rate of 11.8 per cent was recorded over the previous year.

13. Relatively low food prices and the inflow of imported consumer goods checked the growth in domestic prices despite high indicators for service costs. The declining inflation rate contributed to a growing sense of stability in business circles and of social security in the population at large.

### **Foreign debt**

14. Poland's foreign debt remains a significant problem. At the end of 1997, the country's overall indebtedness amounted to \$38.5 billion. By the end of 1998 it had grown to \$42.7 billion.

15. Nevertheless, in per capita terms this is lower than in certain other Central European countries. For instance, Poland recorded a figure of \$1,104 per capita in 1998, compared with \$2,710 for Hungary in 1996, \$2,000 for Slovenia and \$1,963 for the Czech Republic.

### **Unemployment rate**

16. Since mid-1994, unemployment has dropped significantly. In December 1993, the jobless rate stood at 16.4 per cent, but by December 1998 it had dropped to 10.4 per cent. The years 1993-1998 may be divided into two periods in terms of unemployment:

- An upward trend until mid-1994 reaching a record level of almost three million unemployed. This was due to the transformation of the Polish economy, which had to be adjusted to market requirements;
- The second period began in August 1994 and was marked by a dramatic drop in unemployment. At the end of December 1998 the number of persons out of work amounted to 1,831,400 - a decline of 1,058,200 (37 per cent) compared with the end of December 1993. This was due, on the one hand, to the country's improved economic performance reflected in a high economic growth rate (in 1998 GDP grew by 4.8 per cent) which increased the demand for labour. The other reason was the State's active social policy, including the introduction of new legal arrangements and instruments whose main purpose was to create employment for the jobless.

Unemployment data - as at 31 December

Years	1993	1994	1995	1996	1997	1998
Registered jobless (in thousands)	2 889.6	2 838.0	2 628.8	2 359.5	1 826.4	1 831.4
Unemployment rate (percentage)	16.4	16.0	14.9	13.2	10.3	10.4

### **Indicator of the ability to read and write**

17. In the 1990s a considerable expansion of the scope of education was recorded as a result of both demographic trends and the Polish people's growing educational aspirations.

18. School attendance indicators, which attest to the universality of education, have shown a systematic increase in the 15 to 18 age group (from 80 per cent in the 1990/91 school year to 88 per cent in the 1998/99 school year). The percentage of persons in the 19 to 24 age group enrolled in institutions of higher education also grew during that period (from about 13 per cent to 34 per cent).

19. The nearly two-and-a-half-fold increase in enrolment in higher education in 1990-1998 has helped to narrow the distance separating Poland from many Western countries.

### B. Information on the population

20. According to current statistics, Poland's population numbered 38,667,000 in December 1998, with women accounting for 51.4 per cent. Town-dwellers represented 61.9 per cent of the total. On average, one person in four was under 18 years of age, and one-fifth of the population had not attained the age of 15. On average, 60 people out of 100 were in the 20 to 64 age group; the remaining 12 per cent were aged 65 and older. Exact data for current changes in the structure of the population are shown in the following table:

Population structure according to place of residence (in thousands):

Category	1993	1994	1995	1996	1997	1998
Total population (in thousands)	3 850.5	3 858.1	3 860.9	3 836.9	3 866.0	3 866.7
Urban	2 380.8	2 386.8	2 387.6	2 309.3	2 392.5	2 392.3
Rural	1 469.7	1 471.3	1 473.3	1 473.6	1 473.5	1 474.4

Population structure according to place of residence in percentage terms:

Category	1993	1994	1995	1996	1997	1998
Urban	61.7	61.9	61.8	61.9	61.9	61.9
Rural	38.2	38.1	38.2	38.1	38.1	38.1

Population structure according to age (percentage):

Category	1993	1994	1995	1996	1997	1998
0-14 years	23.7	23.1	22.5	22.8	21.1	20.3
65 years and older	10.7	10.9	11.2	11.5	11.6	11.9

21. In 1998, 209,400 marriages were contracted in Poland - a slight increase over the preceding year. Divorce led to the break-up of 45,200 married couples. The number of live births dropped to just below 400,000. In 1998, 396,500 children were born. Calculated in terms of women in the 15 to 49 age group, this gives a fertility rate of 1.43. The significant decline in this indicator from 1.85 in 1993 was chiefly due to the fall in partial fertility coefficients, calculated by measuring the number of live births per 1,000 women in separate age groups.

Fertility coefficients (live births) per 1,000 women:

Category	1993	1994	1995	1996	1997	1998
15-49 (years of age)	50.6	48.8	43.3	42.5	40.7	38.8
15-19	27.2	25.5	22.0	21.1	19.5	18.7
20-24	138.0	128.6	113.0	107.6	100.7	92.6
25-29	114.2	113.4	104.5	103.8	100.0	96.2
30-34	57.4	59.0	53.7	54.6	53.4	52.2
35-39	25.4	26.2	23.2	23.2	22.3	21.5
40-44	6.3	6.5	5.5	5.5	5.3	4.9
45-49	0.4	0.3	0.3	0.3	0.3	0.2
Number of live births	494 310	481 285	433 109	428 203	412 635	395 619
Number of infant deaths	7 995	7 284	5 891	5 228	4 194	3 776
Infant mortality rate (infant deaths per 1 000 live births)	16.1	15.11	13.6	12.2	10.2	9.9
Number of maternal deaths	60	48	55	33	45	-

22. A positive development has been the increase in average life expectancy to 68.9 years for men and 77.3 years for women - an increase of 2.2 per cent and 1.7 per cent respectively from the 1993 figures. The mortality rate per 1,000 of the population was 9.7, and the infant mortality rate per 1,000 live births was 9.5. In relative terms, the infant mortality decrease coefficient amounted to 38.7 per cent compared to 1993.

## II. THE POLITICAL SYSTEM OF THE REPUBLIC OF POLAND

23. After the collapse of the communist system in 1989, the Republic of Poland re-emerged as an independent and democratic law-abiding State. The achievement of the political camp centred round Solidarity and groupings of the former democratic opposition. The political changes led to the creation of new institutions of State authority. The Constitution adopted in April 1997 states in article 1 that the Republic is the commonweal of all its citizens. The Republic of Poland guards the country's independence and territorial integrity, is a guarantor of the human rights and freedoms and of the security of its citizens, protects the national heritage and ensures the protection of the environment.

24. The Republic of Poland is a democratic, law-abiding State, governed by authorities elected through free elections who function within the limits and on the basis of the law. The economic system of the Republic of Poland is based on the protection of ownership, the right to freely engage in business activities and the State's commitment to implementing the principles of social justice.

25. The State's political system is based on a division and balance between executive, legislative and judicial organs of authority. Legislative authority is exercised by the Sejm (lower house of parliament) and Senate, executive authority is vested in the President of the Republic of Poland and the Council of Ministers (the cabinet), and judicial authority is the domain of the courts and tribunals. The political structure of the Republic of Poland may be described as a parliamentary-cabinet system.

26. The Sejm is composed of 460 deputies elected by universal, equal, direct, proportionate and secret suffrage. The Senate is composed of 100 senators elected in voivodships (provinces) for the duration of the Sejm's term.

27. Anyone who has reached the age of 18 and has not been deprived of civic or electoral rights by a court has the right to vote. All citizens who have reached the age of 21 may stand for election to the Sejm. The right to be a candidate for a Senate seat is acquired on reaching the age of 30.

28. The Sejm exercises legislative authority, establishes the Council of Ministers (which is politically responsible to it) and is endowed with authority of appointment. It appoints judges to the State Tribunal and the Constitutional Tribunal and appoints members of the National Judiciary Council, the National Council for Radio and Television Broadcasting, the Civil Rights Spokesperson (Ombudsman), the President of the Supreme Auditing Chamber and the President of the National Bank of Poland. The Sejm also exercises supervisory functions vis-à-vis the Government and the government administration. Its most important supervisory procedures comprise the creation of investigative commissions, deputies' right to question the Government on its performance and supervision of the Government's implementation of the State budget. A supervisory function is also performed by the Supreme Auditing Chamber which is linked to the Sejm.

29. The Senate likewise exercises legislative authority through its own legislative initiative and can introduce amendments to bills passed by the Sejm. The Senate also participates in Parliament's appointment functions; the appointment of the President of the Supreme Auditing Chamber and the Civil Rights Spokesperson requires the consent of the Senate, and the Senate appoints members of the National Council for Radio and Television Broadcasting, the National Judiciary Council and the Monetary Policy Council.

30. The President is the highest representative of the Republic of Poland and the guarantor of the continuity of State authority. He oversees compliance with the Constitution and guards the sovereignty and security of the State, the inviolability of its frontiers and the integrity of its territory. The President is elected by universal, equal, direct and secret suffrage for a five-year term and may be re-elected only once. A Polish citizen who has reached the age of 35, at the latest on election day, and is fully eligible to be elected to the Sejm, may be elected President of the Republic of Poland. At least 100,000 citizens enjoying Sejm voting rights are required for the submission of a presidential candidature.

31. The Council of Ministers (the Government) is an organ of executive authority. The Constitution states that "The Council of Ministers shall conduct the affairs of State policy not reserved for other State organs or local self-government" (article 146, paragraph 2, of the Constitution). The Government conducts Poland's internal and external policies.

32. The Council of Ministers is headed by the President of the Council of Ministers or Prime Minister. The Prime Minister represents the Council of Ministers, directs its activities and ensures implementation of government policy. In the provinces, it is the voivod (provincial governor) who serves as the organ of government administration and representative of the Council of Ministers.



33. The Republic of Poland is a unitary State (article 3 of the Constitution) with well-developed local government. In 1990, territorial self-government re-emerged at the gmina (commune) level. The gmina is in charge of all local matters not reserved by law for other entities. In 1998, a far-reaching reform of public administration was carried out, as a result of which territorial self-government was created at the powiat (district) and voivodship (province) levels. In October 1998, elections were held to gmina and powiat councils and to voivodship assemblies. The State's territorial divisions were also simplified by the reform, and the number of voivodships was reduced from 49 to 16. The voivodships became structures that are both an arm of central government and units of provincial self-rule.

34. The independence of territorial self-government is protected by the courts. Local government units, as communities of the inhabitants of a given area, are legal entities. They enjoy ownership and other property rights enabling them to manage common assets. The revenue of territorial self-government comprises allocations, subsidies, a share of tax revenues and local payments and rates. Local council elections are carried out by universal, equal, direct and secret suffrage. The gmina, powiat and voivodship councils elect representative organs which are subordinate to them chairmen of gmina, powiat and voivodship councils and executive organs, rural administrators (in charge of several villages), city and town mayors and voivodship marshals.

### **Poland's judicial system**

35. The Republic of Poland recognizes the independence of courts of law and respects the independence of judges. These principles are safeguarded by the constitutionally sanctioned National Judiciary Council. The principles of independence and irremovability of judges enjoy constitutional protection (articles 178 and 180 of the Constitution). Justice is dispensed in Poland by the Supreme Court, common courts, administrative courts and military courts. Emergency courts and summary justice are prohibited in peace time but may be introduced in wartime.

### **The Supreme Court**

36. The fundamental task of the Supreme Court is to exercise supervision over the verdicts and rulings of common and military courts (article 183 of the Constitution). The purpose thereof is to ensure proper and uniform interpretation of the law and judicial practices in areas of its jurisdiction (article 2, paragraph 2, of the Law on the Supreme Court). The Supreme Court performs its functions in two basic ways (article 13 of the Law on the Supreme Court).

37. The first involves the review of appeals against court rulings. In the case of common courts, this simply involves review in cassation (because it is the appeal courts that are chiefly responsible for the appeal process). But the Supreme Court functions as a court of second instance in military cases.

38. The Supreme Court is divided into four chambers a Civil Chamber, a Penal Chamber, a Military and Administrative Chamber, and a Labour and Social Security Chamber. Each is headed by a president appointed by the President of the Republic of Poland. An Assembly of Chamber Judges operates within each chamber and serves as the judges' self-governing body.

The Supreme Court is headed by the First President (chief justice), and the Court's judicial self-governing body is the General Assembly and the Supreme Court College it elects.

39. The First President of the Supreme Court is appointed by the President of the Republic of Poland for a six-year term from among the candidates submitted by the Supreme Court's General Assembly.

### **Common courts**

40. Common courts are courts of a general nature. They are involved in the administration of justice in all cases not reserved by law for other courts. By the same token, they are always presumed to enjoy judicial competence.

Common courts are divided into:

Municipal courts

Voivodship courts

Courts of appeal

### **Municipal courts**

41. Municipal courts are set up for one or more municipalities within a single voivodship. When circumstances so warrant, more than one district court may be established within a single municipality. The Minister of Justice establishes and dissolves such courts, and determines their seat and area of jurisdiction by decree after consulting with the National Judiciary Council.

42. Municipal courts review cases subject to the jurisdiction of the common courts with the exception of those appertaining by law to the other courts. They deal with criminal cases (penal departments), civil suits (civil departments), family and guardianship issues (family and juvenile departments) and labour and social security disputes (labour courts). Within the courts separate organizational units known as economic courts are set up for the purpose of business registration.

### **Voivodship courts**

43. Voivodship courts are established for one or more voivodships. They are established in the same way as district courts.

44. Voivodship courts deal with problems of penal law, civil law, family and guardianship law, and labour and social security law, with the exception of cases appertaining by law to other courts. Separate organizational units known as economic courts are set up within voivodship courts to register business enterprises.

45. Voivodship courts are courts of first instance in more serious or complicated cases, and serve as courts of second instance to review the rulings of district courts. Appeals against rulings handed down by voivodship courts of first instance are reviewed by the courts of appeal.

46. The president of a voivodship court performs judicial administrative functions vis-à-vis courts under its jurisdiction. The president of a voivodship court in the area of judicial administration is an organ subject to the authority of the Minister of Justice.

### **Courts of Appeal**

47. Courts of appeals, of which there are 10 in Poland, are created in the same manner as municipal, district and voivodship courts. Within courts of appeal, the Minister of Justice sets up separate organizational units known as labour and social security courts to handle cases involving labour and social security matters.

48. Courts of appeal perform the function of courts of second instance, since they review appeals against the rulings of voivodship courts functioning as courts of first instance. They also perform the function of courts of cassation, since they can be provisionally entrusted with the review in cassation of cases falling within their sphere of competence.

### **Supreme Administrative Court**

49. The Supreme Administrative Court exercises supervision over administrative decisions issued by administrative organs. The Supreme Administrative Court rules on complaints against administrative decisions within the scope of and according to procedures set forth in the Code of Administrative Procedure and separate regulations.

50. Any citizen who is dissatisfied with the way in which matters have been handled by an administrative institution is entitled, after exhausting appeals to its superior organ, to lodge a formal complaint with the Supreme Administrative Court and expect a final decision.

### **Military courts**

51. Military courts dispense justice in criminal cases within the Armed Forces of the Republic of Poland. In special cases indicated by law, military courts may exercise judicial functions in criminal cases involving non-members of the armed services. Supreme oversight over military courts is exercised by the Supreme Court's Military Chamber with respect to court rulings and by the Minister of National Defence with respect to organizational matters and military service.

### **Constitutional Tribunal**

52. The Republic of Poland has entrusted the task of ruling on the compatibility of legal acts with the Constitution to a Constitutional Tribunal specially created for the purpose. The Constitutional Tribunal issues rulings in the following cases:

1. The compatibility of laws and international agreements with the Constitution;
2. The compatibility of laws with ratified international agreements whose ratification required prior consent expressed in the law itself;
3. The compatibility of legal regulations issued by central State organs with the Constitution, ratified international agreements and legislation;
4. The compatibility of the goals and activities of political parties with the Constitution;
5. Citizens' constitutional complaints, as mentioned in article 79, paragraph 1;
6. The settlement of disputes of competence between central State organs.

53. The rulings of the Constitutional Tribunal are universally binding and final. Proceedings in the Tribunal may be instituted by the President of the Republic of Poland, the Marshal of the Sejm (speaker of the lower house), the Marshal of the Senate, the First President of the Supreme Court, the President of the Supreme Administrative Court, the President of the Supreme Auditing Chamber, the Civil Rights Spokesperson, the Prosecutor-General, 50 Sejm deputies or 30 senators. Other entities entitled to submit motions to the Tribunal to verify the constitutionality of a legal enactment include local government, the National Judiciary Council, trade union federations, churches and religious associations.

54. The Constitution also grants citizens the right to submit citizens' constitutional complaints calling on the Tribunal to verify the consistency with the Constitution of legislation or other legal enactments on the basis of which court rulings or administrative decisions have been issued.

### **Civil Rights Spokesperson**

55. The Civil Rights Spokesperson (ombudsman) is the guardian of civil rights and freedoms as set down in the Constitution of the Republic of Poland and other legal regulations. The Civil Rights Spokesperson protects civil rights and freedoms by checking whether the activities or inactivity of organs, organizations and institutions committed to the respect and implementation of those rights and freedoms may constitute a breach of the law and/or of the principles of social coexistence and justice.

### **Supreme Auditing Chamber**

56. The Supreme Auditing Chamber, the supreme State supervisory organ, is subject to the authority of the Sejm. The Supreme Auditing Chamber supervises government administration and that of other State institutions in terms of the legality, reliability, cost-efficiency and advisability of their activities. The legality, reliability and cost-efficiency of the activities of organs of territorial and local self-government and of legal entities and municipal institutions are also overseen by the Supreme Auditing Chamber. The President of the Supreme Auditing Chamber is appointed for a six-year term by the Sejm.

## **National Council for Radio and Television Broadcasting**

57. The National Council for Radio and Television Broadcasting oversees the freedom and order of radio and television broadcasting. Members of the Council are appointed by the Sejm, Senate and President of the Republic of Poland. Pursuant to article 213 of the Constitution, “the Council for Radio and Television Broadcasting safeguards freedom of speech, the right to information and the public interest in radio and television broadcasting”.

### **III. GENERAL INFORMATION ON LEGAL ACTS IN WHICH THE CHILD’S RIGHTS ARE CONTAINED**

#### **A. Harmonizing domestic law and policy with the provisions of the Convention**

58. The most important legal enactment containing regulations governing children’s rights is the new Constitution of the Republic of Poland which was adopted on 2 April 1997 and entered into effect on 16 October 1997. Among the basic innovations of the Constitution are the inclusion of ratified international agreements among the sources of law in the Republic of Poland (article 87, paragraph 1, and article 91, paragraph 1) and the principle that international agreements take precedence over domestic legislation (article 91, paragraph 2). This has paved the way for the direct application of the Convention’s provisions. Moreover, the Constitution contains a catalogue of basic civil rights and freedoms (articles 30 to 76), including regulations directly affecting children’s rights. Mention should be made above all of:

- Article 18 regarding State protection and care of maternity and parenthood;
- Article 48, paragraph 1, concerning the right of parents to rear their children in accordance with their own convictions together with the obligation to take into account the child’s degree of maturity as well as its freedom of conscience, creed and conviction;
- Article 53, paragraph 3 (in conjunction with article 48, paragraph 1) concerning the right of parents to ensure their children a religious and moral upbringing and teaching in accordance with their own convictions;
- Article 65, paragraph 3, banning full-time employment of children under the age of 16;
- Article 68, paragraph 3, concerning the right of children to special health care provided by the public authorities;
- Article 70, paragraphs 1 and 2, concerning the right to education, compulsory education until the age of 18 and free education in public schools;
- Article 71 concerning public assistance for large and single-parent families, and for mothers before and after childbirth;

- Article 72 concerning the protection of children's rights, the duty of the public authorities to protect the child against violence, cruelty, exploitation and deprivation; public care and assistance for children deprived of parental care; the duty of the public authorities and others responsible for children to listen to and, where possible, take into account the child's opinion when determining his or her rights; the creation of the post of Spokesperson for the Rights of the Child.

59. Mention should also be made of the following changes in existing legal enactments and the adoption of new legislation with a bearing on the rights of the child and incorporating the provisions of the Convention:

- Amendment of the provisions of the Family and Guardianship Code regarding adoption procedures by the Law of 26 May 1995 (published in the Legislative Gazette, No. 83, item 417);
- Amendment of the Code of Civil Procedure by the same Law to encompass adoption procedures;
- Amendment of the Family and Guardianship Code, the Law on Public Registrar's Documents, laws on the relationship of the State with the Catholic Church in the Republic of Poland and certain other laws (Legislative Gazette, No. 117, item 757);
- Amendment of the law on procedure in juvenile cases by the Law of 29 June 1995 amending the Code of Penal Procedure, laws on the structure of military courts, laws on payments in criminal cases and laws on procedures in cases involving juveniles (Legislative Gazette, No. 89, item 443);
- Directives issued by the Minister of Justice on 19 May 1997 regarding categories and forms of organization of reform facilities and shelters for juveniles (Legislative Gazette, No. 58, items 361 and 362);
- Adoption of the Law of 19 August 1994 on the protection of mental health (Legislative Gazette, No. 58, No. 111, item 535);
- Adoption of the Law of 24 April 1997 on combating drug abuse (Legislative Gazette, No. 75, item 468);
- Adoption of the Law of 5 December 1996 on the medical profession (Legislative Gazette, No. 28/1997, item 152);
- Adoption of the Law of 26 June 1997 on foreigners (Legislative Gazette, No. 114, item 152);
- Adoption of the Law of 6 June 1997 Penal Code, Code of Criminal Procedure and Executive Penal Code (Legislative Gazette, No. 88, item 553, No. 89, item 555, and No. 90, item 557).

60. The Council of Ministers adopted in December 1998 a bill to establish the office of Spokesperson for the Rights of the Child drafted by the Office of the Government Plenipotentiary for Family Affairs. The bill implements the commitment stemming from article 72, paragraph 4, of the Constitution of the Republic of Poland of 2 April 1997 to create the post of Spokesperson to ensure the protection of children's rights. In ensuring the realization of children's rights, State organs, and the Spokesperson in particular, should respect the rights of the family and support it in the proper fulfilment of its tasks. This applies in particular when parents, through no fault of their own, are unable to cope with their duties (inability to earn a livelihood, illness or death of one of the parents). However, if a child's rights are violated and its interests are threatened, the Spokesperson is duty bound to use all legal measures at his disposal to ensure the child's proper development.

61. The overriding criterion and aim of the Spokesperson's endeavours are "the child's welfare". The same concept, which is the main interpretative directive, is contained in the Convention on the Rights of the Child, the Family and Guardianship Code and Polish family law.

### **B. National and local mechanisms coordinating policy regarding children's affairs and overseeing implementation of the Convention**

62. In Poland there are State agencies responsible for children's health, education, work, sports and culture, but there is no single institution responsible for the totality of children's affairs.

63. The interests of children will soon be represented by the Spokesperson for the Rights of the Child (draft legislation creating that post was approved by the Council of Ministers in December 1998). The Office of the Government Plenipotentiary for Family Affairs is at the service of the family, including children. The Minister of the Interior's Plenipotentiary for Refugees is in charge of children with refugee status.

64. Polish legislation facilitates social initiatives by legally recognizing non-governmental associations, foundations, unions and institutions. A number of organizations have taken steps to popularize the Convention and use its provisions as arguments in seeking to address the problems of children.

### **C. Propagating the principles and regulations of the Convention**

65. Training programmes for judges, legal guardians and employees of institutions for juveniles (organized by the Department) incorporate a broad sweep of issues in the field of children's rights, including the provisions of the Convention. In turn, judges and guardians themselves include such issues in their talks with children and adolescents in schools and various other institutions.

66. In the years 1993-1998, the Ministry of National Education organized 15 courses devoted to these subjects (12 dealt exclusively with children's rights) lasting a total of 328 hours. The training was designed for educational supervisors and for pre-school and other teachers. All told, 375 persons underwent training (286 in courses dealing only with such issues). The courses

covered the Convention itself as a legal instrument as well as the individual questions it regulates. The training sessions were organized by teacher qualification improvement centres in such places as Bydgoszcz, Konin, Kraków, Krosno, Lodz, Warsaw and Wroclaw. The chart below contains a detailed list of the courses:

Workshops organized in 1994-1998 on the subject of human rights:

No.	School year	Form	Subject	Institution and location	Intended for	Hours	Participants
1	1995/96	Course	Personal rights in light of the Convention on the Rights of the Child	Voivodship Methodology Centre in Bydgoszcz	Teachers, educationalists, educators	20	15
2	1996/97	Course	Convention on the Rights of the Child	Voivodship Teacher Qualification Improvement Centre in Lodz	Pre-school teachers	15	25
3	1996/97	Course	Children's rights and their protection at school	Voivodship Teacher Qualification Improvement Centre in Lodz	Teachers of forms 4 to 8	34	15
4	1996/97	Course	Human rights, children's rights	Voivodship Methodology Centre in Krosno	Teachers of social studies	40	20
5	1996/97	Course	Psycho-pedagogical consequences of violating children's rights	Voivodship Methodology Centre in Konin	Schoolteachers, pedagogical staff of special institutions	15	25
6	1996/97	Other	Respecting children's rights at school	Voivodship Methodology Centre in Wroclaw	Teachers of forms 1 to 3	64	25
7	1996/97	Seminar	Children's rights	Voivodship Methodology Centre in Gorzów Wlkp.	Teachers of history and social studies	6	20
8	1997/98	Course	Convention on the Rights of the Child and child protection under Polish law	Voivodship Methodology Centre in Plock	Educational management	5	30
9	1997/98	Course	Protecting children's rights at school -practical assumptions	Voivodship Methodology Centre in Kalisz	Teachers	30	30
10	1997/98	Course	Children's rights in the pedagogics of C. Freinet and other educational concepts	Voivodship Methodology Centre in Kraków	Primary schoolteachers	25	30
11	1997/98	Course	Human rights and the protection of children's rights at school	Voivodship Teacher Qualification Improvement Centre in Lodz	Teachers of forms 4 - 8, schoolteachers, rights spokesmen	34	18
12	1997/98	Course	Convention on the Rights of the Child	Voivodship Teacher Qualification Improvement Centre in Kraków	Pre-school teachers and principals	40	25



#### IV. DEFINITION OF THE CHILD

67. Legally established age limits for various purposes:

(1) The age of majority is 18 years of age, for example for contracting marriage (see point (e)), under article 10 of the Civil Code.

(2) There is no age limit for obtaining legal advice without parental consent.

The concept of legal capacity exists in Poland's legal system. It envisages the lack of such capacity in the case of children under 13 years of age, limited legal capacity in the case of those aged 13 to 17 and full legal capacity for individuals who have attained the age of 18 (articles 11, 12 and 15 of the Civil Code). Limited legal capacity means, among other things, the ability, without the consent of a legal representative, to contract agreements of the type widely concluded on minor daily matters (article 20 of the Civil Code), to dispose of one's earnings (article 21 of the Civil Code and article 101, paragraph 2, of the Family and Guardianship Code), and to dispose of assets given to such individuals to do with as they please (article 22 of the Civil Code and article 101, paragraph 2, of the Family and Guardianship Code).

68. The Law on the Medical Profession of 5 December 1996 requires attainment of the age of 16 (with certain exceptions) for a minor, in addition to his/her legal representative, for consent to participate in a medical experiment (article 25, paragraph 2). The same age is required for a patient to obtain full information on his/her state of health, the diagnosis, possible diagnostic and therapeutic methods, the foreseeable consequences of their application or termination, and the results of treatment and prognoses (article 31, paragraph 5). (Minors under that age are informed with certain limitations (article 31, paragraph 7).) A patient must be at least 16 to consent to medical tests or other health services (article 32, paragraph 5) and to surgical treatment (article 34, paragraph 4).

69. (3) Completion of compulsory education 18 years (article 70, paragraph 1, of the Constitution).

(4) Part-time employment, full-time employment and high-risk employment.

The regulations under section 9 of the Labour Code establish a uniform category of juvenile employees and specify a separate system of protective regulations for that group. According to the legal definition contained in article 190, paragraph 1, of the Labour Code, a working minor is someone who has attained 15 years of age but is under the age of 18. Such a person may be employed on condition that he/she:

- Has completed at least primary school;
- Presents a medical certificate stating that a given job does not pose a health threat.

70. In accordance with article 191, paragraph 2, of the Labour Code, an unskilled minor may be employed only on the basis of a work agreement for the purpose of vocational training. According to the directives issued by the Council of Ministers on 28 May 1996 regarding the

vocational training and remuneration of minors (Legislative Gazette No. 60, item 278), vocational training may take the form of teaching an occupation or training someone to perform a specific task.

71. The teaching of an occupation is intended to prepare the minor for work as a skilled worker or apprentice and includes both practical training organized by the employer and additional theoretical instruction. Occupational training lasts, in general, 36 months but not less than 33 months.

72. Job training, i.e. teaching someone to perform a specific task, is intended to prepare a minor for employment as a job-trained worker and may involve jobs not requiring the occupational training of normal duration (see above). Such job training may last from three to six months. An exception is made for minors participating in Voluntary Work Brigades, for whom the job training period may be extended until they complete primary school. But it should not exceed 12 months and, overall, should not last longer than 18 months.

73. Exceptional cases of employment of minors who have not completed primary school and are under the age of 15 are specified in the directives issued by the Minister of Labour and Social Policy on 29 May 1996 (Legislative Gazette No. 62, item 291).

74. Where a legal representative submits the appropriate application, the above directives permit the employment of a minor who has not completed primary school for the purpose of job training, on condition that a medical certificate is presented stating the lack of contraindications for such employment in the following situations:

- Where a minor is not subject to compulsory schooling requirements or has been released from that obligation by the Superintendent of Schools;
- Where a minor over 15 years of age who is subject to compulsory education requirements is permitted by his or her primary school principal to fulfil the schooling requirement outside of school or is assigned by the principal to a job-training class.

75. Minors may be employed for the purpose of job training if they have reached the age of 15, even if they have not completed the fifth form and have not been absolved from the compulsory schooling requirement. Such employment may commence only on the basis of permission by the Superintendent of Schools, issued on the basis of a medical certificate presented by the minor and the opinion of the psychological counselling office.

76. In accordance with the above-mentioned directives, the employment of a minor who is over 14 but under 15 is permissible at the official request of the minor's legal representative but may involve only a minor who has completed primary school and received a positive recommendation from the psychological counselling office and a medical doctor. A job contract may be concluded with such an individual solely for the purpose of vocational training.

77. A minor who has celebrated his or her fifteenth birthday may be employed on the basis of a labour contract concluded solely for wage-earning purposes:

- In non-strenuous, seasonal or occasional jobs; such jobs are listed, on the basis of article 191, paragraph 4, in directives issued by the appropriate ministers;
- On the basis of a work agreement concluded on acquiring employment qualifications following previous occupational or job training.

78. Minors who have not completed primary education may also be employed in non-strenuous seasonal or occasional jobs.

79. The provisions of Polish labour law do not separately regulate the employment of minors for part-time or full-time work, but they do differentiate working time in terms of the age of the minor. The working time of a minor under 16 years of age may not exceed six hours in a 24-hour period, while a minor aged 16 or more may work up to eight hours during the same period. Training time is included in a minor's working time regardless of whether such training takes place during working hours, but it should not exceed 18 hours a week.

80. The provisions of article 32 of the Convention require States parties to observe special principles pertaining to the working conditions of minors.

81. Matters relating to the employment of minors, i.e. individuals over 15 but under 18, are regulated by the provisions of section 9 of the Labour Code. Article 190 of the Code prohibits the employment of individuals under the age of 15. On the basis of article 204 of the Code, the Council of Ministers issued directives on 1 December 1990 listing jobs from which minors are barred (Legislative Gazette No. 85, item 500, of 1992, No. 1, item 1, and of 1998, No. 105, item 658).

82. In accordance with those directives, the employment of minors in jobs involving conditions harmful to their health (the level of such factors being specified), in dangerous or extremely strenuous jobs or in jobs that might jeopardize a minor's proper psychological development is forbidden. Such jobs involve:

- Excessive physical exertion, the transport of heavy loads and a coerced body position;
- A working environment involving exposure to excessive cold or heat or changing temperatures;
- Unsuitable lighting;
- Noise and vibration;
- Electromagnetic or electrostatic fields as well as exposure to ionizing, laser, ultraviolet and infrared radiation;
- Work underground, below ground or at a height;
- Increased or decreased pressure;

- Exposure to harmful dust capable of causing fibrosis, irritation or allergies;
- Exposure to harmful biological substances;
- Exposure to harmful chemical substances (carcinogenic or probably carcinogenic, toxic, or allergy-inducing substances, pesticides and psychotropic drugs);
- Jeopardizing proper psychological development (including the production, sale and consumption of alcohol, the slaughter and butchering of animals, work as a bath attendant, etc.);
- Risk of bodily harm to the minor or those about him or her.

83. The directives permit the employment of minors aged 16 and over in some of the listed prohibited jobs in order to prepare them for a specific occupation; however, they specify the conditions required to protect life and limb.

84. (5) Initiation of sexual activity the minimum age of 15 years may be extrapolated from article 200, paragraph 1, of the Penal Code which makes it a punishable offence to bring about sexual relations with, expose to other sexual activity or perform such activity on someone under the age of 15. If the minor involved is under the age of 15, his/her consent does not preclude the offender's criminal liability.

85. (6) Contraction of marriage the situation before and after ratification of a Concordat between the Republic of Poland and the Apostolic See should be differentiated. Previously, a legally binding marriage could be contracted only before an official of the registrar's office (article 1, paragraph 1, of the Family and Guardianship Code), a Polish consul or an individual designated to perform the function of consul (article 2 of the Code). Matrimony could be entered into by a male who had attained 21 years of age and a female of at least 18 years of age. However, for valid reasons, a family court could grant permission for a male to marry at the age of 18 and a female at the age of 16. Since the entry into force on 15 November 1998 of the Law of 24 July 1998 which amends the Family and Guardianship Code, the Code of Civil Procedure, the Law on Documents of the Registrar's Office, the Law on the Relationship of the State to the Catholic Church in the Republic of Poland and certain other laws (Legislative Gazette No. 117, item 757), couples may be married by a clergyman (if the formal requirements set down in article 1 of the Family and Guardianship Code are fulfilled). The minimum marriageable age for both men and women has been set at 18. But a family court may allow a woman who has attained 16 years of age to marry (article 10, paragraph 1, of the Family and Guardianship Code).

86. (7) Compulsory military service. A person who has attained 18 years of age may be called up for military service pursuant to the Law of 21 November 1967 on the Universal Obligation to Defend the Republic of Poland (Legislative Gazette of 1992, No. 4, item 16). The Law also envisages voluntary military service as part of a citizen's duty to defend his country but does not set any age limits.

87. (8) Testifying in court. Two issues should be distinguished. The first is the possibility of being summoned as a witness. In both civil and criminal cases, Polish law sets no age limits in respect of those summoned to testify as witnesses. An exception is article 430 of the Family and Guardianship Code, which states that in marital cases (divorce, annulment of marriage, determining the existence or non-existence of a state of matrimony) minors under the age of 13 and descendants under the age of 17 may not be questioned as witnesses.

88. The clearly restricted use of the testimony of children is covered by article 259, paragraph 1, of the Code of Civil Procedure, which refers to the limited ability to perceive and to convey perceptions. Individuals lacking such ability cannot be called as witnesses. However, the above-mentioned regulation stops short of setting a rigid age limit.

89. Another question is the personal participation of minors in cases involving them. Although one cannot deduce from the regulations of the Code of Civil Procedure that minors enjoy the full rights of adult witnesses, they are not simply passive objects of judicial proceedings. In custody cases the Code does not formulate *expressis verbis* the duty of hearing the views of a minor. But it does accord an individual under parental authority, care or custody the ability to act in cases affecting the minor, unless the said minor lacks legal capacity (article 573, paragraph 1, of the Code of Civil Procedure). While paragraph 2 of the same article allows the court to limit or even exclude the personal participation of a minor in proceedings for educational reasons, article 574, paragraph 1, envisages the possibility of a family court ordering the personal appearance of an individual under parental authority or care. Article 576, paragraph 2, refers specifically to the hearing of a minor's testimony in the course of proceedings, adding that for educational reasons such testimony may be given away from the courtroom. The issue of compulsory questioning of minors is also regulated by legal norms of a higher order article 12, paragraph 2, of the Convention (article 87, paragraph 1, of the Constitution of the Republic of Poland states that ratified international agreements are a source of law in Poland) and above-mentioned article 72, paragraph 3, of the Constitution.

90. The age of criminal responsibility is 17 years, an age limit laid down both in the 1969 Penal Code and in article 10, paragraph 1, of the new Penal Code of 2 August 1997. Both legal enactments envisage a special case of criminal responsibility of minors for certain kinds of particularly heinous crimes, but they maintain objective premises. The 1969 Penal Code sets the age limit in such cases at 16 (article 9, paragraph 2); the new Code lowers the age to 15 (article 10, paragraph 2). The above-mentioned age limits constitute the minimum age at which an offender may be sentenced to incarceration. Offenders under that age are held responsible for punishable acts as minors in accordance with the Law of 26 November 1982 on Procedure in Cases Involving Minors.

91. (9) Permission to consume alcohol and other controlled substances the age limit of 18 may be determined on the basis of the following regulations:

- Article 15, paragraph 2, of the Law of 26 November 1982 on Educating in Sobriety and Counteracting Alcoholism (Legislative Gazette No. 35, item 230, as amended), which bans the sale of alcohol to individuals under the age of 18, and article 43, paragraph 1, of the same law, which lays down penalties for breaches of the ban;

- Article 208 of the Penal Code, which lays down penalties for individuals who cause minors to become addicted to drink by supplying them with alcohol, facilitating its consumption or inducing them to consume it;
- Article 6, paragraph 1, of the Law of 9 November 1996 on Protecting Health against the Effects of Tobacco Products (Legislative Gazette No. 10/96, item 55), which bans the sale of tobacco products to individuals under the age of 18, article 8 of that Law, which bans the advertising and promotion of tobacco products, tobacco paraphernalia or products imitating them in publications intended for children and juveniles, and article 13, which lays down penalties for violating those regulations;
- Article 17, paragraph 1, of the Law of 24 April 1997 on Counteracting Drug Abuse (Legislative Gazette No. 75, item 468), which provides for compulsory treatment and rehabilitation for individuals addicted to narcotic or psychotropic substances, on condition that they are under 18 years of age.

## V. INFORMATION ON IMPLEMENTATION OF GENERAL PRINCIPLES

92. Article 2 of the Convention on the Rights of the Child contains a non-discrimination clause. It is almost identical to that contained in article 24 of the International Covenant on Civil and Political Rights. “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” Paragraph 2 of the above-mentioned article requires States parties to the Convention to take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions or beliefs of the child’s parents, legal guardians or family members.

93. The Polish legal system is based on the principle of equal rights for all with no discrimination, which stems directly from the Constitution of the Republic of Poland which, in article 32, recognizes the equality of citizens before the law. Paragraph 2 of that article states that “No one may be discriminated against in political, social or economic life for any reason whatsoever.” It should be added that Polish law has also eliminated discrimination against unborn children, so that children are given full protection from the moment of conception (Law of 7 January 1993 on Family Planning, Protection of the Human Foetus and Conditions for Terminating Pregnancy).

94. The regulations of the Family and Guardianship Code, like the Civil Code, contain no clauses permitting the discriminatory treatment of certain categories of children. Hence, Polish law fulfils other requirements of the Convention. Article 3 of the Convention stresses that the best interests of the child should be a primary consideration in all actions undertaken by institutions, public services and private individuals.

95. The Constitution of the Republic of Poland affords special protection to marriage, maternity and parenthood (article 18). Article 72 of the Constitution “ensures the protection of children’s rights” and confers on everyone the right to demand that the public authorities protect children’s rights against violence, cruelty, exploitation and deprivation. The Constitution states that a child deprived of parental care is entitled to care and assistance from the public authorities and requires legislators to specify the competence and the procedure for appointing a Spokesperson for the Rights of the Child.

96. Article 3 of the Convention requires not only legislative bodies but also courts of law and administrative authorities and even child-care institutions to accord priority to the best interests of the child - a concept that has not been rigorously defined. That being the case, the best way to implement the requirement from a technical and legal standpoint is for the Polish legislator to apply the appropriate general clause. The Polish legal system has satisfied that requirement through legal regulations ordering law enforcement agencies, particularly courts, to take the child’s welfare into account as a high priority.

97. The “child’s welfare” is the term used in the legislative enactment that has the greatest significance for family relations, namely the Family and Guardianship Code. It does not contain a general section nor does it formally single out any set of regulations as more important or more widely applicable than other provisions. Special consideration for a child’s welfare therefore does not stem from particular legal regulations.

98. Nevertheless, the courts have recognized the requirement of high-priority protection of a child’s welfare as a general value and a normative principle of Polish family law which is taken into account in all legal regulations pertaining to children. This approach is also supported by the fact that it is derived from the provisions of the Constitution, which lays the foundations of the political system of the Republic of Poland. A child’s welfare is regarded as an overriding value compared to the interests of parents, guardians and other individuals. The Convention enjoins respect for the aforementioned interests of parents, because it broadly assumes that they will be pursued in the interest of the child, for whom a family environment, as a rule, provides the best conditions for development.

99. Under Poland’s legal system, these responsibilities, rights and duties of parents towards their children are enshrined above all in the institution of parental authority, regulated in greater detail by the Family and Guardianship Code.

100. In accordance with the provisions of the Convention, both parents are entitled to exercise parental authority (articles 92 and 93 Family and Guardianship Code). As a result, the question of whether a child’s welfare requires the assignment of parental authority to parents does not arise. It does arise, however, in the case of paternity suits because in such situations, by virtue of article 93, paragraph 2, of the Family and Guardianship Code, “a father is entitled to exercise parental authority only when a court so decides”.

101. The Family and Guardianship Code prohibits the dissolution of marriage through divorce “if the welfare of a married couple’s under-age children would suffer as a result” (article 56, paragraph 2). That regulation fully reflects the provisions of the Convention, which considers that the family and the cooperation of the two parents provide the optimum conditions for a

child's development. The regulation accords clearly higher status to the value known as "a child's welfare" than to the interests of parents or a parent demanding the dissolution of a marriage. The purpose of the regulation is to maintain family ties and the intimate educational influence of both parents on their children, since such circumstances are conducive to the child's welfare. The child's welfare also constitutes the basis for intervention by judicial bodies in the exercise of parental authority. Article 109 of the Family and Guardianship Code stipulates that "If a child's welfare is threatened, a family court will issue the appropriate directives", which are listed in the subsequent provisions of the aforementioned article. Judicial bodies are thus able to influence the protection of a child's interests in keeping with the provisions of the Convention. Such intervention may lead to the suspension or revocation of parental authority. But the foundations for such drastic action have been separately and narrowly defined. A court may suspend parental authority if a temporary obstacle to its exercise arises (article 100 of the Family and Guardianship Code) and revoke it "if parental authority cannot be exercised because of a permanent impediment, or if the parents abuse parental authority or flagrantly neglect their obligations to their child" (article 111, paragraph 1, of the Family and Guardianship Code). Hence, if the threat to or the violation of the child's welfare were to assume a different and, in particular, a less drastic form, the court would lack the jurisdiction to divest anyone of parental authority.

102. For various reasons, a child may be reared outside the circle of his or her natural family. In such cases, the issue also arises of the relationship between the child's interests and those of the individuals who are raising and guiding the child.

103. Here Polish law invokes "the child's welfare", first of all when the individuals to whose care the child will be entrusted are being chosen. The relevant regulations are based on the premise that such matters should be considered on a case-by-case basis and not limited to general stereotypes, as in the case of parental authority to which parents are generally entitled. The child's welfare should be the decisive criterion in making such a choice.

104. In accordance with the provisions of the Convention, the best interests of the child should be the overriding consideration in determining the legal relationship between adoptive parents and the adoptee and between a guardian and his or her charge. These principles are fully respected by Polish law. Adoptive parents are entitled to parental authority (article 121, paragraph 1, and article 123 of the Family and Guardianship Code). As regards foster parents, article 154 of the Family and Guardianship Code states the general principle that "a foster parent shall exercise his or her functions with the proper care, as required by the individual under his or her care and by the public interest." Moreover, the relevant regulations on parental authority (article 155, paragraph 2, of the Family and Guardianship Code) are applicable to foster care. As already noted, they are based on the principle of giving priority to the child's welfare.

105. The child's welfare is also significant when decisions are taken regarding the above-mentioned legal relationships. This is particularly applicable to the quality of care. In accordance with article 169, paragraph 2, of the Family and Guardianship Code, the court is entitled to release a guardian (foster parent) who "engages in acts or omissions that are contrary to a child's welfare". With regard to (dissoluble) adoption, consideration of the child's welfare - as with divorce - serves to uphold family ties, since, as stipulated by article 125, paragraph 1, of the Family and Guardianship Code, "dissolution of an adoptive relationship is not permissible if



the welfare of an underage child would suffer as a result.” Those provisions are fully in keeping with the Convention on the Rights of the Child and have developed its general provisions during the period covered by this report.

106. In sum, it may be stated that the substance of the concept of the “child’s welfare”, as enshrined in existing Polish legislation, broadly corresponds to the concept of “the best interests of the child” set forth in the Convention on the Rights of the Child.

107. A child’s right to life and development is enshrined in article 6 of the Convention. Existing legislation in the Republic of Poland protects a person’s life and health from the moment of conception. The relevant provisions are contained in the Law on Family Planning, Protection of the Human Foetus and Conditions for Terminating Pregnancy (the Law of 7 January 1993 states that every human being has an inherent right to life and that from the moment of conception a child’s life and health are under the protection of the law). In 1997, the Constitutional Tribunal found an amendment of the aforementioned law to be incompatible with the Constitution, since it questioned the right to life of unborn children. The Tribunal declared that the right to life is an absolute and indispensable principle of a democratic law-abiding State (Constitutional Tribunal ruling No. 26/97 of 28 May 1997). As a result, the right to life enjoys strong constitutional protection.

108. A child’s right to protection against threats to life and limb and his or her right to development are bolstered by legal norms enjoining special care for mothers before and after childbirth. Polish labour legislation provides for maternity and child-rearing leave for mothers or fathers (see chapter VIII).

109. Protection of the life and health of a child and of his or her physical, mental and social development is also safeguarded by other legislation the Law on Health Care Institutions, the Law on the Education System, the Law on Procedure in Cases Involving Juveniles and the Law on the Employment and Rehabilitation of the Disabled. These matters are also regulated by the Family and Guardianship Code, which defines the rights and duties of parents to ensure that their children enjoy the proper conditions for development (see chapter VIII), and by regulations on the occupational training of minors and the system of allowances and social security (see chapter VIII).

110. The Convention lays considerable stress on the autonomy of the child as a person and on respect for the child’s views, which is of particular importance as the child develops and approaches the age of majority. Article 12 requires States parties to assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child. It follows from that provision that State organs, social organizations and individuals with an influence on a child’s situation have a duty to give the child the opportunity to be heard and to accord due practical and legal weight to his or her views.

111. Many regulations of the Family and Guardianship Code require the consent of a child that has attained the age of 13 years in such matters as changing the child's name (article 88, paragraph 2, article 89, paragraphs 1 and 2, article 90, paragraph 1, and article 1222, paragraph 3, of the Family and Guardianship Code), adoption (article 118, paragraph 1, of the Code) or taking the child's blood sample to be tested in civil proceedings (article 306 of the Code).

112. With regard to civil rights, the child is permitted to participate in a range of legal activities depending on his or her age. For children over the age of 13, who have limited legal capacity, a system of control is sometimes envisaged involving the consent of the child's legal guardian or even the permission of a family court. This may occur, for example, in cases where commitments are incurred or in respect of the disposal of financial assets. Other activities may be performed independently by a child over the age of 13. They include disposal of one's own earnings, legal activities with respect to property given to the child to dispose of freely and the contracting of employment. The Polish legal system is generally regarded as providing a broad area in which adolescent minors are competent to engage in legal activities. Polish legislation even recognizes as valid agreements concluded by children under the age of 13 if they pertain to minor routine matters of daily life.

113. A child's right to express his or her own opinions, especially in the course of judicial or administrative proceedings affecting the fate of the child, is recognized to a greater or lesser degree on the basis of procedural norms. The principle in force is that a child is represented in civil court proceedings by his or her legal guardians, usually his or her parents, in accordance with article 65, paragraph 1, and article 66 of the Family and Guardianship Code. However, a child that has attained the age of 13 may testify independently in the majority of cases considered by family courts. Moreover, article 65, paragraph 2, of the Family and Guardianship Code confers on children over 13 years of age procedural powers stemming from legal operations that they are able to perform independently.

114. Article 573, paragraph 1, in conjunction with article 510 of the Family and Guardianship Code states that a person with limited legal capacity is a participant in guardianship proceedings affecting the said person. On some occasions, however, the personal participation of a child may not be advisable for educational reasons. Article 573, paragraph 2, of the Code of Civil Procedure permits the exclusion of a child from personal participation in such proceedings. According to the Supreme Court, a child is not a participant in proceedings pursuant to article 510 of the Code of Civil Procedure in cases dealing with the limitation or divestment of parental authority. The Supreme Court does, however, recognize the need to take the child's opinion into account when addressing such issues. This procedure involves the child expressing his or her opinion to the court responsible for taking a decision in a case involving parental authority.

115. Poland's legislation and legal system fully accept and respect the principle of non-discrimination and the safeguarding of the best interests of the child. The Republic of Poland protects the child's right to life from the moment of conception, the child's right to development and respect for the child's opinions.

## **VI. CIVIL RIGHTS AND FREEDOMS**

### **A. Name and nationality**

116. In accordance with the Convention, every child has the right to preserve his or her identity, nationality and name. According to the Polish Law on Documents of the Registrar's Office (Law of 29 September 1986 as amended), the birth of a child must be reported within 14 days so that a birth certificate can be issued. The birth certificate must contain the family name, first name and sex of the child and parental data. The Law on Polish Citizenship and the Family and Guardianship Code specify in detail the conditions under which a birth certificate may be issued if one or both of the child's parents are unknown. Polish law does not allow for a situation in which a child has no birth certificate. The Law on Polish Citizenship of 19 February 1962 states that a child acquires Polish citizenship if both his/her parents are Polish citizens or if one is a Polish citizen and the other is unknown or his/her citizenship remains undefined.

117. In the case of mixed marriages, the child acquires citizenship upon a formal request by his or her parents, submitted within three months of the child's birth. The provisions of article 7 of the Convention regarding the acquisition of a name and nationality have thus been fulfilled.

### **B. Preservation of identity**

118. A child's right to know his or her parents, recognized in article 7 of the Convention, exists in Poland with the restriction submitted as a reservation to article 7 of the Convention. Poland holds that the right of an adopted child to know his or her biological parents is subject to restrictions derived from legal provisions allowing adoptive parents to keep the child's origin a secret. Those provisions are applicable in the case of what is known as full adoption.

119. In Article 8, the Convention enjoins respect for the child's right to preserve his or her identity, including nationality, name and family relations as recognized by law. The Polish legal system is consonant with that requirement. It is guaranteed by the provisions of family law pertaining to parental authority and personal contacts between parents and children, civil procedure regulations and the Law on the Education System (article 13). The latter allows schoolchildren to preserve their sense of national, ethnic and religious identity by studying their own history and culture.

120. During the period covered by this report, Polish legal norms were brought into line with the provisions of the Convention dealing with the preservation of a child's identity in the event of foreign adoption. Pursuant to the amendment to the Family and Guardianship Code and other legislation of 26 May 1995 (Legislative Gazette No. 83, item 417), adoption entailing a change in the adoptee's place of residence from the territory of the Republic of Poland to that of another State is permissible if that is the only way of providing the adopted child with a suitable substitute family environment, i.e. in cases where the child cannot be assured of the proper conditions for development in Poland, mainly (but not only) as a result of his or her adoption (article 114 of the Family and Guardianship Code).

### **C. Freedom of expression and protection of privacy**

121. Mention may be made here of the provisions of the Convention recognizing the child's right to form and freely to express his or her own views (article 12, paragraph 1), to be heard at any judicial or administrative proceedings affecting the child (article 12, paragraph 2), to receive and impart information (article 13), to freedom of thought, conscience and religion (article 14), and to protection against arbitrary or unlawful interference with his or her privacy, family and home. In ratifying the Convention, Poland issued a declaration effectively constituting a modification of the provisions contained in articles 12 to 16 of the Convention.

122. The declaration states that the child's rights "shall be exercised with respect for parental authority, in accordance with Polish customs and traditions". Because of the alignment of Polish legislation with the Convention's norms, Poland has recently taken steps to withdraw the above-mentioned reservations. In 1997 a draft resolution was submitted to the Sejm calling on the Republic of Poland to withdraw its reservations to articles 12, 13, 14 and 16 of the Convention. Withdrawal of the reservations will not adversely affect respect for the rights of parents and their effective exercise of parental duties. In that context, mention should be made of article 48 of the Constitution which states that "Parents shall have the right to rear their children in accordance with their own convictions. Such upbringing shall respect the degree of maturity of a child as well as his freedom of conscience and belief and also his convictions."

### **D. The right to freedom of thought, conscience and religion**

123. Respect for the child's freedom of thought, conscience and religion, in accordance with article 14 of the Convention, is ensured in Polish educational law by article 12 of the Law on the Education System which states that "Acknowledging the right of parents to provide their children with religious training, public primary schools shall organize religious instruction at the request of parents and post-primary schools at the request of parents or pupils; on attaining the age of majority, pupils shall decide the question of instruction themselves." Paragraph 2 of that article delegates to the Minister of National Education authority to issue directives determining the conditions and manner of organization of religious education in schools in consultation with the authorities of the churches and other religious organizations. The right to religious instruction in schools, as a part of religious freedom, is guaranteed by the Law Guaranteeing Freedom of Conscience and Religion and by laws on the relationship between the State and churches and other religious organizations. Such guarantees are also contained in the Concordat between the Apostolic See and the Republic of Poland.

### **E. Freedom of association and peaceful assembly**

124. A child's right to freedom of association and of peaceful assembly (article 15 of the Convention) is reflected in the Law on Associations (article 3 of the Law of 7 April 1989), the Law on Assemblies (article 1 of the Law of 5 July 1990) and the Law on the Education System (article 56). Under the Law on Associations, all Polish citizens who enjoy full legal capacity and have not been deprived of civic rights are entitled to set up associations. Minors aged 16 to 18, who have limited legal capacity, may belong to associations, vote and be elected to office therein with the proviso that the association's board must comprise a majority of individuals enjoying full legal capacity. Minors below the age of 16 may, with the consent of their legal guardians,

belong to associations in accordance with the principles set down in their charters. If an association's organizational unit consists exclusively of minors, they may vote and be elected to office as officers of that unit.

125. On the other hand, the Law on Assemblies of 5 July 1990 accords to everyone the freedom of peaceful assembly. However, freedom of assembly is restricted where necessary for the protection of State security, public order, public health and morals, or respect for the rights and freedoms of other individuals, i.e. under the circumstances indicated in article 15, paragraph 2, of the Convention. The Law on Assemblies lists the entities authorized to organize assemblies. Individuals enjoying full legal capacity, legal entities, other organizations and groups of individuals fall into that category.

126. The Law on the Education System clearly states that "with the exception of political parties and organizations, all associations and organizations whose goal is educational activity among children and adolescents or the expansion and enrichment of the didactic, educational or custodial activities of a school or a care facility shall be allowed to operate within a school or a care facility" (section 1). Section 2 makes the operation of such associations and organizations conditional on the consent of the board of the school or care facility. The Framework Public School Charter (annex to a Regulation of the Minister of National Education of 19 June 1992, paragraph 35) includes among the principles to be observed in defining a schoolchild's specific rights and obligations under the charter of a given school his or her right to "influence the life of the school through self-government activities and affiliation with organizations operating within the school" (point 1).

127. The above-mentioned regulations attest to the fact that a child is not required to belong to an organization and that his or her freedom of choice is recognized. The charters of children's and youth organizations contain clauses to the effect that membership therein is voluntary.

128. Only organizations and associations that enjoy legal status and whose educational objectives are not at variance with the values and educational goals set forth in the Law on the Education System may operate within the education system. This is in keeping with article 15, paragraph 2, of the Convention pertaining to the scope of restrictions on the freedom of association and assembly.

#### **F. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment**

129. The Convention on the Rights of the Child (article 37) forbids the inhuman treatment, debasement and punishment of children. In this area, reference should be made primarily to article 72, paragraph 2, of the Constitution which grants everyone the right to demand "of the organs of public authority that they defend children against violence, cruelty, exploitation and depravity". Polish criminal law considers abusive conduct towards a minor to be a crime. Article 207, which defines that basic category of crime, states that "The physical or mental abuse of a family member, another individual who is in a state of permanent or temporary dependence on the offender, a minor or an individual with a mental or physical disability is punishable by from three months' to five years' imprisonment."

## VII. THE FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### A. Advice given by parents and parental duties

130. The principle of respecting the rights, duties and responsibilities of parents for the upbringing and development of children, as set forth in article 5 of the Convention, is reflected in Polish law.

131. Legal protection for the family is guaranteed by the Constitution, which states in article 18, paragraph 1, that “Marriage, as a union between a woman and man, as well as the family, maternity and parenthood are placed under the protection and care of the Republic of Poland.”

132. Article 48 emphasizes the right of parents to raise their children in accordance with their own convictions, adding, however, that such upbringing shall take into account the child’s degree of maturity as well as his or her freedom of conscience and belief and conviction. These principles are set forth in the provisions of specific laws, above all the Family and Guardianship Code, the Code of Civil Procedure, the Civil Code, the Penal Code and the Law on the Education System. Relations between parents and children are regulated by the following regulations of the Family and Guardianship Code:

- Article 92: A child remains under parental authority until he or she attains the age of majority;
- Article 95, paragraph 1: Parental authority involves in particular the duty and right of parents to care for the child’s person and assets and to bring up the child;
- Article 95, paragraph 2: A child under parental authority owes obedience to his or her parents;
- Article 95, paragraph 3: Parental authority should be exercised in the manner required by the child’s welfare and the public good;
- Article 96: Parents raising and guiding a child under their parental authority are duty bound to care for the child’s physical and spiritual development and to equip the child appropriately to work for the good of society according to his or her abilities;
- Article 97, paragraph 1: If both parents are entitled to exercise parental authority, each of them has the right and duty to do so;
- Article 97, paragraph 2: They should jointly decide matters of vital importance to the child; if there is a lack of understanding between them, a family court shall resolve the issues involved;
- Article 98: Parents are the legal guardians of children under their parental authority;

- Article 99: If neither of the parents is able to represent the child under their parental authority, he or she is represented by a court-appointed guardian;
- Article 101, paragraph 1: Parents are duty bound to manage with due care the property of the child under their parental authority;
- Article 101, paragraph 2: Parental management does not include the child's earnings or property given to the child to dispose of as he or she pleases;
- Article 101, paragraph 3: Without the consent of a family court, parents may not engage in activities that overstep the bounds of ordinary management, or allow the child to engage in such activities.

133. Article 18 of the Law on the Education System imposes on the parents of a child subject to compulsory schooling the duty to:

1. Attend to the formalities related to enrolment of the child in school;
2. Ensure the child's regular attendance at school;
3. Provide the child with conditions conducive to the preparation of school lessons;
4. On the basis of permission granted by the principal of the school in whose district the child resides, ensure that a child fulfilling his or her schooling obligations outside the school is provided with the conditions specified in the permission.

134. Where parental authority cannot be exercised owing to a permanent impediment, or where parents abuse their parental authority or flagrantly neglect their duties, a family court divests such parents of their parental authority. If the conditions that constituted the basis for the divestment of parental authority cease to exist, the court may restore parental authority (article 111, paragraph 2, of the Family and Guardianship Code). In the event of a temporary impediment to the exercise of parental authority, a family court may suspend such authority (article 110 of the Family and Guardianship Code). Such cases necessitate action to provide custodial care, but only after the ruling depriving parents of parental authority or suspending such authority has assumed legal force. According to article 72, paragraph 2, of the Constitution of the Republic of Poland, "a child deprived of parental care has the right to care and assistance from the public authorities." Hence, children and adolescents who for various reasons lack the proper conditions for development within their families or have been deprived of their families as a result of some misfortune are placed under total care - one of the main elements of the child-care system.

## **B. Separation from one's parents**

135. Article 48, paragraph 2, of the Constitution of the Republic of Poland permits the restriction or divestment of parental authority only in cases specified by law and solely on the basis of a legally binding court ruling. The provisions of the Family and Guardianship Code in this area have not changed but the new Penal Code of 2 August 1997 no longer envisages the

additional penalty of divestment of parental or custody rights that existed under the 1969 Penal Code. Instead, article 51 of the Penal Code authorizes a criminal court to inform the relevant family court of a crime committed against a minor or in collusion with a minor if the criminal court deems it advisable to divest or suspend parental rights. (Note there is a certain terminological inconsistency, since the Penal Code speaks of “parental rights”, while the Family and Guardianship Code refers to “parental authority”.)

### **C. Reuniting families**

136. New passport regulations introduced in Poland in 1990 enable individuals caring for children to decide freely on foreign travel in order to reunite families - an arrangement that is consistent with article 10 of the Convention.

137. Every Polish citizen has the right to obtain a passport and keep it at home. This right may be revoked or restricted only in cases regulated by the law.

138. Where a minor applies for a passport, the consent of both parents or legal guardians is required. This is not the case if a court rules that one parent is entitled to decide the matter. In the event of a lack of agreement between the parents or inability to obtain consent, a family court rules on the matter in their place.

### **D. Resources for child support**

139. The provisions of articles 128 to 144 of the Family and Guardianship Code pertaining to child support remain in effect. It should be stressed that Poland has been fully complying with its commitments under article 27, paragraph 4, of the Convention. It has concluded numerous international agreements facilitating the implementation of child support rulings and pertaining to the investigation of child support claims.

140. Mention should be made first and foremost of the bilateral agreements regulating the implementation of child support rulings. Poland has concluded such agreements with the following States Algeria, Austria, Belarus, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Egypt, France, Greece, Hungary, Iraq, Italy, Latvia, Lithuania, Macedonia, Mongolia, Morocco, Romania, Russian Federation, Slovakia, Slovenia, Syrian Arab Republic, Tunisia, Turkey, Ukraine, Vietnam and Yugoslavia.

141. In addition, Poland ensures effective reciprocity in implementing child support rulings in its relations with Canada (the provinces of Manitoba, Nova Scotia, Saskatchewan, Northwest Territory and Yukon Territory), Ireland and the United States.

142. The basis for the implementation of foreign child support rulings in Poland (and Polish rulings abroad) is the Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations concluded at the Hague on 2 October 1973. Poland has been bound by this Convention since 1 July 1996, but it has yet to be promulgated. On the basis thereof, it is possible to recognize and determine the enforceability of rulings (issued by courts or administrative organs) and settlements, including those changing earlier rulings or settlements.



They need not originate in States parties to the Convention and concern child support claims pursued both in international relations and domestically, regardless of the citizenship and place of residence of the parties involved.

143. The New York Convention on the Recovery Abroad of Maintenance of 20 June 1956 has facilitated the pursuit of child support claims from individuals residing abroad. It entered into effect in Poland on 12 November 1960 (Legislative Gazette of 1961, No. 17, items 87 and 88). The tasks of the referring body under that Convention (i.e. the organ relaying the requests of authorized individuals to States to which the individuals obliged to provide child support belong) is performed in Poland by voivodship courts. The Ministry of Justice, as the receiving body, in accordance with the jurisdiction conferred on it by the competent party and in lieu of that party, undertakes all measures necessary to obtain child support. It ensures legal representation before Polish courts, submits the request to the court and initiates and pursues the enforcement of child support.

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

144. Article 72, paragraph 2, of the Constitution of the Republic of Poland accords children deprived of parental care the right to the care and assistance of the public authorities. State policy is directed at reducing the number of children placed in orphanages by increasing the number of foster families and family-based children's homes.

#### **Institutions providing comprehensive care**

145. Children and adolescents partially or totally deprived of the opportunity of being raised by their biological families are placed, on the basis of a court ruling, in foster homes or comprehensive care institutions. On the basis of directives issued by the Minister of National Education on 21 February 1994 regarding the types, organization and operating principles of public care, educational and social reintegration facilities, the following institutions are required to provide comprehensive care family-based children's homes, orphanages, emergency juvenile hostels, juvenile reform centres and special education and training centres.

146. All told, more than 80,000 children and adolescents up to the age of 18 are being provided with comprehensive care by such institutions. Where the person concerned is continuing his/her education or has suffered some misfortune, care may be provided up to the age of 24 (in social reintegration facilities until the age of 21 and in foster families even until the age of 26).

#### **Foster families**

147. New regulations sanctioning the institution of foster families (directives of the Council of Ministers of 21 October 1993 on foster families) have been in force since 1 November 1993.

148. Foster families are the basic providers of comprehensive care for children who, for various reasons, lack the proper conditions for development in their biological families. Some 70 per cent of children deprived of the care of their biological families are in foster care. In most cases they do not qualify for adoption because of their legal situation (their parents have not been divested of parental authority) or age (older children).

149. The vast majority of foster families comprise grandparents or older siblings (more than 75 per cent). Overall, close and distant relatives account for nearly 90 per cent of such families. An analysis of the data compiled by GUS (Central Statistical Bureau) shows that since the end of 1993, i.e. since the date on which material assistance for foster families closely related to the child was doubled, this particular form of care has increased. The number of children in foster care increased from more than 40,000 to 52,532 in 1998. In the period under review, an average of 2,500 children were placed in foster families each year. It has also been noted that since the introduction of the above-mentioned directives the number of foster families accepting children up to two years of age has increased. Children placed in foster families of relatives or non-relatives receive financial assistance in partial defrayal of the cost of supporting them, i.e. 40 per cent of the average monthly wage in the preceding quarter. (This figure is regularly announced as the basis for raising index-linked old-age and disability pensions.) In the case of children awaiting adoption for up to two years or children eligible for special education, preventive-educational assistance or social reintegration, financial aid amounts to 100 per cent of the average monthly wage. This makes it easier to find foster families for such children. In 1998, children who were entitled to:

- 100 per cent of wages received 1,239.49 zlotys a month (12-month average);
- 40 per cent of wages received 495.79 zlotys a month (12-month average).

150. Foster families may avail themselves of the psychological, pedagogical and legal counselling of adoption and care centres, psychological and pedagogical clinics and specialist clinics.

151. Foster family duties are performed free of charge. As soon as an agreement is concluded on financial assistance for partial defrayal of the cost of the child's upkeep, the foster family receives a lump-sum allowance equivalent to 190 per cent of the above-mentioned wage.

### **Family-based children's homes**

152. Legal provisions currently in force (directives of the Minister of National Education of 24 February 1994 regarding the types, organization and operating principles of public care and educational facilities) recognize family-based children's homes as care and training facilities. From a social standpoint, however, they are facilities of a special kind. Their purpose is to provide their charges (primarily siblings or children ill-adapted to life in big communities) with the kind of care and educational conditions prevailing in big natural families. This kind of care is provided by families accepting from 6 to 12 children. One of the spouses is employed as a

teacher for families accepting the smallest number of children (six). An additional person may be employed as a teacher of a larger number (upwards of nine children) and a social worker may also be employed.

153. Binding legal provisions enable a person (referred to as the “leading educator”) to operate a family-based children’s home, even though he/she has no formal teaching qualifications (previously such a requirement existed). It was assumed that this amendment would generate greater interest in the work involved.

### **Orphanages**

154. In 1993, the Ministry of Education took over infants’ homes (orphanages for children aged 0-3) from the Ministry of Health in order to convert them into care and educational facilities (orphanages) for children from birth to the age of self-reliance, but not beyond the age of 24. The plan failed because the infrastructure, both architecturally and in terms of equipment, was not suited to the needs of very young children. It was acknowledged that the process of transforming and adapting the existing infrastructure must take place progressively, and orphanages exclusively for children up to the age of three were allowed to continue operating. Only 3.5 per cent of children living in orphanages are natural orphans; 21.5 per cent are semi-orphans and the remaining 75 per cent are what are known as “social orphans” (from families unfit for parenting or children of parents who are alcoholics or serving prison terms).

155. The crisis of the family, combined with declining family living standards and negligible social assistance, especially for large and dysfunctional families, accounts for the gradual increase in the number of children requiring such assistance since the early 1990s (from roughly 16,500 in 1991 to some 18,000 at present).

156. Binding regulations currently enable orphanages to provide care for children in families that are unable to ensure proper conditions for their development. Such care involves mainly meals for the child, assistance with homework and various activities organized by the orphanage. Children benefiting from such forms of day care are not counted among the full-time residents of the orphanage.

### **Children’s villages**

157. These facilities are built and equipped by the international association SOS Kinderdorf International based in Austria. The organizational system and educational tasks of the villages are based on four principles - mother, siblings, family home and village - accepted in accordance with the declaration of the international association of children’s villages and contained in the pedagogical concept of the Children’s Village Association of Poland.

1. The mother: a single (unmarried, childless) woman of high ethical and moral principles who, following theoretical and practical training in the village, is prepared to perform the role (occupation) of mother.

2. The siblings: siblings remaining together and entrusted to the care of a single mother. On average, six to seven children live in a family.
3. The family home: the house in which the children (girls and boys) live together with their mother, constituting a family community. As the children transfer to the Youth Home (on completion of primary school) or become self-reliant, other children enter the family.
4. The village: this is a community of families capable of conducting educational and recreational activities. It comprises more than a dozen one-family houses in which children live with their mothers. The mothers are assisted in running the houses and raising the children by “aunts” employed by the village and by teachers and specialists such as psychologists and logopedists.

### **Emergency hostels**

158. These facilities are intended for children and juveniles from 3 to 18 years of age who require full-time emergency assistance. Seventy per cent of these children are accepted by emergency hostels on the proposal of a family court.

159. Emergency hostels operate with the aim of returning their charges to their families, placing them in alternative care (foster families or adoption) or in an appropriate institution. They also perform the function of diagnostic and training institutions, cooperating with parents (legal guardians), school principals, courts and other components of the social welfare system.

160. A child can spend no more than three months in an emergency hostel. Where justification exists, however, the period may be extended, but by no more than an additional three months.

161. For most children, the emergency hostels are “half-way houses” ahead of their transfer to permanent care facilities orphanages, special institutions or social reintegration facilities.

162. In recent years there has been an increase in the number of children accepted by such facilities in emergencies (lost or abandoned children, and children running away from home, orphanages or social reintegration facilities) or children brought there by the police for committing punishable offences. In 1997, more than 10,000 children received emergency care in the hostels. In recent years the children of foreigners, notably citizens of Romania, have also been admitted to the emergency hostels.

### **Special education and training centres**

163. Care is provided at these centres for children and adolescents who cannot attend pre-school establishments or schools in their place of residence because of disabilities. Such special centres cater for children and youths:

1. With mental disabilities;

2. With impaired hearing (deaf or hard of hearing);
3. With visual defects (blind or impaired vision);
4. Who are chronically ill;
5. With motor dysfunctions;
6. Who are socially maladjusted, threatened with addiction or display behavioural disorders;
7. With disabilities mentioned in points 2-6 as well as mental disabilities (with associated disorders).

### Juvenile reform centres

164. These institutions cater for young people aged 13 to 18; in exceptional cases children over the age of 10 are accepted. In cases warranted by a young person's school, environmental or material situation, a juvenile aged 10 or more may have his or her stay extended, though not beyond the age of 21.

165. In 90 per cent of cases, family courts direct children and juveniles to these reform centres.

166. Juvenile reform centres are inter-voviodship social reintegration facilities which, in addition to providing care, seek to eliminate the causes and symptoms of their charges' social maladjustment and prepare them for an independent life.

167. The following tables shows the different kinds of care facilities and the number of children and juveniles in foster care, care institutions and social reintegration facilities (data as of 15 December 1997):

No.	Type of institution	No. of such institutions	No. of children
1	Foster family	39 523	51 151
2	Family-based children's home	113	806
3	Children's village	3	172
4	Orphanage	353	17 906
5	Emergency hostel	53	2 679
6	Special care and training centre	427	32 292
7	Juvenile reform centre	47	2 823

## F. ADOPTION

168. On the basis of article 5, paragraph 4, of the Law on the Education System of 7 September 1991 (Legislative Gazette of 1996, No. 67, item 329, as amended), the Minister of National Education, in consultation with the Minister of Justice, determined by means of directives on adoption and care centres issued on 17 August 1993, which entities were authorized to establish and run adoption care centres and the principles according to which they should operate.

169. In accordance with the above-mentioned legislative enactment, adoption care centres may be operated by a School Superintendent's Office, associations registered in the Republic of Poland (whose charters include aid to children and guarantee the proper discharge of such tasks) and churches, religious organizations and church-related legal entities involved in charitable and care activities.

170. The above-mentioned directives provided for the creation of public adoption centres. Previously, only private centres had existed. At present, there are 70 adoption care centres, 42 of which are public and 28 private, including 15 run by the Society of Friends of Children, 11 by church-related legal entities, one by the Committee to Protect Children's Rights and one by the Family of Hope Foundation.

171. The principal tasks of adoption care centres include:

- Locating and training individuals who declare their willingness to provide a child with substitute family care in the form of adoption, a foster family or a family-based children's home, and selecting children to be raised in an alternative family environment;
- Informing the family court of conditions warranting the formal initiation of care proceedings, proposing a child's placement in an alternative educational institution, and assisting in the regulation of the legal status of children awaiting placement in an alternative family environment;
- Helping the newly formed families with pedagogical counselling and assistance;
- Assisting biological families in the upbringing and care of their children, including legal aid and psychological support for pregnant women.

172. Public adoption care centres are financed by the State and local government and offer their services free of charge, while private centres may charge fees. The amount of the fees is determined by the bodies operating the centres, but they may not exceed the costs incurred in a given case.

173. The school superintendent in charge of the district in which a given centre is located exercises supervision over public and private adoption care centres operating in a voivodship.

174. The school superintendent appoints an adoption care centre in the area to operate a voivodship data bank on children and candidates available for substitute family care and upbringing, but the data may not be entered without their consent.

175. If the centre operating the voivodship data bank fails to find candidates for suitable substitute care within three months of receiving a child's adoption documents, it relays the information to the central data bank operated by a centre designated by the Minister of National Education (who acts as a go-between in finding appropriate candidates). Pursuant to decision No. 6 of the Minister of National Education of 17 March 1995 designating the adoption centre to discharge tasks set by the Ministry of National Education and centres authorized to engage in foreign cooperation, the relevant centre is at present the Public Adoption Care Centre in Warsaw at ul. Nowogrodzka 75, operated by the School Superintendent in Warsaw.

176. If the above-mentioned centre is unable in the following three months to find candidates capable of providing the child with suitable alternative care in Poland, the child may be eligible for adoption abroad. In accordance with the provisions of the Convention on Rights of the Child (article 21) ratified by Poland in 1991, such adoptions should be regarded as a last-resort form of alternative care if the child cannot be placed in a foster or adoptive family and no other form of care can be provided in his or her country of origin. The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption also views such an arrangement as beneficial in the case of a child for whom a suitable family cannot be found in his or her State of origin (after determining that such adoption is in the best interest of the child).

177. Pursuant to the decision of the Minister of National Education, only the Public Adoption Care Centre in Warsaw at ul. Nowogrodzka 75 can decide whether a child is eligible for foreign adoption. However, a centre authorized by the Minister of National Education may cooperate with adoption organizations or centres licensed by the Governments of other States in preparing Polish children for foreign adoption. The Minister has designated two such centres the above-mentioned Public Adoption Care Centre in Warsaw and the Warsaw-based National Adoption Care Centre at ul. Jasna 26.

178. In recent years, there has been a sharp downward trend in adoptions. The largest number of court adoption rulings was recorded during the periods 1979-1982 and 1989-1990. An average of 3,500 to 3,700 such rulings were handed down annually during those periods. (Court records do not include the number of adopted children, which is normally greater than the number of cases since a single ruling may affect several children, for instance siblings.) The largest number of foreign adoption rulings was handed down during the period 1989-1993 (ranging from over 400 to over 500 a year). In 1997, 2,441 adoption rulings were handed down. The number of foreign adoptions is also declining. In 1997, 205 rulings involving the transfer of children to another country were handed down.

179. Until 1993, i.e. until the directives on adoption centres issued by the Minister of National Education on 17 August 1993 were published in the Legislative Gazette (No. 84, item 394), adoptions were dealt with by various social organizations, church institutions and even lawyers, whose area of competence and principles of cooperation were not defined. The Ministry of Health, which operated infants' homes (for children under the age of three), also sought adoptive families through its own channels adoption commissions of the Specialist Mother and Child

Health Care Teams. Adoption care centres of the Society of Friends of Children were involved in seeking families for older children. To a limited extent, they also initiated other forms of alternative family care such as foster families and family-based children's homes. In many cases, the courts handed down rulings without consulting the institutions dealing with adoptions. (For instance, in 1991 the Polish courts reviewed 536 foreign adoption cases and in 113 of them (21 per cent) failed to establish how the adoptive parents had chosen the child.)

180. The situation improved significantly after 1993, following the creation of a system of organizations licensed to create alternative family environments (adoption, foster families, family-based children's homes). In addition, family courts were required in 1995 to consult an adoption care centre or other specialist institution before handing down an adoption ruling.

181. The cause of declining adoptions has yet to be explained. Contributing factors are believed to be the demographic downturn, our country's socio-economic situation (the impoverishment of society, lack of a sense of social stability and security), a preference for young and healthy children on the part of adoptive parents, the dynamic development of foster families and a significant increase in financial aid to such families.

### **G. The illegal transfer of children abroad**

182. Measures to comply with Poland's commitments under article 11 (and article 21(d)) of the Convention are steps to ensure that the child's transfer to another country takes place through the intermediary of competent authorities and organs (Poland's compliance with this provision as discussed in the preceding section), the penalization of activities that may be characterized as trafficking in children (see chapter X) and the conclusion of appropriate international agreements and treaties.

183. In reviewing Poland's international activities in the period covered by this report, it should be noted that the Republic of Poland is a party not only to the "adoption" conventions mentioned in the preceding section but also to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. The Convention's provisions greatly facilitated matters for individuals whose child-care rights had been violated by the illegal removal or detention of the child abroad. They formed the basis for an efficient system of international cooperation guaranteeing the child's swift return to his or her country of permanent residence (among other things, this involves cooperation between designated central bodies). In Poland, the central body responsible for meeting obligations arising out of the Convention is the Ministry of Justice, to which requests for the institution of appropriate convention-related proceedings are addressed. They are reviewed in Poland by family courts. For its part, the Ministry of Justice facilitates the initiation of court proceedings, cooperates with the relevant bodies (including the police) to establish the whereabouts of a kidnapped or detained child and provides interested parties with general information on Polish legal provisions related to the Convention's implementation.



### H. Abuse and neglect and physical and mental rehabilitation

184. On the initiative of the State Agency for the Solution of Alcohol-Related Problems, in cooperation with National Police Headquarters and the Labour Ministry's Department of Social Aid, a programme called "Safety in the Family" was launched in October 1998. Blue cards were introduced to help implement the procedures to be followed when incidents of domestic violence called for intervention. After receiving information on domestic violence, the police together with social workers gather full information on the situation in a given family. A plan of assistance is then developed and a local support system is activated. A Polish Declaration on Counteracting Domestic Violence has also been drafted. Information on the physical and mental rehabilitation of children is contained in chapter X.

185. The following table shows the number of children adopted, placed in foster families and benefiting from other forms of care:

Children						
Year	Adopted (total)	Adopted and taken abroad	Placed in foster families	Placed in care and educational facilities	Remaining under care	Minors placed in juvenile shelters
1993	2 810	404	34 565	29 259	26 266	963
1994	2 600	272	34 801	29 756	25 698	1 012
1995	2 495	238	36 894	30 277	26 298	1 157
1996	2 529	242	37 839	30 780	25 948	1 191
1997	2 441	205	37 341	31 809	26 451	1 035

It should be noted that, in principle, temporary arrest is not resorted to in the case of minors except in the situation mentioned in article 99, section 1, paragraph 1, of the Law of 26 October 1982 outlining procedures in cases involving minors. Placement of a minor in a juvenile shelter cannot in any way be equated with temporary arrest.

### I. Periodic review of circumstances entailing the placement of children in care and educational facilities

186. A periodic review of the circumstances in which a child was institutionalized is called for in the following cases:

- Placement of a child in a care and education or social reintegration facility in accordance with binding legal provisions review at a ratification session held once a year (paragraphs 35 and 36 of the directives issued by the Minister of National Education on 21 February 1994 regarding the types, organization and operating principles of public care, educational and social reintegration facilities, Legislative Gazette No. 41, paragraph 156);

- Placement of a child in a psychiatric hospital or social assistance home review at least one a year if the period of confinement exceeds six months (paragraphs 2 and 4 of the Justice Minister's directives on monitoring respect for the rights of mentally disturbed individuals in psychiatric hospitals and social-assistance homes, Legislative Gazette No. 23, item 128);
- Placement of a minor in a treatment institution or reform facility review at least once every six months (articles 77 and 80 of the Law of 26 November 1982 on procedure in cases involving minors).

187. In accordance with the commitments of States parties to conduct periodic reviews of the circumstances leading to the institutionalization of children, employees of the Family Law Section of the Office of the Civil Rights Spokesperson (Ombudsman) carried out four series of visits in the following voivodships between October 1997 and February 1998 Lublin, Lodz, Gdańsk and Kraków. They focused on temporary stay institutions under the authority of the Ministry of National Education (infants' homes, emergency hostels) and the Ministry of Justice (juvenile shelters) and on police juvenile hostels.

188. The purpose of the visits was to determine the degree to which the rights of institutionalized children were being respected, with particular emphasis on their period of confinement. In the infants' homes priority was given to checking the procedures followed in regulating the charges' legal situation. It should be added that the situation of children placed in care and educational facilities is constantly supervised by the family courts (as part of enforcement proceedings) and is not reviewed solely at re-eligibility sessions.

## **VIII. BASIC HEALTH AND WELFARE**

### **A. Survival and development**

189. The current state of legal affairs in the Republic of Poland guarantees the protection of the life and health of human beings from the moment of conception. That principle is contained in the provisions of the Law of 30 August 1996 amending the Law on Family Planning, Protection of the Human Foetus and Conditions for the Termination of Pregnancy and certain other laws (Legislative Gazette No. 139, item 646). The preamble to the above Law states that life is humankind's fundamental good, and care for life and health is one of the fundamental duties of the State, society and the citizen. Article 1 of the Law states that the right to life is protected also during the prenatal period.

190. All activities undertaken by the Ministry of Health are aimed at protecting the health and life of citizens, including children. Owing to the specific health needs of children related to their development, health care for children is placed in a special category, particularly as regards preventive measures.

## **B. Disabled children**

191. The right of disabled children to special care taking into account their state of health, living conditions and specific needs is reflected in many Polish legal provisions pertaining to health protection, education and social assistance.

192. Parents raising disabled children are entitled to higher benefits. From 1 March 1995, family and nursing-care allowances became benefits of a social nature, financed entirely by the State budget. Parents are therefore entitled to such benefits regardless of whether they qualify for welfare assistance. The amended Law of 1 December 1994 on family, nursing-care and educational allowances extended the period in which nursing-care allowances are granted for a person engaged in studies until the age of 24 if his or her state of health is such as to warrant such an allowance without the need to obtain a ruling on the degree of disability. Where a child is diagnosed as moderately disabled, the nursing-care allowance is granted regardless of the child's age if the disability emerged at an age entailing eligibility for a family allowance.

193. A person who has attained the age of majority is entitled to a social pension if he or she is totally unfit for work owing to a disability acquired before attaining the age of 18. Such a person is also entitled to the pension if he or she is totally unfit for employment owing to a disability that emerged during enrolment at a post-primary school or institution of higher education before the person concerned attained the age of 25.

194. A person caring for a disabled child is entitled to an old-age pension regardless of his/her age. The beneficiary may be the child's mother or father or another person who accepted the child into a foster family or, having been appointed guardian, is raising the child.

195. In accordance with article 23 of the Convention on the Rights of the Child, in which States parties recognize that a mentally or physically disabled child should be assured of a fully normal life, the Ministry of Health and Social Welfare has for many years been cooperating with non-governmental organizations engaged in health protection. The Ministry's assistance involves creating conditions tailored to the needs of specific groups of disabled children through legislation, organization, information, development of skills and provision of the financial resources needed to implement such measures, depending on the resources available in the State budget.

196. Health protection associations whose members devote time and energy to the performance of social tasks have created, with the assistance of the Ministry of Health, a countrywide network of specialist rehabilitation and treatment centres, particularly in areas where public health facilities are overtaxed or non-existent.

197. Operating in specific communities, they implement multi-profile environmental rehabilitation programmes which include:

- Registration of disabled children with congenital and acquired deficiencies who leave hospitals or other stationary health service institutions and require further rehabilitation;

- Establishment of rehabilitation day centres for disabled children (day-care centres, early intervention centres, specialist counselling offices);
- Establishment of other day facilities combining rehabilitation therapy with an educational programme;
- Establishment of mutual support groups and so-called self-help groups that also pursue non-medical (social) goals;
- Action to change society's attitudes to disabled persons (social acceptance of certain illnesses such as mental disabilities);
- Sharing of scientific information;
- Stimulating and facilitating the training of professionals (medical rehabilitation staff working in the centres).

198. A characteristic feature of rehabilitation treatment centres set up by health protection associations is their comprehensive rehabilitation programmes. At the same time, the associations stimulate and facilitate the training of medical rehabilitation staff working in the centres and share scientific information, also internationally (experience-sharing with Belarus, France, Lithuania, the Netherlands, Sweden, Ukraine and the United Kingdom).

199. The network of facilities set up by the associations has been expanding steadily since 1992, effectively supporting and enhancing the multi-profile rehabilitation services provided by public health-care institutions.

200. The Ministry of Health and Social Welfare systematically supports the activities of non-governmental organizations in the rehabilitation of the three largest groups of disabled children:

- Children who are deaf and hard of hearing;
- Children with mental disabilities;
- Children who are blind or whose vision is impaired.

201. The Law on the Protection of Mental Health (1994) and health policy programmes (including those contained in the National Health Programme) constitute the substantive platform needed to create a system of non-governmental care for disabled persons, especially children.

202. In that connection, 1998 may be regarded as a turning-point. It was the year in which a programme of care for persons with hearing impairments got under way in Poland. Of great significance is the earlier detection of hearing deficiencies in infants, followed by permanent, multi-specialist rehabilitation of children's hearing. Such activities are conducted mainly at the Hearing Rehabilitation Centres operated by the Polish Union of Deaf Persons (some 15,000

children from Poland in 26 centres and 40 consultation offices) and the Centre for Early Detection and Rehabilitation of Hearing Deficiencies operated by the Association of Friends of the Deaf and Hard of Hearing "Man to Man".

203. The Polish Association for Persons with Mental Disabilities cares for nearly 15,000 people, including some 6,000 children and young people undergoing comprehensive rehabilitation in 120 special, well-equipped centres to which the children are transported by the Association.

204. The main problem in cases of mental disability is the intellectual deficiency that makes learning, social adjustment and the ability to lead an active independent life difficult. Nearly one half of persons with mental disabilities in Poland (a total of some 250,000 persons, according to the World Health Organization, of whom 60,000 are in the 0 to 6 age group, 190,000 are of school age and 80,000 are severely disabled) are affected by associated disabilities, especially motor disabilities in cerebral palsy cases. The Association was the first in Poland to introduce new rehabilitation technology in 1998 which has proved more efficient and effective.

205. The new technology involves the use of computers to stimulate the intellectual efficiency of persons with mental disabilities in the areas of rehabilitation treatment, science, personality development, creativity, occupational rehabilitation and broadly construed communication skills.

206. Use of the new techniques in the rehabilitation of disabled persons is recommended by all international legal instruments dealing with the problems of persons with disabilities.

207. Measures to detect defective vision early and start immediate rehabilitation have produced good results, as attested by the activities of several (so far three) early-detection centres for visual deficiencies set up by the Polish Union of Blind Persons and other associations.

208. Another area of involvement of associations working with blind children is assistance in the field of vision therapy and educational assistance in the home for blind or visually impaired children (the initiator was "Têcza" of Warsaw).

209. Health protection associations provide daily benefits to nearly 35,000 children with disabilities. Moreover, 12 associations organize periodic rehabilitation and instruction camps for children attended by parents or guardians. More than 5,000 youngsters with serious disabilities, usually associated disabilities, attend on a regular basis.

210. The creation of a network of 200 highly specialized centres (with well-trained medical and rehabilitation staff and excellent equipment provided by the State Fund for the Rehabilitation of Disabled Persons) has been evaluated by representatives of leading European non-governmental organizations as a model solution for certain problems encountered by persons with disabilities, especially children in this part of Europe.

211. In the years 1996-1997 the rehabilitation of disabled children and adolescents was supported by financial resources from budget surpluses paid into the State Fund for the Rehabilitation of the Disabled (SFRH). On 1 January 1998, the Law of 27 August on the Occupational and Social Rehabilitation and Employment of the Disabled entered into effect, a

legal enactment that defined more precisely and expanded the possibilities for financing the rehabilitation of children and adolescents through funds from the State Fund for the Rehabilitation of the Disabled, while emphasizing the weight and significance of such action for the social integration of young disabled people. The new regulations enable the Fund to allocate between 5 and 10 per cent of its revenues in a given year towards the financing of rehabilitation and social and vocational therapy for children and adolescents. The resources in question are earmarked to assist in financing:

- The purchase of accessories and equipment to alleviate the effects of disabilities;
- The training of parents, guardians and volunteers in specialist care for disabled children and adolescents;
- Transport services.

SFRH funds for the rehabilitation of disabled children and adolescents amounted to 17 million zlotys in 1996, 11.7 million zlotys in 1997 and 56.2 million zlotys in 1998.

212. Apart from tasks laid down by law, efforts to improve the lot of the disabled are also undertaken under the Government Programme for the Disabled and their Social Integration. Since 1994, that programme has been carried out by ministries and central government agencies, and since 1996 non-governmental organizations have joined in, adding their own funds to the project. In 1996 and 1997 supplementary financing of the rehabilitation of children and adolescents amounting to 11.1 million zlotys and 11.8 million zlotys respectively was provided by the State Fund for the Rehabilitation of the Disabled. The resources are earmarked for infrastructure projects such as equipping integrated pre-school establishments, eliminating architectural barriers to disabled persons, modernization and computerization of special schools and the purchase of electronic equipment for cordless communication between hard-of-hearing pupils and their teachers.

213. The Government Programme for the Disabled and their Social Integration envisages the gradual adaptation of public transport to the needs of the disabled over a period of many years. In addition, disabled children, as well as their travelling companions, are entitled to use public motor and rail transport free of charge.

214. The education of disabled children and adolescents is regulated by the Law on the Education System of 7 September 1991 (Legislative Gazette of 1996, No. 67, item 320 as amended) which, in particular, ensures:

- Implementation of the right of every citizen to an education and the right of children and adolescents to upbringing and care suited to their age and level of development;
- Adaptation of the content, methods and structure of instruction to the mental and physical capacity of pupils as well as access to psychological care and special forms of instruction;

- Access for disabled children and adolescents to instruction in every type of school in accordance with their individual developmental and educational needs and inclinations.
215. The following implementing regulations have been issued for the tasks listed above:
- Decree No. 15 of the Minister of National Education (MNE) of 25 May 1993 regarding psychological and educational assistance to pupils (Official MNE Bulletin, No. 6, item 19);
  - MNE Decree No. 29 of 4 October 1993 regarding the principles governing the organization of care for disabled pupils, and their education in general and integrated public pre-schools and schools, as well as institutions and organizations engaged in special education (Office MNE Bulletin, No. 9, item 36);
  - The MNE directive of 11 June 1993 regarding the organization and operating principles of public psychological and educational counselling offices and other specialist public counselling centres (Legislative Gazette, No. 67, item 322);
  - The MNE directive of 21 February regarding the kinds, organization and operating principles of public care and educational institutions and social reintegration facilities (Legislative Gazette, No. 41, item 156);
  - The MNE directive of 30 January 1997 regarding the principles governing remedial educational activities for children and adolescents with severe mental disabilities (Legislative Gazette, No. 14, item 76) and certain legal provisions regulating the organization of general schools, according preferential treatment to disabled pupils and, where so warranted, the opportunity to take written and oral examinations in separate premises or in the pupil's home in a manner suited to his or her ability to speak, write and move about.
216. Disabled children, like their non-disabled peers, may attend generally accessible, integrated or special pre-school establishments and, at the age of six, have the right to enrol in a one-year “zero class” preparing them for instruction in primary school.
217. The obligation to attend school extends to all children, including the disabled. “Compulsory education begins at the start of the school year in the calendar year in which a child attains the age of seven, and lasts until the child completes primary school, but it does not extend beyond the calendar year in which he/she attains the age of 17” (article 15, paragraph 3, of the Law).
218. MNE Decree No. 29 of 1993 creates opportunities for the disabled to continue their schooling at the primary level until the age of 21, and at the post-primary level until the age of 24. Children and adolescents with severe mental disabilities receive remedial training from the age of 3 to the age of 25 (MNE directives of 30 January 1997, paragraph 2).

219. Opportunities to fulfil the compulsory education requirement are also provided for children and adolescents confined to health-care institutions or staying in social-assistance homes. Depending on their specific needs, arrangements are made for special pre-school sections, school sections, class groups or special pre-school establishments, primary schools and post-primary schools. In health-care institutions extracurricular activities are also organized.

220. Individual instruction is arranged for children and adolescents with motor dysfunctions that make school or pre-school attendance impossible or extremely difficult, as well as for those who are chronically ill or temporarily unfit for normal school and pre-school attendance, and for whom that form of instruction has been recommended by a public specialist counselling office.

221. This form of compulsory schooling may take place in the child's place of residence, primarily in the family home, foster family, care and education institution (orphanage), or in a health-care institution or social-assistance home. Where so warranted, individual instruction may be organized on school premises.

222. Disabled children and adolescent may also receive an education in generally accessible and integrated schools as well as special classes (article 22, paragraph 9, of the Law). The same applies to pre-school education.

223. It is assumed that integrated education should enable disabled pupils to acquire knowledge and skills commensurate with their ability in the setting of a general pre-school establishment or school.

224. Pre-school establishments and schools that operate integration sections may employ additional specially trained teachers to help organize integrated education, but also primarily to help ordinary teachers choose curricula and teaching methods suited to disabled pupils or to organize various forms of individual assistance.

225. The number of disabled children in special pre-school and school classes, depending on the type and degree of disability, is considerably lower than the number in general school classes, ranging from six to 16 pupils. In the case of children with associated disabilities, the number is as low as two. In integrated classes the number of pupils ranges from 15 to 20, including three to five disabled pupils.

226. During the 1997/1998 school year instruction was provided in:

- 789 special schools for 80,353 pupils;
- 427 school and training centres for 32,295 pupils;
- 283 therapy classes in primary schools, attended by 3,753 children and adolescents.



In addition:

- 20,623 disabled children and adolescents were enrolled in integrated schools;
- 4,168 pupils benefited from individual instruction.

227. In order to prepare disabled young people to participate in the life of society, including through employment, special vocational training is organized at different levels (basic, secondary).

228. The disabled pupil's state of health is the main determinant of whether he/she qualifies for special vocational training. The possibility of taking up an occupation for which training is available in a vocational school in or near the pupil's place of residence is also taken into account.

229. All pupils involved in the special education system are provided with:

- Textbooks and auxiliary books free of charge;
- A properly equipped and fitted learning station;
- Reduced boarding fees in special school and training centres (between 3 and 30 per cent of the average wage);
- Facilities for the enhancement of mental development and learning effectiveness through specialist individual remedial activities (logopedic instruction or other therapy for up to 10 hours a week in lower forms and up to 3 hours in higher forms).

### **C. Health and medical services**

230. During the period 1993-1998, the same legal provisions for protection of the health of children and adolescents applied as in the preceding years, which were covered by the 1993 report for the United Nations. In accordance with those provisions, children under the age of 18 and young people enrolled in schools have a guaranteed right to free medical benefits from public health-care institutions. This includes preventive medicine, treatment, rehabilitation and sanatorium treatment as well as a supply of medication, personal hygiene products, orthopaedic accessories and auxiliary equipment, according to principles specified in detailed regulations. With regard to the health care of pregnant women, the regulations continue to provide for free medical services at public health-care institutions.

231. The above-mentioned rights have been fully implemented. The services of public health-care institutions are available equally and to the same extent to all children and pregnant women.

232. The implementation of children's right to benefit from the highest level of medical care available in our country stems less from Poland's ratification of the Convention on the Rights of the Child than from the Polish State's health policy. Health care for pregnant women and children is regarded as a top-priority endeavour. The cornerstone of policy on their behalf

consists in a drive to reduce infant mortality and the improvement and expansion of disease prevention activities. During the period covered by this report, activities begun in the previous period were continued and new ones launched.

233. Systematically conducted analysis of infant mortality in Poland shows that - despite a sustained downward tendency - it is still far too high. For instance, in 1993 the infant mortality rate was 16.2 and childbirth-related deaths 16.7. Recognizing that hitherto efforts to improve the care of pregnant women, the foetus and newly born infants had been inadequate, the Ministry of Health and Social Welfare introduced a programme in 1995 entitled "Improvement of Perinatal Care in Poland". The main objective of the programme was to reduce childbirth-related illnesses and deaths among mothers, the frequency of premature births and infants with low birth weights, the infant mortality rate and the incidence of adverse consequences suffered by infants as a result of prenatal illness. In tangible terms, the aim of the programme is to reduce the infant mortality rate to less than 10 per 1,000 births.

234. The established concept of perinatal care involves three levels based on a network of regional centres with the highest referral level, which also perform coordinating, training and supervisory functions. The above-mentioned programme was introduced in stages from 1995 and by 1998 covered the entire country. Implementation of the programme was financed by the Ministry of Health and Social Welfare. A total of 1.8 million zlotys was earmarked for the purpose in 1995, 3.39 million in 1996, 3.7 million in 1997 and 4 million in 1998.

235. As the programme has not been in effect for very long, it is difficult to assess its effectiveness. However, over the past several years a decrease in the number of infants with low birth weights has been noted. In 1993, of every 100 newly born infants eight had low birth weights, but by 1997 that figure had dropped to less than seven. In 1997, the infant mortality rate was 10.2 per 1,000 births.

236. In addition, during the period 1992-1998 a programme to promote breast-feeding was carried out as part of a World Health Organization and UNICEF initiative dubbed "The Infant-Friendly Hospital". The thrust of that programme was improving postnatal care and gearing hospital practices to the promotion of breast-feeding. A 1997 evaluation of the programme's results showed its considerable effectiveness. Especially noteworthy was the increase in breast-fed infants to 97 per cent. Supplying infants with liquids was reduced from 54 per cent in 1988 to 21 per cent in 1995. The frequency of breast-feeding increased and its duration was extended. An important indicator of changes in postnatal care was the number of hospitals regarded as "infant-friendly". Towards the end of 1998 there were 29 such hospitals.

237. During the 1993-1998 period, the Ministry of Health and Social Welfare also carried out programmes of a therapeutic and prophylactic nature. The Ministry's own budget resources were used to buy particularly expensive drugs for children the growth hormone, immunoglobulin, interferon, Ceredase and medications for children with cancer. Tests for thyroid hypofunction and phenyleketonuria (conducted on all newly born infants) were also financed, as were genetic tests to detect mucoviscidosis and metabolic defects. Last year a "Programme of Primary Prevention of Neural Tube Defects" was introduced.

238. All children in Poland are covered by a compulsory preventive programme involving periodic health examinations. With the exception of tests carried out on newly born infants in hospitals, they are carried out by basic-care nurses and doctors. They are conducted at the infant stage in the third week, in the first, third, fourth, fifth, sixth, ninth and twelfth month, at the age of two, four, six, ten and fifteen and in the last year of primary school. The scope of the examinations is adjusted to the child's age and they mainly involve sift tests and objective examinations to detect developmental disorders. All children are covered by a programme of compulsory vaccinations (financed by the Ministry of Health and Social Welfare) to prevent diphtheria, whooping cough, tetanus, common infant cerebral palsy, measles, roseola (German measles), tuberculosis and viral hepatitis type B (infants). In cases warranted by the epidemiological situation, the scope of preventive inoculations may be increased.

239. In the past, the above-mentioned measures were carried out and financed by the Ministry of Health. However, in accordance with the law, voivods and local commune authorities were responsible for basic health-care services. The tasks of basic medical care had included services in the field of paediatric treatment, internal medicine, gynaecology and dental care. The health care of children and adolescents in their place of residence was the job of paediatricians and at school it was the responsibility of nurses specially trained as school nurses. In schools (for children requiring special care) a doctor and nurse were in charge of health care.

240. While the availability of such services was considered adequate, public opinion regarded the standard of health care provided and the need to use the services of a doctor assigned to a given district as unsatisfactory. As a result, efforts to change the system have been made in recent years. The changes in health care practices have included provision for a family doctor to care for the entire family in both preventive medicine and treatment. During the period covered by this report, the practices of family doctors had not yet sufficiently evolved, but in the context of the reform processes taking place in the medical field they are regarded as the target model for basic health care.

241. The health education of society is a constant task for all health care staff. In the case of children, it is carried out by the Ministry of Education. Nevertheless, we regard society's level of knowledge regarding health-promoting factors and disease prevention as inadequate. In the light of a careful analysis of earlier efforts and persistent health problems, the Government concluded that the lack of desired effects stemmed mainly from the inappropriate lifestyle of most Poles, including children. That evaluation led to a revision of the premises of State health policy. The current assumptions of State health policy are spelt out in the National Health Programme for 1996-2005, adopted by the Council of Ministers on 3 September 1996 as a government document. The overriding, strategic task laid down in the document is "improvement of the population's health and resultant quality of life". It was assumed that that goal would be achieved chiefly through the promotion of health, pro-health education and the shaping and propagation of healthy lifestyles, including a sense of responsibility for one's own health.

242. One of the manifestations of Poland's inappropriate lifestyle is the persistence of a tradition of poor nutrition in Polish society. The average Polish child's diet is low in vegetables and fruit, dairy products and dark bread. Although the incidence of malnutrition-related diseases has not been recorded, there have been signs that certain groups of children, especially from

dysfunctional and impoverished families, are undernourished and studies carried out by the Mother and Child Institute have borne this out. The appropriate ministries have taken steps to counteract these problems.

**D. The social security system, services and institutions in the field of child care**

243. Polish law regulates the following family social benefits:

1. Maternity allowances;
2. Childbirth allowances;
3. Child-care allowances;
4. Child-rearing allowances (since 1 January 1999 these are not social security benefits but are financed directly by the State budget).

The following benefits fall outside the social security system but are also directly financed by the State budget:

5. Family allowances;
6. Nursing-care allowances.

**Maternity allowances**

244. A female employee is entitled to a maternity allowance on giving birth to a child for the duration of her maternity leave. The maternity allowance is equivalent to 100 per cent of her basic pay and is paid over a period of:

- 16 weeks for the woman's first child;
- 18 weeks for the birth of subsequent children;
- 26 weeks in the event of multiple childbirth.

**Childbirth allowances**

245. A female employee and other insured females are entitled to a childbirth allowance on giving birth to a child or on taking in a child for home rearing. Since 1 March 1995, the childbirth allowance has been equivalent to 15 per cent of the average wage in the preceding quarter as declared for calculating old-age pensions. Since 1 December 1998 it has amounted to 187.50 zlotys.

### **Child-care allowances**

246. To ensure that children obtain the best possible care when ill, working parents have been given the opportunity to take personal care of their sick child. A parent who receives child-care leave from his/her place of employment is entitled to a child-care allowance. An employee has the right to 60 days' care for a child aged 14 or less during a calendar year. He/she may also benefit from a care allowance for looking after another sick family member, including children over 14 who are members of the same household. The allowance for this kind of care is 14 days per calendar year.

247. Since 1 March 1995, mothers and fathers have been entitled to identical care allowances. The monthly allowance is equivalent to 80 per cent of base pay.

### **Child-rearing leave and allowances**

248. Child-rearing leave and allowances are currently governed by two regulations:

- Directives issued by the Council of Ministers on 28 May 1996 regarding child-rearing leave and allowances (Legislative Gazette No. 60, item 277), which has been in force since 2 June 1996;
- Directives issued by the Council of Ministers on 17 July 1981 regarding child-rearing leave (Legislative Gazette of 1990, No. 76, item 454, as amended), which will remain in effect in relation to "acquired entitlements" until 31 December 1999.

249. Employees who have been granted child-rearing leave are entitled to a child-rearing allowance when a family's per capita income does not exceed 25 per cent of the average wage for the preceding year. The size of the allowance is determined in terms of lump sums. Since 1 June 1998 the child-rearing allowance has amounted to:

- 242.80 zlotys a month;
- 386.10 zlotys a month for an individual who is single-handedly raising a child.

Child-rearing allowances are indexed to the cost of living and revised upwards once a year.

A child-rearing allowance is granted over:

- A 24-month period;
- A 36-month period (in cases of multiple childbirth);
- A 72-month period (where a disabled child is involved).

The right to the allowance is checked once a year - from 1 June (in the same way as family allowances).

### **Family allowances**

250. Since 1 March 1995 new regulations determining who is entitled to family allowances have been in effect (Law of 1 December 1994, Legislative Gazette No. 4, item 17, as amended). Under these regulations, family allowances have ceased to be social-security benefits and have become social benefits financed entirely by the State budget. Since 1 June 1998, a family has been entitled to a family allowance if its per capita income has not exceeded 50 per cent of the average wage (as announced for the purpose of calculating old-age pensions) during the whole of the previous calendar year.

251. A family allowance may be granted for a child until it attains the age of 16 or, if the child is enrolled in school, until the age of 20. If the child's twentieth birthday falls during the last or penultimate year of schooling, the allowance may be extended until the end of the current or subsequent school year.

252. A family is entitled to a family allowance for a child, regardless of age, if the child is considerably or moderately disabled, provided that the moderate disability emerged at an age entitling the family to a family allowance.

253. A spouse is entitled to a family allowance if he or she:

- Is raising a child entitled to a nursing-care allowance;
- Has attained 60 years of age (women) or 65 years of age (men);
- Is considerably or moderately disabled.

254. The right to family allowances is determined for a 12-month period (1 June to 31 May). Since 1 June 1998 the amount of the family allowance has been:

- 32.30 zlotys per spouse and for the first and second child;
- 40 zlotys for the third child;
- 50 zlotys each for the fourth and every successive child in a family.

255. On 1 January 1998, an additional family allowance was introduced for children entitled to a nursing-care allowance on condition that the child is being raised by a single individual.

256. Family allowances are subject to adjustment once a year from 1 June, beginning in 1998.

### **Nursing-care allowances**

257. The principles according to which these allowances are granted have been regulated since 1 March 1995 by the Law of 1 December 1995 on family, nursing-care and child-rearing allowances. The Law states that the nursing-care allowance is an independent benefit unrelated to family allowances and that the following categories of children are entitled to it:

- A child under the age of 16 who, owing to state of his or her health, as verified by a public health-care institution, requires constant care by another individual, consisting of nursing or the systematic involvement by the carer in medical treatment or rehabilitation;
- A person over the age of 16 who is considerably disabled;
- A person over the age of 16 who is moderately disabled, if the disability emerged at an age entitling the child to a family allowance;
- A person over the age of 16 if he/she requires nursing care (in such cases the allowance may be paid until the person in question attains the age of 24 on condition that he/she is enrolled in school).

258. Since 1 September 1998, the nursing-care allowance has amounted to 106.41 zlotys a month. It is adjusted in line with cost-of-living increases at the times specified for the adjustment of old-age and disability pensions.

259. The right of a child of working parents to care up to his or her third birthday, as provided for in article 18 of the Convention, is implemented in Poland through the option to enrol the child in a nursery.

260. The right of children between the ages of three and six to institutional care and education is implemented at pre-school institutions (pre-school establishment and pre-school classes in primary schools).

261. Public pre-school establishments conduct a basic programme of pre-school education and training, as defined by the Minister of National Education, for no less than five hours a day. Education and training in accordance with the basic programme is free of charge. But parents must cover the cost of their children's food and additional activities.

262. A full right to pre-school education, guaranteed by the Law on the Education System, is enjoyed only by six-year-olds. Article 14 of the law states that "a six-year-old child has the right to one year of pre-school preparation." The local authorities are the guarantors of that right and parents may ensure that it is respected by taking legal action.

263. Younger children (aged three to five) are admitted to pre-school institutions as vacancies permit. In 1997, 97.1 per cent of all six-year-olds were enrolled in pre-school institutions compared with only some 30 per cent of children aged three to five.

### **Other benefits**

264. Proper boarding facilities for children enrolled in schools away from their place of residence are an essential element of equal educational opportunities for children from different backgrounds. They also involve a form of financial aid. The fees charged a pupil for lodging in a hostel may not exceed 50 per cent of the actual cost. During the 1997/98 school year 1,337 pupils' hostels offering a total of 169,870 places were in operation and served 136,547 pupils.

265. An institutional form of social aid for children with mental disabilities is their placement in a social-assistance home whose purpose is to satisfy the basic living, health, educational, social and religious requirements of its residents.

266. Social-assistance homes, depending on the scope of the services they provide and the length of time inmates spend in them, fall into two categories:

- Residential, i.e. providing facilities for permanent or periodic stays and round-the-clock care;
- Semi-residential, i.e. day-care homes and care centres providing day care or shelter for the night.

In 1998, a total of 8,616 children were living permanently or periodically in the country's 112 children's homes, 244 of them periodically. Throughout the country there are also support centres financed by social welfare funds from local community budgets. They include community recreation centres, centres stimulating the development of small children, community therapy and recreation centres, safe houses for women with children fleeing from violence and day adaptation centres for disabled children. There are 149 such facilities in Poland.

## **E. Standard of living**

### **System of social welfare assistance**

267. The purpose of social welfare assistance is to provide support for the weakest individuals and families, including families with children, who for various reasons have found themselves in straitened economic circumstances. The Law of 29 November 1990 on social welfare assistance (Legislative Gazette of 1998, No. 64, item 414, as amended) is based on the assumption that the principal recipient of aid is the family. The principle of pro-family orientation is one of the main features of Poland's social welfare system. The benefits made available to a family also constitute a safeguard in terms of resources for the support of the family's children.

268. Individuals and families without means of support or whose per capital family monthly income does not exceed the following amounts are eligible for pecuniary social welfare benefits:

- 351 zlotys for a single individual running a household;
- 318 zlotys for the first family member;
- 224 zlotys for the second and additional family members over the age of 15;
- 160 zlotys for every family member under the age of 15.

269. These sums are subject to adjustment in accordance with the principles laid down in article 35a of the Law on Social Welfare Assistance (uniform text in Legislative Gazette of 1998, No. 64, item 414). The Social Welfare Assistance Law treats all revenue as income regardless of



its source with the exception of child support payments intended for other individuals. Under Polish welfare assistance laws, all individuals sharing a common household are regarded as family members.

270. Social assistance benefits are granted upon a formal request by the interested party, that party's legal guardian or some other individual with the consent of the interested party or the interested party's legal representative.

271. The Social Welfare Assistance Law provides for assistance in the form of allowances. The basic means of support for a family, including its children, consists of:

1. A regular allowance, to which an unemployed person or person leaving employment to look after a child requiring constant care and nursing is entitled if the family's per capita income does not exceed the level specified in article 4 of the Law. The sum in question is 318 zlotys a month.
2. A periodic allowance, which may be granted to individuals and families if the income of a person running a household single-handed or the family income does not exceed the amount laid down in article 4, paragraph 1, of the Law, and the incomes and monetary resources in their possession are insufficient to satisfy their essential needs, especially because of:
  - Protracted illness;
  - Disability;
  - Lack of employment opportunities;
  - Lack of entitlement to a family pension following the death of an individual required to pay child support;
  - Inability to obtain or acquire an entitlement to benefits from other social safeguard systems.

The allowance is fixed at a level constituting the difference between the income criteria for an individual or family and the individual's or family's actual income.

3. A guaranteed periodic allowance, which is payable to individuals who have forfeited the right to unemployment benefit granted on the basis of the provisions concerning employment and the prevention of unemployment due to the expiry of the employment benefit period, and whose family income does not exceed the income criterion laid down in article 4, paragraph 1, of the Law on Social Welfare Assistance; a person single-handedly rearing at least one child until that child's completion of primary school but not beyond his or her fifteenth birthday is also entitled to the allowance from the day the right to an unemployment benefit is forfeited.

4. A special periodic allowance, which may be granted in particularly needy cases to individuals and families who do not fulfil the income criteria specified in the law.
5. A special targeted allowance, which may be granted in particularly needy cases to individuals or families who do not fulfil the income criteria specified in the law. The allowance is often paid for specific expenses such as boarding fees and the purchase of school supplies or clothing.

272. All told, welfare assistance benefits in the form of targeted allowances and aid in kind were granted in 1997 to 718,475 families and amounted to a total of 259,122,423 zlotys. Local communities financed from their own resources meals for 577,745 children and adolescents at a cost of 86,481,362 zlotys.

273. Since 1996, supplementary meals for children and adolescents provided by local communities have been eligible for targeted subsidies from the State budget. Supplementary meals are available to primary school pupils and in needy cases to pupils attending post-primary schools. The meals are free of charge if the family's per capita income does not exceed 200 per cent of the per capita income criteria specified in the Social Welfare Assistance Law. In 1998, 96,395,000 zlotys were appropriated for the purpose. In December 1998, a total of 573,064 pupils benefited from supplementary meals.

## **IX. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Formal education, job counselling**

274. Pre-school education represents the first stage in Poland's education system. One of the tasks of pre-school establishments is to iron out inequalities in the opportunities enjoyed by children from different backgrounds, filling in gaps and neglected areas in a child's early life and preparing the child for a good start in his or her school career.

275. Responsibility for the establishment and operation of public pre-school establishments is assigned to the local authorities.

276. Analyses of the availability of pre-school educational establishments in 1993-1997 showed a continuing decline in numbers from 21,055 in 1993 to 20,576 in 1997. But the drop was smaller than in 1990-1993, when a total of 4,695 pre-school facilities were closed down. Despite the decline in the number of such facilities, the number of children attending pre-school establishments rose from 42.6 per cent in 1993 to 47.1 per cent by 1997. The reason for the increase was not an increase of pre-school vacancies but a demographic decline which resulted in fewer children of pre-school age.

277. Broken down in terms of urban and rural areas, the following trend in pre-school education was recorded:

Year	Total	Percentage	Pre-school pupils in towns	Percentage	Pre-school pupils in rural areas	Percentage
1993	984 331	42.6	659 317	50.32	325 014	32.4
1994	994 865	45.2	673 163	54.6	321 702	33.2
1995	984 545	45.39	666 324	56.5	318 221	33.4
1996	983 489	45.18	665 683	55.42	317 807	32.6
1997	979 541	47.1	660 942	60.6	318 599	35

278. The data presented above clearly show that children in rural areas are disadvantaged by differences in the availability of pre-school education. It should also be noted that 50 per cent of children in rural areas have only one year of preparatory schooling.

279. It would be difficult to give a single reason for this state of affairs since the number of available vacancies in rural areas exceeds the number of children attending pre-school establishments. One may perhaps advance the general theory that the problem is rooted in the socio-economic conditions of the rural family - the nature of a mother's farm chores, the attitudes of farmers towards educating young children and, above all, the costs incurred by a family, especially one with many children.

280. In Poland, the right of children to schooling free of charge is guaranteed by the Constitution (article 70). The principles according to which the education system functions are spelt out in the Law of 7 September 1990 on the Education System (Legislative Gazette of 1991, No. 67, item 329, as amended). In accordance with this Law:

- The cornerstone of education is the eight-form primary school which is compulsory (article 315);
- Public schools provide instruction free of charge within the framework of curricula established by the Minister of National Education (article 7, paragraph 1.1) and accept pupils in accordance with the principle of general accessibility of education (article 7, paragraph 1.2).

281. The school network comprises:

- General compulsory primary schools for children and adolescents aged 7 to 15;
- Primary music schools;
- Primary vocational schools for persons over 15 who have completed at least five classes in primary school and appear unlikely to complete their primary schooling in the normal period of time.

282. The network of public primary schools should be organized in such a way as to enable all children to fulfil their compulsory school requirements in accordance with article 17, paragraph 1, of the Law on the Education System. Responsibility for the school network lies with the local authorities who are required to transport children to school if the distance between their home and the school in the district in which they live is more than three kilometres for pupils in forms 1 to 4 and four kilometres for pupils in forms 5 to 8 (article 17, paragraphs 2, 3 and 4, of the Law).

283. The following table shows the number of primary schools for children and adolescents during the school years 1993/94 to 1997/98 and the number of pupils attending them (source GUS figures):

School year	1993/94	1994/95	1995/96	1996/97	1997/98
Schools	19 212	19 145	18 945	18 660	18 431
Pupils	5 178 161	5 098 140	5 015 206	4 926 668	4 811 225

284. A child's parents are responsible for his or her regular school attendance in accordance with article 18 of the Education Law. Compliance with the compulsory school attendance requirement is supervised by the principal of a public primary school in the district in which the child resides (article 19, paragraph 1, of the Law).

285. A child's failure to comply with the compulsory school requirement is an administrative offence (article 20 of the Education Law). A fine may be imposed on the parents of a child who does not comply with the compulsory school attendance requirement in order to compel them to send the child to school.

286. During the school years from 1993/94 to 1997/98 the percentage of children who failed to comply with the compulsory school attendance requirement without valid grounds remained stable and accounted for 0.04 per cent of children subject to compulsory schooling.

287. The following table shows the percentage of primary school leavers who continued their education in post-primary schools:

Primary school leavers admitted to post-primary schools	1993/94	1994/95	1995/96	1996/97	1997/98
Percentage of all primary school leavers	95.8%	95.9%	96.6%	96.8%	96.5%

288. In Poland, a child's right to an education is also guaranteed by the availability to every child of various forms of secondary instruction, including vocational training. The Polish system of vocational training is integrated into the education system as a whole. In accordance with the Education Law, vocational schools include basic vocational schools, secondary vocational schools and post-secondary schools. Vocational schools differ in terms of the duration of instruction and the qualifications acquired on completion of studies.

289. Post-primary schools are divided into:

1. Basic vocational schools which provide both general education and specific vocational skills. Tuition lasts for three years and the certificate granted to students on completion of the course attests to their having acquired the qualification of a skilled worker or an employee with an equivalent qualification and enable them to continue their education in a general or secondary vocational school.
2. Secondary vocational schools:
  - Vocational secondary schools, which provide a general secondary education and the opportunity to obtain a secondary school certificate and a basic vocational education;
  - Technical or profiled secondary schools (bookkeeping, business, etc.) and equivalent secondary schools, which provide students with a general secondary education and secondary vocational training and the opportunity to obtain a secondary school certificate;
  - Post-secondary schools, which enable students to supplement their general education with basic vocational or secondary vocation training;
  - Technical lyceums, which were introduced on an experimental basis during the period from 1993 to 1997 to adapt vocational training to the needs of the labour market and became a regular part of the education system from the 1998/99 school year. Such schools provide students with a general education and the opportunity to obtain a secondary school certificate together with vocational training in 12 different fields.

290. The following table shows the number of vocational schools operating in Poland in the years 1993-1998 and the number of pupils enrolled (source GUS figures):

Type of school	Number of students (in thousands)					Number of school leavers (in thousands)				
	93/94	94/95	95/96	96/97	97/98	93/94	94/95	95/96	96/97	97/98
Secondary vocational	764	812	846	869	830	139	158	170	174	105
Basic vocational	770	746	722	691	613	235	229	216	211	194
Total	1 534	1 558	1 568	1 560	1 443	374	387	386	358	299

291. One indicator of the availability of education is the school enrolment rate. Since 1990, there has been a drop in enrolment in basic vocational schools and a simultaneous increase in enrolment in secondary vocational schools (26.7 and 32.9 respectively) and in general education secondary schools or lyceums, reflecting an upward trend in secondary education. This is due to the Government's education policy which is aimed at expanding secondary education and keeping basic vocational training to a minimum.

292. The policy of the Education Ministry involves providing the younger generation with extensive vocational information and access to vocational counselling. Legislative measures have been taken to establish psychological-pedagogical counselling offices to provide professional assistance to pupils in selecting a course of study and an occupation (Law of 7 September 1991 on the Education System, article 2.4, Legislative Gazette No. 67, item 329, of 1996).

293. In line with the accepted scope of activity, an amendment to the directives of the Minister of National Education has been drafted by the relevant Department regulating the types and operating principles of public psychological-pedagogical counselling offices and other public specialist counselling facilities (it entered into effect on 1 January 1999). The new legislation specified the following basic tasks in the area of job counselling:

- Support for the vocational development of children and adolescents by making available and promoting job information;
- Provision of individual advice to pupils and their parents on existing vocational training opportunities and career planning;
- Setting of psychological and pedagogical tests to determine a student's study and occupational aptitudes;
- Teaching students how to seek, obtain and hold down a job.

294. In addition, directive No. 15 of the Minister of National Education of 25 May 1993 on the psychological and pedagogical counselling of pupils (Legislative Gazette No. 6, item 19) specifies the tasks of a school education officer, especially in terms of coordination of the school's career guidance activities.

295. In connection with the planned reform of the school system, a draft core curriculum has been prepared which includes, at the gymnasium (grammar school, middle school) level, a subject called the "study of society". It contains a thematic module called "training for active participation in economic life", which identifies educational goals, the tasks of teachers and schools and the ground to be covered in preparing young people for vocational involvement and finding a place in the job market.

296. In the area of vocational counselling, 596 psychological-pedagogical counselling offices engage in extensive activities. They offer vocational advice in the light of psychological-pedagogical analyses. For pupils with health problems they prepare the necessary psychological and medical documentation. In cooperation with the health service, they participate in the work

of qualification commissions which take decisions on further education for disabled pupils. In the 1996/97 school year, 28,318 qualification rulings on post-primary education were issued, and during the period 1993-1998 recommendations (roughly 4,500 - 5,000 a year) were made on the assignment of pupils to classes or schools providing vocational training.

297. The psychological-pedagogical counselling offices are involved to an increasing extent in activities serving entire groups of adolescents. They have introduced methods that involve young people themselves in the job selection process by teaching them to evaluate their own mental and physical potential and compare it with the requirements of a given job. In the 1996/97 school year for instance, 253,091 workshops (using these job selection methods) were conducted throughout the country, compared with some 192,000 in the 1993/94 school year.

298. Most job advisers in the psychological-pedagogical counselling offices arrange job guidance talks for primary school pupils and their parents. In addition to talks and other forms of assistance, a sizeable group of job advisers hold special information and training meetings for school education officers.

299. In connection with the recruitment of pupils for post-primary schools, the counselling offices run job information centres in cooperation with the School Superintendent's Office and post-primary schools. In some voivodships, counselling office staff have organized job guidance orientation exchanges and fairs. In order to provide young people with the best possible information to assist them in choosing an occupation, the counselling offices cooperate with institutions that organize extracurricular training such as vocational skill-improvement centres, craft associations, trade unions, volunteer work brigades, invalids' cooperatives and other bodies.

300. Job counsellors have been increasingly providing young people with skills that help them to obtain and hold down a job. In doing so, they work together with various institutions including workplaces, employment exchanges and non-public institutions.

301. In spite of the various employment advisory tasks carried out by the counselling offices, Poland's system of vocational information and guidance system remains inadequate. Such needs can be satisfied only by an information system with the proper methodological and technical facilities. The Ministry of National Education is preparing to create such a system in cooperation with France.

302. The Methodological Centre for Psychological Assistance operated by the Ministry of National Education is an institution that supports vocational counselling.

303. The tasks of the Central Methodological Organization for Educational and Vocational Counselling include:

- Development of programmes (scenarios) of activities to motivate young people to choose a path in life (a vocation) and of projects by individual authors aimed at stimulating vocational maturity;

- Creation of data banks on vocational training (public schools) and on the health requirements for training courses and performing a given occupation;
- Gathering of data on vocational special-training institutions.

### **B. Educational trends**

304. The Law on the Education System and its implementing regulations contain provisions that stress the need to adapt curricula, teaching methods and organizational structures to cater for the mental and physical capacity of learners. Particularly gifted pupils, according to these provisions, should be provided with special attention and care by means of individual tuition and should be allowed to complete their schooling in a shorter period of time than is usually required. School should provide children with the prerequisites for their development and prepare them to fulfil their family and civic obligations on the basis of solidarity, democracy, tolerance, justice and freedom. A child's personality, talents, and mental and physical skills may be developed:

- In public schools by adapting school requirements to the mental and physical capacity of the pupil, organizing individual tuition and conducting extracurricular activities;
- By organizing special education for children with mental or physical disabilities, and children who are socially maladjusted or chronically ill;
- By organizing art schools and sport schools and classes;
- By providing profiled general education in general education secondary schools (the educational profiles are established by the principal in consultation with the school council) and by providing pupils, on completion of primary school, with the opportunity to choose from among various vocational schools in the light of the direction of their further studies.

305. Poland has a network of artistic schools and other institutions 219 music schools at various levels, 28 fine arts schools, four ballet schools, five post-secondary schools for librarians and cultural promoters, four post-secondary vocational schools, 12 artistic circles (centres) and eight arts education boarding facilities supervised by the Ministry of Culture and the Arts. Local councils operate 33 music schools, four fine arts secondary schools and a first-degree art school, one ballet school, one post-secondary vocational school and four artistic circles.

306. Changes in the labour market from 1990 to 1996 included a decline in the number of employed (especially in the public sector) and an increase in employment in the private sector which has had a decisive impact on the new structure of employment. The changes have necessitated the introduction of training programmes in occupations that are in demand in the labour market and the termination of training for jobs affected by high unemployment.

307. In response to the labour market's changing requirements - in terms of both the kinds of jobs available and the vocational skills needed - wide-profile training has been introduced in schools. This has made it possible to produce vocational school leavers with the desired qualifications who are trained to perform a variety of general activities and have received more



extensive training for a specific job. (This is achieved through specialist training in the final stages of education, adapted to the needs of the local labour market.) Should such an employee have to move to a different workplace, he or she need only attend a training course to obtain the desired qualifications.

308. The strategy of wide-profile training has entailed a reduction in the number of occupations being taught in existing vocational schools. A new classification of occupations in the vocational education system, approved in 1997, is currently being introduced. Wide-profile occupations with considerably greater employment potential in the labour market have been added to the 1997 classification. The latter takes into account the classification structure of occupations and fields of specialization in the national economy introduced by the Minister of Labour and Social Policy through a decree of 20 April 1995. It is a modern and open system of classification, but its full introduction requires cooperation with the economic ministries and necessitates appropriate curricular activities.

309. The curriculum documentation for occupations in the new classification system is designed to ensure a thorough revamping of the content of vocational training. The goal is to produce a school that turns out individuals with sound general vocational training who have also been taught the skills needed to pursue further specialist training and have learned how to operate in the labour market and in various kinds of jobs.

310. The need to inculcate in children respect for human rights and fundamental freedoms is emphasized in the preamble to the Law on the Education System, which states "Education in the Republic of Poland constitutes the common good of the whole of society, and is guided by the principles laid down in the Constitution of the Republic of Poland as well as in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Rights of the Child. Education and child-rearing - while respecting the Christian system of values - are based on universal ethical principles. The aim of teaching and child-rearing is to develop in young people a sense of responsibility, a love of their country, a respect for the Polish cultural heritage and, at the same time, openness to the cultural values of Europe and the world."

311. Legal provisions respect the principle of freedom of private individuals and legal entities to set up and run schools and educational establishments. Private individuals may run:

- Private schools - on registering such schools with the school superintendent in whose district the school is to operate;
- Public schools - on obtaining the consent of the Superintendent of Schools. Consent is granted if the school meets the requirements and standards laid down by the law and its implementing provisions.

312. The school superintendent may confer on private schools equivalent rights to public schools, meaning that the certificates they issue are equivalent to State certificates.

313. Private pre-school establishments receive subsidies from the local council budget and private schools from the State budget. Subsidies for private schools are equivalent to 50 per cent of the costs per pupil incurred by public schools of the same type. Public schools run by private individuals or legal entities receive subsidies equivalent to 100 per cent of the costs per pupil incurred by public schools run by local councils or the State. In the period 1993-1998 the number of private schools in Poland increased from 1,032 to 2,530.

314. From 1993 to 1998, ecological education was targeted at the whole of society, but particularly at children, primary and secondary school pupils, students, promoters of environmental education, local councils, journalists, the medical community, farmers, environmental protection specialists and customs officers. On the initiative of the Ministry of Environmental Protection, Natural Resources and Forestry and the Ministry of National Education, a National Ecological Education Strategy was devised. The lion's share of spending on the ecological education of society targeted children and adolescents. Programmes such as "A Clean Vistula and Clean Coastal Rivers" and "Observer of the Coast of Europe" were organized. The National Fund for the Protection of the Environment and Water Management launched such projects as "Tidying Up the World and Poland", a "Campaign to Promote Environmentally Friendly Packaging", an "Ozone Campaign", "Passport to the Future" and others.

### **C. Leisure, recreation and cultural activities**

315. The Law on the Education System of 7 September 1991 contains no provisions recognizing a child's right to leisure, play and recreation or to all-round participation in cultural and artistic life. But the education system itself includes educational and training institutions whose purpose is to develop a child's interests and abilities and to enable children and adolescents to engage in various forms of leisure and recreational activities. One such establishment is the extracurricular educational institution.

#### **The activities of extracurricular educational institutions**

316. Within the education system a vital role in organizing the free time of children and adolescents is played by extracurricular educational institutions - youth palaces, youth community centres, centres for extracurricular activities, inter-school sport centres, playgrounds and other specialist institutions. They operate on the basis of a decree issued by the Minister of National Education on 28 September 1993 which specifies the types, organization and operating principles of public educational and training institutions (Legislative Gazette No. 95, item 232, of 1997 and No. 75, item 473).

317. The diverse opportunities provided by institutions conducting educational, cultural and recreational activities help to shape a child's personality, enable children to acquire various skills and stimulate the intellectual and aesthetic development of the younger generation. The institutions also teach children how to organize their leisure time independently. To an increasing extent, they complement the school's developmental, preventive and educational functions and also support the educational activities of families.

318. During the period from 1990 to 1993, the activities of extracurricular institutions were considerably restricted by an austerity programme in the field of education. Many centres were closed and those that survived had to cut back and modify their programmes. The majority became involved in business ventures to earn the money needed to finance their statutory activities. From 1993, the situation of extracurricular educational institutions began to stabilize. In 1994, according to GUS data released on 31 October 1994, the Ministry of National Education had under its authority 389 such institutions catering for 559,895 young people. At that time there were 13 youth palaces, 134 youth community centres, 107 centres for extracurricular activities, 99 inter-school sport centres, 26 playgrounds and 13 other specialized facilities. Within the institutions 18,642 hobby and interest circles were operating. In 1996, the number of such institutions dropped to 351 and the number of participants decreased to 311,350. According to GUS figures, on 10 October 1997 there were only 342 centres for extracurricular education. A total of 257,411 young people were involved in 18,329 hobby and interest circles.

319. The network of extracurricular educational centres is severely unbalanced. Katowice voivodship had 55 such institutions, compared with 33 in Warsaw, 23 in Kraków and 15 each in Gdańsk, Lodz and Nowy Sacz. But the voivodships of Biala Podlaska, Czêstochowa, Leszno, Piotrków and Tarnów had only one such centre apiece. In those voivodships, children and adolescents have limited access to cultural and artistic life.

320. Of the 324 extracurricular educational centres, 186 are run by regional offices of the State administration and 156 by local council organizations (including 95 by communities with urban status).

321. The funds needed to finance their programmes come from the State budget, local councils, fees paid by parents and the centres' own revenues (commercial activities). As a sizeable section of society is increasingly impoverished, there is a real danger that only the children of well-to-do families will be able to engage in leisure-time activities.

322. Fees for different activities are charged by both public institutions (through the parents' committee) and private institutions. The fees charged by private institutions constitute a barrier to general access to such activities. Owing to a lack of funds, the Ministry of National Education does not extend financial assistance to private cultural and recreational institutions.

323. An analysis of educational institutions involved in organizing the leisure time of children and adolescents indicates that their programmes are gradually changing and are increasingly responding to the requirements of educationally neglected communities. This role is enhanced by voluntary participation in activities, the attractiveness of the available range of activities, receptiveness to new suggestions and a partner-like attitude of teacher-instructors towards participants.

324. The current situation and future prospects of extracurricular institutions offering leisure-time facilities for the younger generation depend on the situation of education as a whole. The limited budget of the Ministry of National Education means that only selected activities can be undertaken to prevent the further deterioration of existing institutions. At the same time, public needs and educational problems with young people necessitate changes in the way such institutions function.

325. The Ministry of National Education plans the following measures:

- Additional financing from the Ministry's budget for competitions, reviews, festivals, workshops and other forms of presentation of pupils' and teachers' achievements;
- Rational restrictions on the commercialization of such institutions;
- Support for the amateur artistic movement;
- Launching of promotional activities from which teachers, pupils, schools and other institutions can derive non-material satisfaction (e.g. a series of programmes on public television, prizes, curricular and methodological materials, etc.);
- Drafting of legislative enactments enabling the institutions to expand their activities, incorporate preventive measures, work more closely with families and introduce modern management and organizational innovations;
- Abolition of the statutes of educational institutions and development of standards for out-of-school and extracurricular activities;
- Enhancement of teachers' ability to diagnose and prevent addiction and pathological behaviour and upgrading of their psycho-social skills, existing types of extracurricular activity and the methods used;
- Promotion and introduction of educational and developmental programmes aimed at reforming extracurricular institutions and improving the quality of their activities by, among other things:
  - \* Providing facilities for children and adolescents without clearly developed interests, including young people from subculture groups and those pathologically at risk;
  - \* Promoting equality of the standard of living of children from families requiring special assistance;
  - \* Integrating various cultural fields and activities of non-governmental institutions and organizations;
  - \* Linking cultural education with the local, regional and national cultural heritage;
  - \* Providing activities for rural children and families;
- Promotion of the spending of leisure time in the family by organizing cultural events and activities for families, including multi-generational tourism to enhance knowledge of national cultural achievements and other forms of activities.

326. A cardinal principle of the educational reform is to equalize educational opportunities to the greatest extent possible by:

- Ensuring equal educational facilities in general and qualitative terms for the youngest children - meaning greater availability of pre-school establishments and uniform standards in primary schools;
- Making full secondary education the norm by ensuring mobility between different kinds of schools;
- Providing disadvantaged young people with the opportunity to perform social functions;
- Supporting schools in the more extensive performance of care, integrational, cultural and recreational functions by developing extracurricular activities;
- Ensuring a sound system of teacher training and development of skills to eliminate poor quality teaching;
- Providing young people from poor families with opportunities to obtain a higher education through an efficient and well-developed system of student credits;
- Increasing the availability of education to persons with disabilities through the development of special schools, the promotion of integrated education and the dismantling of barriers.

#### **Cooperation with non-governmental organizations in extracurricular education**

327. Many non-governmental organizations working on behalf of children and adolescents have added extracurricular activities to their statutory tasks. Among these activities, the Ministry of National Education provides special support for:

- Activities that stimulate interests and a love of learning, the arts, sports and tourism;
- Local, regional and national events;
- Summer and winter recreation and holidays;
- Training activities.

328. Selected organizations such as the Polish Scouting Union or the Scouting Union of the Republic have concluded agreements with the Ministry of National Education that specify the principles governing cooperation, including the use of educational premises.

329. The Ministry of National Education uses funds for task orders to support meritorious initiatives by non-State entities. In 1997, the Ministry provided 5,321,651.22 zlotys for the organization of competitions, tournaments, artistic workshops and similar forms of work with children and adolescents. The sum of 16,609,375.89 zlotys was earmarked for recreational activities and the training of unpaid volunteers to staff youth organizations.

330. Cooperation with non-governmental organizations in extracurricular education takes place at several levels. It includes local initiatives undertaken jointly with educational and training institutions, cooperation with local councils and the School Superintendent's Office, and collaboration with central institutions.

331. To ensure more efficient cooperation with non-governmental organizations, existing regulations will have to be amended with a view to decentralizing the management of financial resources and transferring to local councils tasks assigned by the State to non-State entities, while establishing appropriate priorities and standards. Only tasks of strategic importance to the State should continue to be performed by central agencies.

### **Inter-ministerial Programme of Cultural Education**

332. This document was adopted by the Council of Ministers of the Republic of Poland on 27 November 1996. The Ministry of National Education, in cooperation with the Ministry of Culture and the Arts, pledged:

- To acknowledge extracurricular artistic activities by pupils as an extension of the educational process;
- To take arts subjects into account in drafting the new secondary school leavers' curriculum;
- To include media studies, including issues of response and choice in school curricula;
- To promote "designer" arts curricula in schools;
- To introduce cultural studies into the lifelong education system;
- To elaborate principles of cooperation between schools and cultural institutions with a view to increasing the availability of aesthetic training in the classroom;
- To record and popularize the achievements of unconventional workshops aimed at improving teachers skills;
- To promote the pursuit of programmes by cultural and educational institutions, grassroots movements and the school system.

333. The grassroots or amateur cultural movement involves the participation of schoolchildren in the activities of artistic ensembles, circles and clubs - chiefly drama, dance, music, fine arts and film groups. At present, 2,163 child and youth ensembles are active in Poland.

334. Professional cultural institutions support the right of children to all-round participation in cultural life. Travelling concerts, which have been organized by most philharmonic orchestras for children and adolescents for well over a dozen years in schools and community centres, play an important role in shaping the aesthetic tastes of young listeners. Music associations hold concerts, festivals, exhibitions, lectures and music programmes as well as competitions, music camps and composition workshops for young people.

335. As part of the programme “Sport for All Youngsters” established by the Office for Physical Culture and Tourism, School Olympiads have been held since 1994 to encourage children and adolescents to engage in competitive sports.

336. In recent years, a considerable increase in the number of student sport clubs has been recorded throughout the country. The clubs operate mainly in primary and secondary schools, sport centres, orphanages, parishes, community centres and other institutions. The clubs’ activities are based on voluntary affiliation by students, their parents and teachers. Each club has at least one section devoted to specialist sporting activities. The purpose of the clubs is to promote active forms of leisure and recreation. The number of student sport clubs is steadily growing from 631 in 1994, they increased to 3,744 in 1997. The programme “Training Talented Young Sportspeople” is designed for competitors with promising mental and physical aptitudes. It has led to the establishment of schools of competitive sport, macro-regional training facilities for talented young people and provision of the kind of training and social conditions that young sportspeople need to develop their potential.

## **X. SPECIAL PROTECTION MEASURES**

### **A. Children in critical situations**

#### **Children with refugee status**

337. Article 22 requires States parties to the Convention to extend appropriate protection and assistance to children who are seeking refugee status or who are considered refugees.

338. As far as the recognition of rights and protection of interests are concerned, the Law on Foreigners of 25 June 1997 (Legislative Gazette No. 114, item 739) does not differentiate between foreigners seeking refugee status in terms of whether they have attained the age of majority or are still minors. An application for refugee status submitted by an underage foreigner is treated in the same way as one submitted by an adult foreigner and is subject to identical procedures for the adoption of an administrative decision.

339. In accordance with article 49, paragraph 1, of the Law, a refugee child is free to contact a representative of the Office of the United Nations High Commissioner for Refugees, particularly with a view to obtaining assistance. As a minor does not enjoy legal capacity under Polish law, a court-appointed guardian should be made available to the applicant, who is placed in a care and education facility (children under 13) or a centre for persons seeking refugee status (children aged 13 and over). Such measures are indicated by paragraph 43 of the directives issued by the Minister of Internal Affairs and Administration on 23 December 1997 concerning the principles,

procedures and documents required in cases involving aliens (Legislative Gazette of 1998 No. 1, item 1) and by article 34, paragraph 1, of the Code of Administrative Procedure.

340. Article 44 of the Law on Foreigners, reflecting the principle of family reunion, also stipulates that the spouse and minor children of a foreigner (who has acquired refugee status) should be granted refugee status if they are with the foreigner in question in the territory of the Republic of Poland, should be given travel documents in accordance with the Geneva Convention and should be allowed to live in Poland for a specified length of time.

341. If the underage children of a foreigner who has acquired refugee status live beyond the borders of the Republic of Poland, the appropriate Polish bodies should, at the foreigner's request, make every effort to assist them in obtaining permission to enter Poland for the purpose of family reunion - paragraph 45 of the above-mentioned directives.

342. Moreover, Polish law also regulates situations not mentioned in the Convention. For instance, paragraph 58 of the directives states that an alien minor in Polish territory may be expelled only under the care of his/her legal guardian. The sole exception is when the minor is turned over on expulsion to his/her legal guardian or a representative of the authorities of the State to which he/she is being expelled.

### **Physical and psychological rehabilitation**

343. The physical and psychological rehabilitation of children in crisis situations is one of the compulsory tasks of psychological-pedagogical counselling institutions. Specialists employed in psychological-pedagogical counselling offices, care and education institutions and social reintegration facilities extend direct psychological assistance.

344. Motor rehabilitation has been conducted to a limited extent since 1993 by rehabilitation therapists employed by the counselling offices. Between 1993 and 1998, however, there were only 11 to 17 full-time positions for such therapists. During the period covered by this report, they worked with between 861 and 1,148 children and adolescents. Therapists are also employed by integrated institutions. During the 1996/97 school year 100 rehabilitation therapists were employed in 264 integrated facilities. In the course of psychological rehabilitation, the counselling offices engage in active forms of work with children such as training sessions and workshops. An analysis of the programmes offered by the counselling facilities over the past five years indicates that their scope and number are inadequate. In 1996/97 only 18 (of Poland's 49) voivodships provided therapy for emotionally disturbed children. One provided therapy for aggressive behaviour, two worked with violent offenders, seven voivodships intervened in crisis situations and twelve conducted individual therapy with children who attempted suicide. Compared with 1993, however, there has been a clear increase in individual assistance from 42,000 in 1993/94 to 66,000 in 1997/98 and in group therapy from 240,000 to 350,000 respectively.

345. Youth Telephone Hotlines are a specific form of psychological assistance. They are usually operated by psychological-pedagogical counselling offices. Since 1967 they have been affiliated with the International Federation of Telephone Emergency Services (INFOTES). They



advised more than 21,000 people in the 1993/94 school year and some 15,000 in 1996/97. The available data seem to indicate that this form of assistance has gone somewhat out of vogue.

346. We regard sexual molestation as a particularly dastardly form of violence against children. The problem involves such issues as identification and defence of one's rights, the search for help when they are violated, ability to communicate and deal with stress, and identification of the factors threatening proper development. That entire set of problems forms part of the health education programme that will become compulsory in schools in September 1999 (interdisciplinary track). Implementation of the curriculum will involve psycho-educational tasks which must be supplemented by therapeutic measures for child victims of sexual violence.

347. Efforts to eliminate the phenomenon require special skills and competence, both on the part of teachers conducting health education classes and on the part of therapists providing special assistance.

348. The training of staff to deal with such problems is the job of the Voivodship Methodology Centres, the Ministry of Education's Methodology Centre for Psychological and Pedagogical Assistance and certain psychological-pedagogical counselling offices and specialist counselling facilities.

349. The Voivodship Methodology Centres use a workshop environment to conduct staff training sessions for the more effective solution of child-rearing problems (for instance by teaching child-rearing skills), effective communication workshops and courses in conducting a dialogue with children.

350. For example, the Voivodship Methodology Centre in Czêstochowa organizes training workshops for self-tuition groups focusing on the maltreated child syndrome. In the Educational Bulletin (No. 6 of 1996), jointly published by the School Superintendent's Office and the Voivodship Methodology Centre, two articles appeared on the subject under discussion "System Model of the Family of a Sexually Exploited Child" and "My Experience with Violence". The Voivodship Methodology Centre of Kalisz also holds training sessions on the subject of violence against children.

351. Interesting initiatives involving the improvement of various kinds of teaching skills are also being carried out. In 1995, the Ministry of National Education's Methodology Centre for Psychological and Pedagogical Assistance conducted training workshops on assistance to pupils from families with violence and alcohol problems (19 persons received training). In 1997, some 100 people were trained. The participants included employees of psychological-pedagogical counselling offices, school education officers and teachers and principals of primary and post-primary schools. In 1998, 28 people were trained. Four additional training sessions for some 80 persons were planned. Over the past two years, the Centre has also held training sessions on children's rights and it plans to hold a session devoted to "Psychological Work with Children and Adolescents from Dysfunctional Families". The Centre also intends to develop the organizational principles of a support system for education officers throughout the country. The

purpose of those efforts is to expand the professional expertise of education officers in counteracting violence in school, family violence and peer-group aggression. There are also plans to organize support groups for education officers from Warsaw.

352. It should be noted that the question of domestic violence towards children has been included in the training course for employees of the Youth Telephone Hotlines set up by the Methodology Centre for Psychological and Pedagogical Assistance (56 persons received training in 1996 and 1997 and 20 to 25 persons in 1997).

353. The psychological-pedagogical counselling offices are aware of the problem of caring for young victims of violence. In the 1996/1996 school year four voivodships - Katowice, Kraków, Krosno and Opole - developed a programme to assist sexually molested children. This type of assistance is either specifically designed for sexually molested children, as in Katowice and Kraków voivodships, or is provided in the form of therapy for children from families known to engage in physical and mental abuse and sexual molestation.

354. In addition to the centres providing direct assistance to sexually abused children, there are centres offering educational programmes to people who are willing and able to provide such assistance. The Methodology Centre gathers information about educational programmes for education system employees - psychologists, education officers, teachers and form masters - and provides access to data on such centres and programmes. Unfortunately, there are not many specialized programmes. They are available only at the specialist psychological-pedagogical counselling office at Warsaw's Juvenile Psychology Centre, the Alternative Education Workshop in Lodz, the Family Assistance Group in Zywiec and the Voivodship Group of Education and Therapy Institutions in Katowice.

355. The programmes cover such issues as:

- How to talk to children and adolescents about sex and how to conduct group activities on the subject of sex;
- Recognition, diagnosis and procedures in cases of sexual abuse;
- Various aspects of the initial intervention;
- Increasing readiness and competence to provide assistance and support to victims of sexual violence.

356. With regard to the programmes provided by other centres, the Methodology Centre operates as an intermediary among education employees providing psychological-pedagogical assistance, puts selected pilot programmes into practice, monitors their implementation in the Ministry's institutions and carries out evaluation studies for the benefit of their authors.

357. The programme "Promoting Physical, Mental and Spiritual Health in the Education System" also acquaints participants with the problem of abused and sexually molested children.

358. The plans of the Ministry of National Education in this area are largely dependent on financial resources, especially funds for training specialists and creating the necessary conditions for assisting young victims of sexual abuse. A programme of such activities has been outlined in the context of efforts to resolve the problem of domestic violence against children.

## **B. Children who run foul of the law**

### **Dispensing juvenile justice**

359. The basic principles governing proceedings involving underage offenders, as laid down in the Law of 26 October 1982 on Procedure in Cases Involving Juveniles, have remained unchanged. The proper body for conducting clarification, analytical and enforcement proceedings remains the juvenile court (these tasks are performed by family courts). A juvenile is defined as a person:

- Under the age of 18 in proceedings to counteract the corruption of minors;
- Aged between 13 and 17 in cases involving punishable offences;
- Under the age of 21 in enforcement proceedings (see, in addition, the age limits for criminal responsibility).

360. There are, however, no clearly defined lower age limits as regards responsibility for violating criminal law, because where evidence of corruption of a minor exists (including the commission of prohibited acts, i.e. breaches of criminal law as interpreted by the Convention), juveniles under the age of 13 may be held responsible. In practice, the age of 10 is accepted as such a limit.

361. When dealing with the corruption of minors or the commission of punishable offences, the catalogue of measures at the disposal of juvenile courts includes educational, therapeutic-educational and corrective measures. Educational measures (article 6, paragraphs 1 to 9 and 11 of the Law on Procedure in Cases Involving Juveniles) may include reprimands, enforcement of a specific form of behaviour, responsible supervision by parents or another trustworthy person, assignment to a juvenile assistance centre operated by the School Superintendent's Office, a ban on driving motor vehicles, the loss of goods acquired as a result of a punishable offence, confinement to a vocational training institution or organization, a foster family or a care and education institution, and, lastly, other measures specified by the Law in question or the Family and Guardianship Code.

362. Therapeutic-educational measures involve confinement in a mental hospital or other suitable health care institution (article 12 of the Law on Procedure in Cases Involving Juveniles). Lastly, corrective measures involve confinement of the juvenile in a reform institution (article 6, paragraph 10, and article 10 of the Law). The enforcement of such confinement may be suspended for a probationary period of from one to three years and educational measures may be applied (article 11 of the Law). Enforcement of a court ruling may be conditionally waived (article 88) and a juvenile may be conditionally released from a reform institution (article 86).

363. Not all the basic principles governing proceedings in cases involving juveniles have been formulated *expressis verbis* in the above-mentioned Law. Some of them are implemented under provisions of criminal property law and procedural law. These are what are known as the principles of *nullum crimen sine lege*, the presumption of innocence (it should be noted that under the Polish legislation on juveniles guilt is not ascribed; only the commission of an act is established), non-use of coercion to obtain evidence and confession of an act, and the right to an interpreter free of charge. Others stem directly from the Law on Procedure in Cases Involving Juveniles such as the principle of prompt and direct communication of the charges (article 34, paragraph 1), the right to obtain legal assistance (article 36, paragraph 1, articles 44 and 49) and the right to appeal against a court ruling (chapter 7, articles 58 to 63; this principle also operates under the relevant provisions of the Code of Criminal Procedure and the Code of Civil Procedure).

364. Measures constituting an alternative to judicial proceedings (article 40, paragraph 3(b), of the Convention) have taken the form of mediation proceedings between the juvenile and the plaintiff. This has been introduced for the past three years on an experimental basis and preparations are under way to include it among the provisions of the Law on Procedure in Cases Involving Juveniles.

### **Depriving children of their liberty**

375. This is possible in several instances, most of which involve the responsibility of minors for breaches of criminal law. Polish law does not provide for the temporary detention of juveniles. In the course of proceedings against a juvenile, the following isolation measures may be applied:

(a) Confinement in a police children's hostel (article 40 of the Law when there is reasonable suspicion that the juvenile has committed a punishable act, and article 102 when the juvenile requires immediate care) for a maximum of 48 to 72 hours (depending on the reasons for confinement) or, with the consent of a family judge, for a specific period of time not exceeding 14 days;

(b) Placement by a court in a care and education institution (article 26 of the Law on juveniles);

(c) Confinement in a juvenile shelter (article 27). This institution bears the greatest similarity to temporary detention. Confinement therein is permissible only when two conditions are jointly fulfilled when circumstances warranting the confinement of a juvenile in a reform facility exist, and when there is a reasonable fear that the juvenile may flee or attempt to destroy the evidence of his or her offence or when his or her identity cannot be established. The court may order confinement in a juvenile shelter for a period not exceeding three months before the case goes to court. In special circumstances, that period may be extended by no more than three additional months. Detailed principles governing a juvenile's stay in such a shelter are laid down in the directives issued by the Minister of Justice on 19 May 1997 regarding types and ways of organizing juvenile shelters and the confinement of minors therein (Legislative Gazette, No. 58, item 362).

- (d) Educational and corrective measures involving deprivation of liberty in the case of minors:
- Confinement in a care and education establishment or a social reintegration (formerly educational) institution (article 6, paragraph 9, of the Law on juveniles). Detailed principles governing the confinement of minors therein are contained in:
    - The directives issued by the Minister of Education and Training on 10 May 1985 regarding the confinement of juveniles in educational institutions and other care and education facilities (Legislative Gazette No. 26, item 130);
    - The directives issued by the Minister of National Education on 21 February 1994 regarding the types, organization and operating principles of public care and education institutions and social reintegration institutions (Legislative Gazette No. 41, item 156).
  - Confinement in a corrective (reform) institution (article 6, paragraph 10, and article 10 of the Law on juveniles). The principles governing the confinement of juveniles in reform institutions are contained in directives issued by the Minister of Justice on 19 May 1997 regarding the types, organization and operating principles of corrective institutions as well as the principles governing a juvenile's confinement (Legislative Gazette No. 58, item 361);
  - Imprisonment, which is an option in the following instances:
    - Where a juvenile has incurred criminal responsibility under article 10, paragraph 2, of the Penal Code;
    - Where there were grounds warranting the confinement in a reform institution of a juvenile who had attained the age of 18 when the ruling was handed down (article 13 of the Law on juveniles);
    - Where a juvenile attained the age of 18 before the ruling to confine him or her in a reform institution could be implemented (article 94 of the Law on juveniles).

### **Principles governing the punishment of juveniles**

376. A prohibition of torture, corporal punishment and cruel, inhumane or degrading treatment is contained in article 40 of the Constitution of the Republic of Poland and applies to every human being regardless of age.

377. Article 54, paragraph 2, of the (new) Penal Code prohibits the sentencing of juveniles to life imprisonment. In the previous Penal Code such a ban did not exist, since the concept of life imprisonment did not exist under Polish law. As the new Penal Code does not provide for the death penalty, a prohibition of capital punishment for juveniles would be pointless. It should be added, however, that such a prohibition existed in the previous Penal Code (article 31).

378. During a juvenile's stay at a juvenile shelter or reform institution, measures of direct coercion may be applied against him or her exclusively in the circumstances and in accordance with the conditions specified by law. Detailed regulations are contained in the provisions of articles 95a to 95c of the Law on juveniles, in directives issued by the Council of Ministers on 11 December 1996 regarding special conditions under which direct coercion may be used against juveniles in reform facilities and shelters (Legislative Gazette No. 154, item 746), and in section 85, paragraph 1.13, and section 88 of the above-mentioned directives issued by the Minister of Justice on 19 May 1997 on reform institutions and section 67, paragraph 1.12, and section 70 of analogous directives on juvenile shelters. The most important principles are the following:

- An absolute ban on the use of direct coercive measures as a form of punishment;
- Use of such measures solely to prevent a juvenile from attempting suicide or self-mutilation and from killing or harming another person, inciting a riot, organizing a collective escape or destroying property entailing a serious breach of order;
- A limit on the list of such measures to the use of physical force, solitary confinement and the deployment of a restraining belt or straitjacket;
- A ban on the use of a restraining belt or straitjacket on a disabled juvenile;
- A limit on the duration of solitary confinement to 48 hours and a ban on the application of that measure to a pregnant juvenile;
- Medical supervision of direct coercive measures;
- Filing of a report on the use of such measures and informing the court.

379. The above-mentioned directives also regulate the extent of a juvenile's rights in a shelter or reform institution, particularly in terms of limits on the right to correspondence, privacy and contacts with his or her family.

380. In reviewing Poland's implementation of its commitments stemming from article 37 of the Convention, it should also be mentioned that on 21 October 1989 Poland acceded to and ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (Legislative Gazette of 1989, No. 63, items 378 and 379). That Convention is considerably wider in scope, since it does not limit itself to a single subject as in the case of the Convention on the Rights of the Child. Poland is also a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which it ratified on 1 February 1995 (Legislative Gazette of 1995, No. 46, item 238). In the period from 1 to 12 July 1996, the European Committee for the Prevention of Torture inspected places of enforced confinement, including juvenile facilities, in Poland with a view to assessing their compliance with the provisions of the European Convention. During the inspection, the representatives of the Committee did not take any immediate action. The

Ministry of Justice, the appropriate recipient of the Committee's observations, replied to the official report on the inspection tour and the recommendations it contained. At the beginning of July 1998, during a meeting of the Committee for the Prevention of Torture, the procedures relating to the report on the 1996 visit to Poland by the Committee's delegation were terminated.

### **C. The exploitation of children**

381. Many provisions of the new Penal Code regulating this problem may be cited:

- Article 198: bringing about sexual relations or other sexual activity or engaging in such activity by exploiting the helplessness of another individual due to that individual's mental retardation, mental illness or inability to discern the nature of the said activity (regardless of the victim's age);
- Article 99: bringing about sexual relations or other sexual activity (as above) by abusing a relationship of dependence or exploiting a situation of crisis (regardless of the victim's age);
- Article 200: bringing about sexual relations or other sexual activity (as above) with a minor under 15 years of age (paragraph 1) or making a pornographic recording with the participation of such an individual (paragraph 2);
- Article 202: exposing a minor under 15 years of age to pornographic material, making available to him/her items of that nature (paragraph 2), or producing pornographic material with the participation of a minor under 15 years of age (paragraph 3) for the purpose of their dissemination;
- Article 203: involving a person in prostitution through the use of force, illegal threats, deceit or the exploitation of that person's relationship of dependence or situation of crisis (regardless of the victim's age);
- Article 204, paragraph 3: inducing or facilitating the involvement of minors in prostitution for material gain or deriving material benefit from the prostitution of minors;
- Article 204, paragraph 4: luring or abduction of another person for the purpose of engaging in prostitution abroad (regardless of the victim's age);
- Article 207: physical or mental abuse of (among others) minors:
  - The use of a particular form of cruelty (paragraph 2);
  - Driving the victim to attempt suicide (paragraph 3);
- Article 208: inducing a juvenile to become addicted to alcohol;
- Article 209: persistent shirking of child-support obligations;

- Article 210: abandonment of a minor under 15 years of age or a physically or mentally incapacitated individual, contrary to the obligation to extend care to such persons;
- Article 211: abduction of a minor under 15 years of age (or an incapacitated individual - as above) contrary to the will of the person exercising care and supervision over the minor;
- Article 247: physical or mental abuse of an individual legally deprived of liberty (regardless of the victim's age);
- Article 253: trafficking in persons, even with the consent of the individuals involved (paragraph 1) or organizing the illicit adoption of children for the purpose of material gain (paragraph 2).

382. The Law of 24 April 1997 on the Countering of Drug Addiction (Legislative Gazette No. 75, item 468) contains, aside from provisions in which the victim's age has no bearing on the offender's responsibility, the following offences designed to protect minors:

- Article 45, paragraph 2: illicitly supplying narcotics or psychotropic substances to minors or inducing a minor to use such substances;
- Article 46, paragraph 2: supplying a minor with narcotics or psychotropic substances or facilitating or encouraging their use for material gain.

383. To limit the use of psychoactive substances, steps have been taken to safeguard schools against dealers and to limit demand and supply. This is done largely through voluntary parental action and cooperation with the police.

384. Efforts to limit demand may be divided into two categories:

1. Educational programmes aimed at all young people (an entire class);
2. Psycho-corrective and socio-therapeutic programmes aimed at juveniles threatened with addiction (risk group).

385. Many programmes aimed at the entire population of young people are currently being introduced in schools, mainly through the efforts of the Office on Drug Addiction of the Ministry of Health and Social Welfare. The Ministry of National Education is cooperating with the Office "in the creation of a nation-wide programme to prevent drug addiction".



386. The main ingredients of these programmes include:

- Teaching the skills needed for adaptive psycho-emotional and social functioning, especially taking into account the problems of adolescence (identity crisis, biological maturing process, structure of adolescent needs, development of a system of values);
- Providing information on the dangers and mechanisms of addiction;
- Teaching young people how to refrain from taking psychoactive substances, how to say “no”.

387. Preventive efforts also include support to parents and guardians of adolescents in their child-rearing activities and training of staff for preventive activity (teachers, psychologists, education officers, volunteers, etc.).

388. Work with risk groups involves:

- Ad hoc activities, for example the establishment in certain schools of an anonymous hotline, also for parents, and a police campaign (known as “Dealer - 4”) aimed at detecting and limiting drug addiction;
- Short-term programmes aimed at eliminating dangers at school known as “The Safe School” or programmes aimed at preventing drug addiction such as “Before you try it” and “I don’t do drugs”;
- Long-range programmes involving the introduction of health promotion into school curricula.

389. This system is intended to supplement the activities of class teachers, school education officers, family education officers, school psychologists, specialist counselling offices and specialists of the Ministry of National Education’s Methodology Centre for Psychological and Pedagogical Assistance.

390. Preventive and educational activities are also conducted by the psychological-pedagogical counselling offices and specialist counselling offices. They have organized family therapy to deal with alcohol abuse as well as various kinds of work with teachers - training sessions, workshops, etc. In the 1997/98 school year, the counselling offices attended to the needs of 671,074 children and adolescents.

391. In 1998, the Methodology Centre for Psychological and Pedagogical Assistance launched a planned campaign to prevent addiction by issuing publications on:

- Problems of juveniles threatened with addiction;
- Work with parents of pupils threatened with addiction;
- Prevention of addiction among schoolchildren.

392. In the 1997/98 school year, some 300 preventive, educational and therapeutic clubrooms (community centres) provided specialist preventive and educational care. Eleven youth sociotherapy centres for socially maladjusted or addiction-threatened children and adolescents were in operation. During the 1997/98 school year, 632 children and adolescents availed themselves of their assistance.

393. On 6 June 1997, a new Penal Code, a Code of Criminal Procedure and a Code of Penal Enforcement were adopted. The new Penal Code makes it an offence to exploit children under the age of 15 for the production of pornographic material “The production for the purpose of dissemination and the import of pornographic material depicting minors under the age of 15 (...) are punishable by between three months’ and five years’ imprisonment” (Penal Code, article 202, paragraph 3).

394. The Convention on the Rights of the Child states (Part I, article 1) that a “child” means every human being under the age of 18. On that point, therefore, Polish law is not fully in compliance with Poland’s international obligations. On the initiative of a group of deputies, a proposal to amend the Penal Code has been introduced to protect children against involvement in the production and dissemination of pornography.

#### **D. Children belonging to minority or indigenous groups**

395. Polish educational law contains provisions guaranteeing pupils belonging to minority national or ethnic groups in Poland the right to their own cultural life, to belief in and observance of their own religion and to the use of their own language.

396. The Law of 7 September 1991 on the Education System states in article 13.1 “Public schools shall enable pupils to maintain their sense of national, ethnic, linguistic and religious identity, in particular through the learning of their language, history and culture.”

397. At the request of parents, the instruction mentioned in paragraph 1 may be conducted:

- In separate groups, classes or schools;
- In groups, classes or schools offering additional instruction in language, history and culture;
- In inter-school teaching groups.

398. The directives issued by the Minister of National Education on 24 March 1992 regarding the organization of instruction serving to maintain the national, ethnic and linguistic identity of pupils belonging to national minorities (Legislative Gazette No. 34, item 150, as amended) contain a provision specifying the conditions and means for implementing the educational rights of national minorities and the mechanisms for coordinating State educational policy in that area. It is important for instruction in minority languages to take place on a voluntary basis. It is

organized by the principal of the school (pre-school establishment) in response to a written request by a child's parents or legal guardian or, in the case of pupils in post-primary schools, a statement by the students themselves that they wish to receive instruction in the native language of a national or ethnic minority (paragraph 3).

399. The educational process in schools for national minorities and the teaching of humanities subjects should serve to cultivate respect for the world cultural heritage and the maintenance of regional traditions and cultures (paragraph 12).

400. Supervision of the proper implementation of the educational rights of national and ethnic minorities is exercised by the Superintendent of Schools (paragraph 2), who appoints a plenipotentiary to take charge of organization, and to assume responsibility for the standard of the schools' work and for cooperation with local branches of the national or ethnic group's socio-cultural organizations.

401. In the 1997/98 school year, a total of 34,371 pupils belonging to national minorities living in Poland or ethnic groups took advantage of the above-mentioned rights. They were pupils of Lithuanian, Belarusian, Ukrainian, Slovak, German, Lemko and Kashubian descent. The teaching of national minority or ethnic languages is conducted in 459 institutions (pre-school establishments, primary and post-primary schools and inter-school groups for children and adolescents).

402. Textbooks for the teaching of national minority and ethnic languages are fully subsidized by the State and made available to the pupils free of charge.

403. The bodies that run schools with instruction in national minority or ethnic languages receive subsidies, including a 20 per cent preferential allowance for each pupil in such schools.

404. It should be stressed that Polish law guarantees the implementation of the educational rights of national minorities without making such guarantees contingent on the extent to which Polish national minorities enjoy such rights in neighbouring countries.

## CONCLUSION

405. The information presented here on implementation of the Convention on the Rights of the Child testifies to the fact that the Republic of Poland fully respects the commitments imposed on States parties. Respect for children's rights derives from a long-standing tradition of respecting human rights, a tradition that laid the basis for the excellent initiative of adoption of the Convention on the Rights of the Child.

406. There are still certain areas in which systematic action needs to be taken to ensure that children's rights are fully guaranteed. It is our State's duty to guarantee those rights and, despite the many socio-economic difficulties afflicting our society, care for children's welfare is one of the primary tasks facing the Polish Government during the period of political transformation.

407. The Constitution of the Republic of Poland and Polish legislation are in harmony with the Convention. During the period covered by this report, children's rights were further strengthened within Poland's legal system. That development was accompanied by real efforts on the part of the public authorities and non-governmental organizations. The main principle underlying the Convention, the welfare of children, was incorporated in all legal provisions affecting children. In order to better protect the interests of children in the context of their families, the Constitution of the Republic of Poland required the public authorities to create the office of Spokesperson for the Rights of the Child.

408. Since 1989, the Republic of Poland has been undergoing a period of political transformation. Historic State reforms are currently taking place. Poland's dynamic economic development, the opening up of its borders and modern legislation have changed public needs and expectations. Polish law and social organizations operating for the benefit of children accord children their rightful place in the family and society. Every human life is protected regardless of age, skin colour, sex or creed. In 1997, the Constitutional Tribunal ruled that the right to life is absolute and affects children from the moment of their conception. The Tribunal's ruling is backed by legislation which accords a child the right to develop, to retain his or her name and identity, to enjoy freedom of expression and creed and to have his or her opinions respected. The Polish State is particularly solicitous of the interests of disabled children and those deprived of parental care.

409. The Poles' love of freedom and State independence has always been tied to respect for the rights of others - including persons who are small and different. The 1989 Convention on the Rights of the Child constitutes the legal enhancement of that respect.

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