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Human Rights Committee

Consideration of reports submitted by States parties under article 40 of the Covenant

Seventh periodic reports of States parties due in 2015

Poland*, **

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* The present document is being issued without formal editing.

** The annexes to the present report are on file with the Secretariat and are available for consultation. They may also be accessed from the web page of the Human Rights Committee.

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List of Abbreviations

APA	Appellate Prosecution Authority
CC	Civil Code
CCivP	Code of Civil Procedure
CF	Correctional facility/prison
CM	Council of Ministers
CPM	Chancellery of the Prime Minister
CPP	Code of Penal Procedure
CT	Constitutional Tribunal
DC	Detention centre(s)
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms
ECHR	European Court of Human Rights
EMS	Electronic monitoring system
EPC	Executive Penal Code
EU	European Union
GPA	General Prosecution Authority
GPET	Government Plenipotentiary for Equal Treatment
HRD	Human Rights Defender
MAD	Ministry of Administration and Digitisation
MFA	Ministry of Foreign Affairs
MH	Ministry of Health
MJ	Ministry of Justice
MLSP	Ministry of Labour and Social Policy
MT	Ministry of Treasury
NCPDB	National Centre for the Prevention of Dissociative Behaviour
NCRTB	National Council for Radio and Television Broadcasting
NPAET	National Program of Action for Equal Treatment
NPM	National Preventive Mechanism
NSJPS	National School of the Judiciary and Prosecution Service
OC	Ombudsman for Children
OPCAT	Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
PC	Penal Code
PCC	Police Children’s Chamber
PS	Prison Service
SAC	Supreme Administrative Court
SC	Supreme Court

General information on the domestic status of human rights, including new measures and changes connected with the implementation of the Covenant

Questions addressed in paras. 1-3

International obligations

1. As of the entry into force of the Lisbon Treaty in December 2009, Poland has been bound by the provisions of the EU Charter of Fundamental Rights. The instrument may be applied directly in domestic legal order.

2. In the period covered by the Report, Poland became a party to or signed the following international instruments, of significance in the context of human rights protection:

(a) In 2008 Poland ratified the Council of Europe Convention on Action against Trafficking in Human Beings;

(b) In 2009 Poland ratified the European Charter for Regional or Minority Languages;

(c) In 2010 Poland ratified the amendments adopted in Kampala to the Rome Statute of the International Criminal Court;

(d) In 2012 Poland ratified the Convention on the Rights of Persons with Disabilities; HRD was entrusted with the role of an independent mechanism monitoring the implementation of the Convention;

(e) In 2012 Poland ratified the European Agreement relating to Persons participating in Proceedings of the European Commission and Court of Human Rights;

(f) In 2013 Poland signed the International Convention for the Protection of All Persons from Enforced Disappearance;

(g) In 2013 Poland signed the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure;

(h) In 2014 Poland ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights and Protocol No. 13 to the European Convention for the Protection of Human Rights of 1950 concerning the abolition of the death penalty in all circumstances;

(i) In 2014 Poland ratified the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse;

(j) In 2015 Poland ratified the Convention on Cybercrime and the Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed through Computer Systems;

(k) In 2015 Poland ratified the Convention on Preventing and Combating Violence against Women and Domestic Violence.

3. In 2013 Poland withdrew reservations to the Convention on the Rights of the Child.

Legislative, institutional and administrative questions

4. 2010 saw a reform separating the positions of the Minister of Justice and the Prosecutor General; the latter is currently appointed by the President from among the candidates submitted by the National Chamber of the Judiciary and the National Chamber of the Prosecution Authority.

5. In 2010 HRD Office was re-organised; as a result a seven-person NPM Team was set up within the HRD Office. The activities of the team are supported by the staff of other teams and employees of local branch offices. That very year HRD was appointed to perform tasks related to equal treatment, and as of 2012 it has been an independent authority for supporting, protecting and monitoring the implementation of the Convention on the Rights of Persons with Disabilities.

6. In 2010 the competences of OC were strengthened and OC was granted e.g. the right to appear in common courts, SC, SAC and CT. Furthermore, OC was granted the right to monitor the observance of the rights of the child in all locations and at all times without prior indication.

7. In 2014 major amendments to the Criminal Law entered into force:

- An amendment to PC entered into force in January 2014; it aims at extending the protection of victims of sexual offences. Each such offence, including rape, is currently prosecuted *ex officio*; earlier it was prosecuted upon a motion of the victim. Another change involved the manner of interviewing victims of sexual offences, who provide their depositions in special friendly rooms. A recording of such an interview is later used and minutes from it are read out in further proceedings. Minor victims of some categories of offences, including sexual offences, are interviewed only if their deposition may be of vital importance for the case.
- In November 2014, pursuant to amended provisions of CPP, the Minister of Justice was granted the right to file a cassation appeal against each valid and final court ruling concluding criminal proceedings. The change is meant to eliminate from legal context rulings marked by blatant violation of law, including rulings to the detriment of and blatantly unjust for the victim.

8. As of January 2010 the Police and the Border Guard have had a mechanism of forwarding to HRD complaints and other information concerning the conduct of officers of the above services which constitutes violation of human rights. Plenipotentiaries for the protection of human rights were appointed in the structures of both services.

9. On 6 June 2013 a law entered into force which comprehensively addresses the use of direct coercion measures and firearms by 21 authorised entities.

10. 3 January 2012 MJ set up the Assistance Fund for Assistance to Victims and Post-penitentiary Assistance, whose resources include supplementary payments and monetary benefits. The Fund finances free legal, psychological and material aid to crime victims, provided by non-governmental organisations thanks to grants offered by MJ. In some cases it is also possible to offer victims accommodation. In 2013 diverse forms of assistance were taken advantage of by 11,420 people, and in 2014 as many as 20,503. In 2015 resources for the implementation of these action in the amount of 16.2 m PLN (ca. 4 m euro), were granted to 26 organisations active nationwide.

11. Furthermore, MJ granted non-governmental organisations funds for the provision of psychological and legal assistance to crime victims in venues they contact in the first place (e.g. units of the prosecution authority, Police, emergency centres). 1.2 m PLN (ca. 300,000 euro) was allocated for this purpose in 2015.

Training and awareness-raising

12. As of 2009 trainings on human rights for judges and public prosecutors have been held by NSJPS. Some are general in nature (e.g. "Comprehensive training on human rights and non-discrimination"), others focus on selected relevant issues (in particular criminal and civil substantive and process questions). Classes on the above subjects are held moreover within the framework of instruction provided to judicial and prosecutorial trainees. It is possible to take part in trainings abroad. MJ cooperates with NSJPS as to the subject matter of the trainings, taking due care to cover all the major instruments of international law, including the provisions of the Covenant. Furthermore, trainings address questions indicated during the review of national jurisprudence, carried out by MJ. In practice, domestic courts apply the provisions of the Covenant (examples of rulings are provided in the Appendix).

13. The Committee's recommendations are each and every time analysed by all the appropriate domestic authorities and institutions, and the process of their implementation is monitored. The recommendations are published on the MJ websites, which moreover contain all the documents related to the reporting obligations set forth in the Covenant. Draft periodic reports are consulted with non-governmental organisations and independent domestic institutions, e.g. HRD.

14. Information related to human rights protection is available on the websites of different government authorities (e.g. MFA, MJ, MI, MLSP, and GPET) and domestic institutions (HRD). There are special websites dedicated to e.g. assistance to crime victims (pokrzywdzeni.gov.pl) and trafficking in human beings (www.handelludzmi.eu). Furthermore, pursuant to the agreement concluded between domestic institutions (MJ, MFA, CT, and SAC), as of 2014 ECHR rulings concerning individual states of major importance from the Polish perspective have been translated and disseminated.

Financing HRD and GPET

15. It is in order to point out that Poland has its institution of the Human Rights Defender.[1]

16. Resources for the performance of tasks by HRD come from the budget part, which HRD disposes of at his own discretion, their amount decided on each time independently by the Parliament. In recent years the allocations have increased gradually – in 2009 it was 33,276,000 PLN, and in 2015 – 38,602,000 PLN. According to HRD, however, the resources are inadequate. During the period covered by the Report, the Government has supported efforts to increase the financial allocation for this institution, also in connection of its assuming the role of the NPM and independent monitoring mechanism within the Convention on the Rights of Persons with Disabilities.

17. GPET occupies the position of a secretary of state. The substantive, organisation, legal, technical, and office operation of GPET is assured by CPM, and the resources for the operation of GPET come from the CPM general budget. The money is allocated for ongoing operation and co-financing educational projects concerning equal treatment and non-discrimination.

18. Other legal, institutional and administrative changes are addressed in replies to the following questions.

[1] The Committee's question mentions two institutions – Human Rights Defender and Ombudsman.

Particular information on the implementation of Articles from 1 to 27 of the Covenant, taking also into consideration earlier follow-up recommendations

Constitutional and legal framework within which the Covenant is implemented (Art. 2, 3 and 26)

Questions addressed in para. 4

19. The law on the implementation of selected EU regulations concerning equal treatment contains a finite catalogue of factors of protected characteristics, which includes the following: sex, race, ethnic origin, nationality, religion, denomination, world view, disability, age, and sexual orientation. The law moreover defines direct and indirect discrimination, and the principle of equal treatment.

20. The law does not set forth the factors of material situation, birth and political views and others, indicated in Article 2 section 1 of the Covenant. This does not mean, however, that the above characteristics are not protected. The law implements EU regulations protecting in a special way individual categories of people in some areas, such as access to and conditions of use of publicly offered services, higher education and vocational training, having one's business, access to social protection and health care. In domestic law, mainly in the areas of civil, criminal and labour law, there are a number of mechanisms that assure protection against discrimination. This is the implementation of the prohibition of discrimination in political, social or economic life for any reason, enshrined in the Constitution. The rights set forth in the Covenant, therefore, are fully assured. Still, there are risks as to the efficacy of the available measures of legal protection against discrimination, indicated by e.g. HRD and non-governmental organisations. The above doubts concern both the application of the law on equal treatment, and other civil law measures (see para. 47). It is claimed that the instruments in force do not guarantee a sufficiently comprehensive and uniform protection and claiming relevant compensation due to discrimination in a court of law is in practice difficult.

21. Furthermore, EU carries out work on a draft directive on the implementation of the principle of equal treatment of persons irrespective of their religion, world view, disability, age, or sexual orientation, which is meant to extent protection against discrimination. Poland supports this initiative and will implement its provisions when the directive has been adopted.

22. NPAET for the years 2013-2016 is a strategic government document for the planning and implementation of the main objectives and directions of the equal treatment policy. It covers areas such as: policy of non-discrimination, equal treatment in the labour market and in the social protection system, combating violence, including domestic violence, and enhancing protection of individuals at risk, equal treatment in the education system, health care, and access to goods and services. The Program envisages the collaboration of multiple government institutions and allows for the monitoring and assessment of all the activities carried out for the sake of equal treatment in Poland. NPAET activities have been planned for the period until mid-2016; the second half of the year will be dedicated to a final evaluation of the Program and adoption of recommendation for its successive edition.

23. Reports on the implementation of NPAET for the years 2013 and 2014 were drawn up by GPET and submitted to CM. At present, a procedure is being implemented to set up an Inter-Ministerial Team for NPAET Monitoring, composed of representatives of administration, with a possible use of non-governmental sector. The activities so far have

been implemented in line with the adopted assumptions and according to schedule. In successive stages of NPAET implementation, special emphasis will be laid on developing methods of closer cooperation between the stakeholders involved.

Measures adopted to combat terrorism (Art. 2, 7 and 9)

Questions addressed in para. 5

24. Preliminary proceedings related to offences of abuse of power by public officials concerning allegations of the use of the territory of Poland for transport and illegal deprivation of liberty of persons suspected of terrorist activity.

25. The proceedings have since 2012 been carried out by the Organised Crime and Corruption Division of the APA in Krakow. The case is looked into by a specialised prosecutorial unit of the highest local level and all the activities of the proceedings are conducted by experienced public prosecutors. GPA monitors the proceedings on an ongoing basis.

26. The proceedings require the use of classified materials from a variety of sources and a comprehensive international cooperation with the USA and European states. Until April 2015, 9 applications for international legal aid were filed, including 6 – to the USA. Due to the complexity of these activities, it is impossible to ascertain the manner or date of concluding the proceedings.

27. Given that investigative activities are carried out on the basis of highly classified documents, it is impossible to indicate details concerning the effects of the action taken by the prosecution authority and thus their public disclosure.

28. Furthermore, GPA, APA in Krakow and Plenipotentiary of the Minister of Foreign Affairs for Proceedings Before the European Court of Human Rights cooperated with ECHR as to the recognition of communications filed in this case against Poland, submitting or suggesting accessibility of the relevant documents in the manner compliant with Polish law concerning e.g. the protection of state secrets. Regrettably, the manner suggested by Poland was not accepted and as a consequence ECHR decided on a violation of the provisions of the European Human Rights Convention, which was premature in the opinion of the Government in light of ongoing prosecutorial proceedings.

Non-discrimination, inciting national, racial or religious hatred, equality before the law and the rights of persons belonging to minorities (Art. 2 section 1, Art. 20, Art. 26 and Art. 27)

Questions addressed in para. 6

Activities of government administration and law enforcement authorities

29. MI monitors incidents related to hate crimes, including those against Muslims, Roma or persons of African origin. The monitoring includes information from a variety of sources, including state authorities, non-governmental organisations, individuals, the press or the Internet. The way law enforcement and judicial authorities deal with the above incidents as of the moment of the incident until the conclusion of activities by relevant entities is analysed.

30. Victims and witnesses of hate crimes are encouraged to notify the Police about such incidents; this was helped e.g. by the project "Immigrants vs. hate crimes – how to effectively exercise your rights" (March-June 2014) which included e.g. an awareness-

raising campaign targeted at foreign nationals, explaining the provisions of Polish law concerning hate crimes and available protection mechanisms.

31. In turn, MAD implemented in the period 2004-2013 the "Program for the Roma community in Poland", whose current edition will be continued until 2020. This initiative is meant first of all to support the integration of the Roma community in the following areas: education, housing, health care, and employment. The program is implemented by territorial self-government, local centres and non-governmental organisations, including organisations of the Roma.

32. An increase in the percentage of hate crimes incidents where proceedings were instituted or indictments brought in stems from the efficiency of the awareness-raising actions taken with respect to hate crimes, including among the victims themselves, and as a result more frequent notifications of such incidents. This positive change was furthermore caused by trainings for the Police and the public prosecutors, stressing a need for a thorough analysis of the motivation of the perpetrators of offences committed against representatives of minorities, which helps their more adequate recognition as hate crimes. At the level of appellate prosecution authorities, of special importance are the activities of specialised hate crimes consultants, appointed as early as 2006, who assist other public prosecutors in carrying out and monitoring cases related to such offences. These consultants periodically monitor the proceedings of subordinate prosecution authorities and hold trainings.

33. GPA also employs a public prosecutor, a specialist on hate crimes, who monitors all such domestic proceedings and draws up relevant periodic reports, as well as cooperates with domestic institutions and non-governmental organisations with a view to efficiently eliminating hate crimes.

34. The work of specialised public prosecutors helps unify the practice and eliminate errors in proceedings. This was the objective of the 2011 publication on methodological guidelines for public prosecutors carrying out or monitoring preliminary proceedings in such cases, of the 2012 publication containing guidelines of the Prosecutor General concerning the participation of public prosecutors in proceedings instituted at a private request, some of which related to the prosecution of "hate speech" on the Internet; and of the 2014 publication containing guidelines about proceedings related to hate crimes on the Internet and guidelines about carrying out proceedings related to hate crimes.

35. In 2013, 52 district prosecution authorities were appointed which specialise in carrying out preliminary proceedings related to hate crimes.

36. The proceedings are supervised on an ongoing basis by appellate prosecution authorities, which monitor them and carry out periodic audits.

Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance

37. Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, composed of representatives of government administration, law enforcement and third sector organisations, coordinates anti-discrimination activities at different levels. The Council is first and foremost a forum of information exchange. Its meetings provide an opportunity to discuss good practices and introduce the positions of the individual non-governmental organisations and the activities of the Government with a view to enhancing the situation of minorities or victims of hate crimes.

38. The Consultation Council affiliated at the above Council is an advisory body composed of independent experts or representatives of non-governmental organisations; the Consultation Council includes a working group gathering statistics from various sources to develop a map of risks of incidence of hate crimes by Poland's individual regions and a

working group tasked with providing definitions of terms related to hate speech. In 2013, the Council extended the scope of its activity by protecting LGBT persons and in 2014 commenced work on a repository of reports and statistics on hate crimes and a glossary of terms related to hate speech.

Statistics

39. Polish authorities do not collect statistics concerning the number of notifications of hate crimes incidents. It is therefore possible to provide data for the number of proceedings (concerning selected articles of the Penal Code), where the victim was a person of the following origin:

- Roma: 2009 – 39, 2010 – 38, 2011 – 45, 2012 – 60, 2013 – 34, 2014 – 82
- Ethiopia, Congo, Morocco, Nigeria 2009 – 15, 2010 – 13, 2011 – 7, 2012 – 26, 2013 – 30, 2014 – 23
- Arabic 2009 – 14, 2010 – 18, 2011 – 29, 2012 – 36, 2013 – 37, 2014 – 49
- Hindu 2009 – 9, 2010 – 16, 2011 – 9, 2012 – 10, 2011 – 10, 2012 – 15, 2013 – 15, 2014 – 17

40. Furthermore, the Appendix includes:

- Data (for the years 2009-2013 and the 1st half of 2014) about the total number of cases of crimes on grounds of race, nationality, ethnic origin, religion, or a lack of religion, including cases concluded with an indictment brought in or with a refusal to institute proceedings, discontinued cases or cases concluded in another way, as well as court rulings
- Data on the convictions for hate crimes in the period 2009-2014
- Data on cases of hate crimes monitored by the MI Team for Human Rights Protection

Questions addressed in para. 7

Activities of administration authorities

41. Actions taken with a view to preventing hate crimes, including anti-Semitism, are described in paras. 29-40.

Statistics

42. Data gathered by the Polish authorities indicate that in 2009 there were 10 anti-Semitic crimes, in 2010 – 13, in 2011 – 5, in 2012 – 12, in 2013 – 16, and in 2014 – 9.

43. In 2012 out of 473 preliminary proceedings related to crimes on grounds of race, nationality, ethnic origin, religion, or a lack of religion, 93 proceedings (19.7%) concerned anti-Semitic crimes.

44. In 2013 out of 835 preliminary proceedings related to crimes on grounds of race, nationality, ethnic origin, religion, or a lack of religion, 199 proceedings (23.8%) concerned anti-Semitic crimes. In this period out of 111 indictments in cases related to crimes on grounds of race, nationality, ethnic origin, religion, or a lack of religion, 22 cases (19.8%) concerned anti-Semitic crimes.

45. In the 1st half of 2014 the same data were as follows:

- Out of 704 preliminary proceedings, 103 proceedings (14.6%) concerned anti-Semitic crimes

- Out of 48 indictments, 7 cases (14.5%) concerned anti-Semitic crimes

46. Over the last 5 years, few cases were filed with the prosecution authorities concerning hate crimes and related to book or press publications. The statistics gathered illustrate only anti-Semitic offences and show that the sale of such publications was negligible:

- In 2009 out of 166 proceedings related to hate crimes – 8 cases (4.8%) related to book or press publications
- In 2010 out of 182 proceedings – 3 cases (1.6%) concerned publications
- In 2011 out of 323 proceedings – 10 cases (3.1%) concerned publications
- In 2012 out of 473 proceedings – 5 cases (1.1%) concerned publications
- In 2013 out of 835 proceedings – 4 cases (0.5%) concerned publications
- In the 1st half of 2014, out of 704 proceedings – 6 cases (0.9%) concerned publications

Existing complaints mechanisms

47. All allegations of the sale of racist publications and the appearance of such content in the media are analysed in-depth by law enforcement authorities. The law provides for an adequate reaction in situations when the content of such publications violates the freedom of expression and lawful critique. The content presented in the media violating the freedom of expression and infringing on the rights of representatives of national and ethnic minorities may be the basis for compensations claims in civil cases under the protection of individual's rights set forth in Art. 23 CC. It contains an open catalogue of protected characteristics, including a person's dignity, freedom of conscience, name, and image. In this manner the injured party may claim not only the discontinuation of the violation and removal of its consequences, but also demand financial compensation. The most serious cases of racial content may also be subject to criminal proceedings instituted by law enforcement authorities on request or ex officio. Penal Code provisions guarantee to victims of such violations comprehensive protection through a prohibition of inciting hatred (Art. 256 PC) and public insult on grounds of national, ethnic, racial, or religious differences (Art. 257 PC), libel (Art. 212 PC) and insult (Art. 216 PC). In the last two cases, when the offence is committed via means of mass communication, including the mass media, the law provides for a more stringent penalty.

48. Complaints concerning discriminatory conduct may also be filed with GPET. When recognising such complaints, GPET cooperated with other domestic institutions to obtain explanations or adopted a position in the cases pending. Furthermore, GPET provided complainants with adequate legal information.

49. Complaints may also be filed with HRD. This authority examines the cases and in the vent of confirming a violation, takes action within its competences. HRD enjoys certain unique process rights relative to other state institutions, such as filing a motion with the CT or lodging a cassation appeal with the Supreme Court.

50. Activities in the media aiming at preventing discriminatory content were conducted also by NCRTB, a constitutional authority safeguarding the freedom of speech. NCRTB is authorised to monitor the content published in the media, also as a result of complaints filed by natural and legal persons, and to take disciplinary actions in the event of confirmed violations. In the period covered by the Report three such proceedings were instituted due to confirmed content discriminating against national minorities in radio programs. These related to three episodes of the same broadcast aired in the period 2011-2012. In all of the

cases the broadcaster was subject to monetary sanctions in the total amount of 150,000 PLN (ca. 35,000 euro).

51. NCRTB carries out educational projects on the basis of its website and more recently has made it possible to lodge complaints via an electronic platform.

Questions addressed in para. 8

52. The actions taken by Poland with a view to preventing discrimination, including the organisation of a number of meetings, were coordinated by GPET. The authority, an advisory body, implements a series of educational and awareness-raising tasks. In 2012 there was e.g. a conference attended by representatives of government institutions, non-governmental organisations, the Council of Europe and the EU Agency for Fundamental Rights, which event contributed to a thorough debate on issues related to preventing discrimination on grounds of sexual orientation and gender.

53. Furthermore, GPET supported social campaigns targeted at parents of non-heterosexual persons and equality parades. Actions for the sake of observing the rights of LGBT persons were carried out also by HRD, who conducted e.g. an independent study on the situation of non-heterosexual persons in health care. The 2014 study report was submitted to appropriate authorities for use and with a view to introducing adequate changes of conduct.

54. Respect for the rights of LGBT persons is an element of the training for Police executives; these issues are addressed also in Police publications (see paras. 86-99). LGBT organisations held trainings for Police officers, and as of 2010 candidates wishing to serve on the Police have been asked questions about their attitude to persons of a different sexual orientation.

55. Parliament is at work now on a draft law about the recognition of sex. The Sejm adopted the act of law in July 2015 and will presently consider the amendments submitted by the Senate. When this law comes into effect, first of all it will obviate the need to file a lawsuit against the parents.

56. Prohibition of discrimination has the importance of a Constitutional provision and its implementation is made possible by acts of a lower level. Protection against discrimination may be claimed in both civil and criminal proceedings (see paras. 19-21 and 47-51). Polish authorities support the idea of introducing a special type of discriminatory offences on grounds of sexual orientation, gender and disability. Work is going on in Parliament on the amendment of the Penal Code on the basis of projects supported by the Government. In July 2015 this issue was addressed by the permanent Sub-commission of the Sejm for amendments to criminal law.

Violence against women and equal rights of women and men (Art. 2, 3, 7 and 26)

Questions addressed in para. 9

57. Assistance to injured parties is offered by centres of different types. Specialised assistance centres for victims of domestic violence, apart from providing the most fundamental needs (shelter, clothes and food) provide immediate psychological support and assure access to medical aid, social and legal counselling, host support groups or therapy groups for victims of domestic violence or personal therapy.

Number of specialised assistance centres for victims of domestic violence

2009	*2010*	*2011*	*2012*	*2013*	*2014*
36	35	35	35	35	35

Number of people using the aid of specialised assistance centres for victims of domestic violence

2009	*2010*	*2011*	*2012*	*2013*	*2014*
7,554	8,676	8,727	8,485	7,601	7,717

58. Victims of domestic violence may avail themselves of the assistance offered by centres for crime victims (see para. 10).

59. In 2012 GPA examined 80 randomly selected domestic violence cases concluded with a decision on discontinuation or refusal to institute proceedings. In three out of the cases analysed, the decision were found unjustified and were repealed. In 2014 the Prosecutor General issued guidelines on the procedures of conduct of common organisational units of the prosecution authority as to prevent domestic violence.

60. In 2014 public prosecutors made 2,633 decisions to use a preventive measure in the form of police custody in conjunction with a restraining order (1,593 in 2013). Polish authorities have no information on the duration of proceedings in domestic violence cases.

61. Other statistics in the Appendix.

Questions addressed in para. 10

Women in political life

62. As of September 2014 a woman has been the President of the Council of Ministers and in the current Government there are 6 women-ministers (out of 18 ministers).

63. In 2011 the election law was amended and so-called quotas were introduced on the election lists for the Sejm, European Parliament and legislative bodies of local self-government, where women must account for no less than 35%. A list which does not meet the demand will not be registered. This mechanism was used for the first time in the 2011 parliamentary elections, when twice as many women as before were candidates for the Sejm.

64. At present, women account for 24% of deputies (a 4% increase relative to the previous term) and 13% senators (a 5% increase relative to the previous term). At present, a woman is the Speaker of the Polish Sejm and in the Sejm Presidium 2 women are deputy speakers. In turn, in the Presidium of the Senate one woman is deputy speaker.

65. Polish authorities moreover take initiatives aiming at increasing the representation of women in authorities of all levels. For example, GPET called on the domestic political parties to take measures with a view to ensuring a balanced participation of men and women in the election process. GPET moreover participated in "Regional Congresses of Women", with a permanent element of educational projects aiming at increasing the participation of women in local self-government and Parliament.

Women in economic and professional life

66. MLSP implemented government projects to increase women participation in professional life:

- 2008-2012 – project "Reconciling professional and family roles of women and men" – e.g. developing models of cooperation of public employment services and other institutions of the labour market in the area of reconciling the different roles, developing models of reconciling roles for the sake of law adoption and their implementation;
- 2008-2013 – project "Social and economic empowerment of women at the local and regional level" – e.g. the implementation of new methods of operation of institutions of labour market, social campaign, online portal (www.rowniwpracy.gov.pl), competitions for employers and parents, and a conference;
- 2010-2012 – project "Gender mainstreaming as a tool of change on the labour market" – promotion of family-oriented amendments to the Labour Code and good practices of implementing gender mainstreaming on the labour market through trainings and publications;
- 2013 – project "Equality of women and men in economic decision-making processes as a tool of social change" – promotion of gender equality at executive positions in big companies e.g. via public opinion studies, report on the situation of women in the decision-making process and a handbook for enterprises, awareness-raising campaign.

67. As of 2006, a Competition of Initiatives of Non-governmental Organisations has been held, aimed at bridging employment gaps of women and men on the labour market. The financed projects related e.g. to the support of women returning to the labour market after maternity and child-rearing leaves and the increased participation of women in male-dominated professions. In the period 2010-2014 grants were offered for the implementation of projects of over 60 organisations, subsidised with a total amount of 1.5 m PLN (ca. 400,000 euro).

68. Furthermore, Good Practices were developed for the benefit of companies listed on the Warsaw Stock Exchange, ordering a balanced participation of women and men in the positions on boards of directors and on supervisory boards. The MT 2013 recommendations for companies with the stake of the State Treasury stipulated that the sex underrepresented in the executive bodies of these enterprises should occupy 30% positions in supervisory boards and boards of directors.

69. The biggest Polish public companies have less than 15% women on their boards of directors and on supervisory boards, while in around 7% women are CEOs. A Warsaw Stock Exchange study for the period 2010-2013 indicates that around 12% women were members of company boards of directors, while every year the participation of women in supervisory boards oscillated between 12%-14.5%. In 19 of the floated companies with the stake of the State Treasury, the percentage was 27%.

Equal pay

70. According to EUROSTAT data, the discrepancy in the pay of men and women in 2013 in Poland was 6.4%, much lower than the EU average (16.4% in 2013). Nevertheless, the Government is aware of the need to further prevent unequal pay. Since relevant legal regulations are already in place (Constitution, Labour Code), the authorities focus on developing enterprise practice through providing information and awareness-raising. Relevant actions were conducted by GPET and MLSP. This obligation was taken into account in NPAET for the years 2013-2016. Within the project "Social and economic

empowerment of women at the local and regional level" (2008-2013), information and promotional material was offered to enhance the image of women as full-fledged and valuable members of the labour market and a promotional campaign was held.

71. Each year Government representatives join the celebrations of the European Day of Equal Pay. Relevant topics are addressed during numerous conferences and seminars. In 2013 the Fifth Women's Congress held a Round Table of EU Ministers for Equal Treatment with the motto "Unequal pay of women and men and the participation of women on the labour market", organised by MLSP and GPET. On the initiative of GPET, the Supreme Chamber of Audit carried out an audit of selected offices of government administration, local self-government, companies with the stake of the State Treasury, and municipal companies in order to examine their observance of the obligation of equal pay for the same work irrespective of the person's sex.

Right to life (Art. 6)

Questions addressed in para. 11

Illegal abortions

72. Polish authorities do not gather data on the number of illegal abortions because of the illicit nature of this phenomenon, which makes it hard to analyse. Partial relevant data are provided in statistics on criminal proceedings in cases related to abortions with the consent of the woman in violation of the law (Art. 152 PC) and termination or induced termination of a pregnancy as a result of the use of violence or another manner without her consent (Art. 153 PC).

73. Data on convictions can be found in the Appendix.

Preventive action

74. The low prices and availability of contraceptives are a factor preventing unwanted pregnancies in Poland.

75. Issues of family planning and the use of contraceptives are addressed during classes of "Education for Family Life" conducted in the last grades of primary school, in secondary schools and high schools. Students' participation in these classes is optional and depends on the parents' discretion.

The conscience clause

76. According to the law on the professions of the physician and dentist, each physician may, because of his or her beliefs, refuse an abortion which, along with the reason for the refusal, is recorded in the medical file. A physician is furthermore obliged to notify about it his or her superior as well as to indicate to the patient another specialist or medical entity which will perform the abortion. The conscience clause cannot be invoked in cases when a delay in the provision of medical care might result in a loss of life or health. Furthermore, due to the individual character of this principle, physicians may only invoke it individually and in a particular case. The physician who abstains from performing a health service incompatible with his or her conscience and at the same time is guilty of professional negligence, is subject to professional and disciplinary liability. MH, via national and regional health protection (medical) consultants, disseminates among physicians information about the principle of adequate application of the conscience clause, which is supposed to assure a full respect of the existing statutory provisions in practice.

77. The information obtained by MH (on 92% hospitals with gynaecology or gynaecology and obstetrics wards) shows that in 2013 there were 3 cases of applying the conscience clause.

78. At present the questions of compliance of the conscience clause with the provisions of the Constitutions are analysed by CT.

79. One of the patients' rights is to lodge an appealing against the opinion or decision of a physician, if they affect their rights or obligations. The appeal is considered by a Physicians' Commission, which should hand in their decision in each case without delay, no later than within 30 days. This mechanism is applied also in cases of decisions refusing to carry out an abortion. It is in order to point out that the above period of 30 days is the maximum term and that a Physicians' Commission is obliged to make a decision as quickly as not to jeopardise the patient's rights. Information on patients' rights, including the right of appeal, is provided by the Ombudsman for Patients' Rights.

80. Furthermore, it should be indicated that until now a Physicians' Commission has examined as to the merits of the case three abortion-related appeals and all have been considered unjustified.

81. Work is in progress on the amendment to the law on the rights of the patient and on the Ombudsman for Patients' Rights. Relevant draft legislation has been approved by CM and MH is working now on the wording of the draft law. One of the amendments envisages the shortening to 10 days the period when a Physicians' Commission has to make their decision. Another amendment suggests that patients should have the right to appeal also when they are refused to be referred to diagnostic tests. Furthermore, the new provisions would allow the patient to lodge the appeal by electronic means. The patient would moreover be able to appoint a proxy for the proceedings before a Physicians' Commission and to take part in most of its meetings.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment (Art. 7)

Legal considerations addressed in paras. 12-13

82. Although Polish PC does not contain a separate offence of torture, all the elements set forth under Art. 7 of the Covenant are penalised in Poland and constitute characteristics of various offences defined in the PC, in particular under Art. 246 PC (extortion of testimony by a public official), Art. 247 PC (abuse of a person deprived of liberty) and Art. 247a PC (adequate application of legal provisions to the offences committed in connection with proceedings before an international criminal court). In most cases concerning abuse of power by public officials, these offences are subject to two or more provisions of the criminal law and are often additionally qualified e.g. as offences of inflicting grievous bodily harm or leading to a serious deterioration of health. Such a cumulative legal qualification helps to comprehensively describe a particular offence and makes it possible for a court to adjudicate a penalty commensurate with its magnitude.

83. In light of the above, the inclusion in PC of the definition of torture set forth in the Covenant would be insignificant from the point of view of human rights protection in Poland – as it would only reiterate the provision in place in Polish law. In turn, the introduction of all the elements of the definition of torture as characteristics of only one crime would violate the adopted systematic principles of Polish criminal law, according to which criminal activities are grouped according to the rights protected by law (e.g. life, health, freedom), which were violated as a result of the offence.

84. In reference to mechanisms of conduct in the event of notifications about instances of torture and abuse: proceedings related to violations of the law by public officials are never carried out by the Police, but by a public prosecutor, to dispel doubts as to the impartiality of the person taking decisions in the process. Furthermore, it is a practice in such situations to submit a case to a unit of the prosecution authority other than that having jurisdiction *ratione loci*.

85. On 27 June 2014, the Prosecutor General issued guidelines on public prosecutors' running proceedings related to offences of homicide and inhuman or degrading treatment or punishment, committed by Police officers or other public officials. Furthermore, it obliged the Preliminary Proceedings Department of GPA to permanently monitor such proceedings, and appellate prosecution authorities to notify the Department about the above cases, conducted or supervised in the subordinate provincial and district prosecution authorities, on an ongoing basis, upon instituting an investigation. This information is to contain data on the unit in charge, case signature and object, a short description of the offence and the adopted legal qualification. All prosecution authorities were bound to carry out periodic, half-yearly examinations of files to evaluate proceedings adequacy and correctness of substantive decisions taken in their course. Furthermore, a coordinator for offences committed by Police officers, tasked with monitoring and supervising such investigations, has been appointed in all appellate and district prosecution authorities.

86. Appellate prosecution authorities carried out only two cases concerning the abuse of power in relation to process activities with respect to witnesses or suspects; one has been discontinued and the other one is pending.

87. An IT System of the Prosecution Authority SIP Libra 2 was commenced in the period 2010-2011 to gather statistics on offence notifications, the number of instituted proceedings, manner of their resolution, and description of the resolution applied, also in cases related to offences of torture and abuse by Prison Service officers, Police officers and officers of other agendas authorised to carry out preliminary proceedings. At present, the system providing all of the above data operates in all the organisations units of the prosecution authority. This helped shift most evidentiary tools (repertories, registers and auxiliary lists) from traditional ones to exclusively electronic ones.

88. Persons deprived of liberty have the right to file complaints also to the administration of the correctional facility, to the Police, to HRD (and the NPM operating in HRD Office) and correspond, uncensored, with domestic and international organisations active in human rights protection. The Police submit to HRD even unconfirmed information on Police officers' breaking the law. HRD analyses the incidents submitted to it concerning the abuse of power and professional negligence of Police officers and other officials, monitors the course of preliminary proceedings and in the event of identifying irregularities, takes measures provided for by law, including motions filed with superior public prosecutors to take preventive/ameliorating action.

89. All information about instances of torture or abuse of persons detained by the Police are examined by commanders' plenipotentiaries for human rights protection, appointed within the Police in 2004 as recommended by the Human Rights Committee.

90. In March 2015 Poland adopted a MI "Strategy of actions for the prevention of human rights violations by Police officers". The strategy was based on conclusions from the seminar "Cases of inhuman and degrading treatment by Police officers – causes, characteristics, solutions". The seminar was attended by representatives of the Police and prosecutions authority, members of academia and of non-governmental organisations. Seminar conclusions, analyses and consultations with experts led to the development of proposed directions of actions, divided into 10 areas. They cover e.g. subjects of disciplinary and criminal proceedings against officers, introduction of new evidentiary

solutions, construction an environment conducive to a professional execution of tasks, change of approach and mindset, educational projects, and enrolment to the Police.

91. Furthermore, to prevent and combat incidents of abuse of detainees, on an ongoing basis, during the commanders' executive meetings and dispatches of Police officers, as well as in newsletters forwarded to all Police units at each management level, officers are reminded that all forms of abuse of persons deprived of liberty (including verbal abuse) are illegal and will be prosecuted accordingly. Furthermore, within the Early Intervention System, each Police unit received a newsletter describing instances of misconduct of Police officers with respect to detainees.

92. Workshops with Police officers of the unit where irregularities may have taken place are one of the forms of reaction to notifications of such incidents (apart from criminal and disciplinary steps). Furthermore, as of 2011 workshops have been held for high-ranking Police officers on "Human rights in Police management", and police schools use a specialised handbook *To Serve and to Protect* [Służyć i chronić]. In 2013 an educational publication for Police officers was issued in cooperation with e.g. HRD, *Human Being First. Anti-discriminatory practices in Police units* [Po pierwsze człowiek. Działania antydyskryminacyjne w jednostkach Policji], which stresses the practical measures applied to solving difficult situations to be encountered by Police officers on duty. The handbook was disseminated in all Police units in ca. 4,000 copies, and its electronic version is available online.

93. The Police have a monitoring mechanism, i.e. the Bureau of the National Police Headquarters and audit departments in other Police units; the above were appointed to react to irregularities. The Internal Affairs Bureau of the National Police Headquarters and local boards are obliged to react in cases of offences committed by Police officers. Moreover, compliance with the rules of conduct is supervised by ombudsmen for professional discipline. The in-house control system is supplemented by the aforementioned Early Intervention System, set up in 2012.

94. Commander in Chief of the Police obliged the regional commanders of the Police and the Warsaw Commander of the Police to oblige in turn their subordinate officers to forward without delay information to the public prosecutor concerning probable incidents of improper treatment of detainees by the Police. Furthermore, Commander in Chief of the Police obliged the above commanders to enhance supervision over the content of official memos and reports about injuries of persons admitted to detention facilities and complaints filed by detainees.

95. Statistics for 2012 and 2013 concerning the use of violence by officers on duty are included in the Appendix. No data had been collected earlier about the number of notifications of Police officers' use of violence on duty and on the course of preliminary proceedings. Furthermore, the Appendix contains data for Prison Service officers.

96. Questions of treatment of people deprived of liberty and use of direct coercion measures with respect to them by officers of the Prison Service are monitored on an ongoing basis during in-house audits. When irregularities are identified, appropriate law enforcement agencies are notified and they examine the documents concerning the use of direct coercion measures. Central Administration of the Prison Service evaluates each item of information about an extraordinary incident such as abuse, rape and physical assault of a prisoner. It may seek additional explanations, assess the adequacy of the action taken and the procedures applied, and address district PS directors and directors of correctional facilities and detention centres in connection with the irregularity identified to prevent similar situations.

97. All officers of the Prison Service attend training related to: international standards of human rights protection, including UN and case law of ECHR, monitoring mechanisms of

the rights of prisoners (e.g. activities of the Committee Against Torture), principles of professional ethics and statutory obligations of Prison Service officers. The questions set forth in the Istanbul Protocol are taught during periodic trainings of staff of Prison Service health care during classes in the Chief Training Centre of the Prison Service.

Questions addressed in para. 14

98. "Chemical castration" is a method of treatment used with respect to perpetrators of some sexual offences. The term is a colloquial definition of a pharmacological therapy and does not mean that a person is irreversibly castrated and deprived of the ability to inseminate but rather, via pharmacological means, reduces testosterone production in the testicles and adrenal glands, and as a consequence lowers the hormone level in the blood and reduces the sexual drive. Art. 95 a PC, providing for pharmacological therapy, was in force until 30 June 2015. As of 1 July 2015 completely new, comprehensive regulations were introduced concerning preventive measures.

99. Provisions of the amended Chapter X of PC (Art. 93-99 PC – in the Appendix) envisage the following preventive measures:

- Electronic supervision of place of stay
- Therapy
- Addiction therapy
- Stay in a psychiatric facility

100. The perpetrator to whom therapy has been adjudicated is obliged to appear in the facility indicated by the court to be subject to a pharmacological therapy aiming at reducing the intensity of the sexual drive, psychotherapy or psycho-education in order to improve his or her functioning in the society. The therapy in question does not infringe the provisions of Art. 7 of the Covenant, is not a corporal punishment, is not an experimental method and is applied in the interest of the perpetrator although he need not consent to it. it is moreover an efficient sanction used to combat and prevent crimes.

Elimination of slavery and servitude (Art. 8)

Questions addressed in para. 15

Changes in legislation

101. On 8 September 2010 an amendment of PC entered into force, which introduced a definition of slavery (Art. 115 § 23 PC) and a definition of trafficking in human beings (Art. 115 § 22 PC), patterned on the standards set forth in the Palermo Protocol and the Council of Europe Convention on Action against Trafficking in Human Beings. It penalises not only the offence but also the preparations for its commission (Art. 189a PC).

102. Pursuant to the law on foreign nationals, which entered into force on 1 May 2014, victims of trafficking in human beings may be issued in a special manner temporary stay permits, and in some cases they may apply for permanent stay. The law offers moreover other rights to victims of trafficking in human beings, including the right to receive a Polish ID or an opportunity of financing assistance of the persons' return.

Practice of preventing trafficking in human beings

103. To efficiently coordinate the action and cooperation of many entities of government administration, prosecution authority and non-governmental organisations, MI set up a Team for Combating and Preventing Trafficking in Human Beings, a coordination and

consultative body. It gathers representatives of government administration, international and non-governmental organisations. Efficient action is moreover made possible thanks to the National Plan of Action against Trafficking in Human Beings. It envisages: preventive action, support and protection of victims, enhancing the efficacy of prosecution, raising qualifications, research on trafficking in human beings/evaluation of action and international cooperation. The current program covers the years 2013-2015.

104. Awareness-raising campaigns were held at the national and regional level (e.g. the campaign during the 2012 European Football Championships) and social campaigns were carried out concerning enforced labour, targeted e.g. at people who arrive in Poland in search of a job.

105. As of 2006 the authorities have delegated some of the tasks related to the support and protection of victims of trafficking in human beings to non-governmental organisations, granting them relevant resources for this purpose. This cooperation formula has proved successful. It resulted e.g. in the creation in 2009 of the National Intervention and Consultation Centre for Polish and foreign victims of trafficking in human beings; the tasks of the Centre include the identification of victims of trafficking in human beings, running shelters for victims of trafficking in human beings, preventive counselling, consultations for interested institutions, and care over foreigners within the Program of support and protection of a victim/witness of trafficking in human beings. This last initiative, as of 2010 offered within the Centre, is to provide adequate support for foreigners, victims of trafficking in human beings. Depending on the needs, the Centre may also make available to such persons free legal or psychological consultations, provides accommodation in a safe place and food. Victims of trafficking in human beings are moreover entitled to free social care.

106. Statistics in the Appendix.

Impunity of victims of trafficking in human beings

107. PC envisages as a state of necessity which annuls the unlawful nature of an offence or a person's guilt and in justified cases annuls the criminal liability of a victim of trafficking in human beings guilty of an offence related to his or her situation. the conduct of a person forced to commit an offence will not be sanctioned. The relevant decision is each time at the discretion of the court. The public prosecutor may also refuse to institute or to discontinue preliminary proceedings with respect to victims of trafficking in human beings, against whom absolute coercion was used or when the degree of social nuisance was negligible. According to Polish authorities, the currently binding law efficiently protect victims of trafficking in human beings against criminal liability for the actions they were involved in as a result of their situation. Such a regulation is in compliance with the relevant provisions of the Council of Europe Convention on trafficking in human beings and the directive of the European Parliament and Council preventing and combating trafficking in human beings and combating this phenomenon and the protection of animals. At present, no further relevant legislative changes are envisaged.

The right to personal freedom and safety and humanitarian treatment of prisoners (Art. 9 and 10)

Questions addressed in para. 16

The right of a detainee to notify their next of kin about the detention

108. The right of detainees to notify their next of kin is guaranteed directly in the provisions of CPP. The detention protocol contains advice of the detainee about this right.

The detainee confirms by means of a handwritten signature if they want or do not want to exercise this right and, at their discretion, provides contact or address data of the person to be notified. The interviewing officer makes a record in the protocol of the date, time and manner of notifying the indicated person about the detention. The detainee receives a copy of this protocol, which he or she also confirms with a signature. When a minor is detained, notification of parents or guardians is mandatory and does not depend on the minor's will.

109. In practice, it is most often the Police officer who fills out the protocol or an officer on duty in a given Police unit, who place a phone call with the person indicated by the detainee, notifying them about the detention of a family member and about the unit which conducted the detention.

110. According to Art. 246 CPP, a detainee has the right to lodge a complaint with the court as to the manner, legality and justifiability of the detention by the Police, which complaint, in the case of a restriction of the right to notify the next of kin about the detention, may include information about such unlawful action of Police officers.

Pre-trial detention

111. It should be stressed that in Poland there are no cases of extending pre-trial detention beyond the period envisaged in a relevant law.

112. For over a decade a significant and systematic decreased in pre-trial detention has been observed. In the period 2005-2014 the total number of persons in pre-trial detention at the disposal of court dropped gradually (in 2014, relative to 2005, the decrease was 67%, from 34,549 in 2005 to 11,558 in 2014). The decrease is connected with the widespread use of less stringent preventive measures to secure an adequate course of criminal proceedings, such as bail, injunction not to leave the country or police custody. Between 2005 and 2014, thanks to a comprehensive amendment of criminal procedure provisions, the total number of non-isolation preventive measures systematically increased:

- The number of police supervision rose by over 100%
- Number of bails rose by 130%
- Number of injunctions not to leave the country rose by over 100%

113. In recent years a reduction of the period of pre-trial detention has been also observed. In the period from 2005 until the late 2014 pre-trial detention was more than halved:

(a) In 2005 pre-trial detention:

- Up to 3 months – 2,735
- From 3 months to 6 months – 2,467
- From 6 months to 12 months – 3,129
- From 12 months to 2 lat – 2,083
- Over 2 lat – 1,054

(b) In 2014 pre-trial detention:

- Up to 3 months – 969
- From 3 months to 6 months – 1,043
- From 6 months to 12 months – 1,363
- From 12 months to 2 lat – 1,014
- Over 2 years – 414

114. The above numbers indicate that actions meant to limit the use of pre-trial detention exclusively to cases when it is vital to secure an adequate course of criminal proceedings, are effective. It should be indicated that:

- MJ has monitored cases of use of pre-trial detention since March 2012. Presidents of appellate courts were advised to analyse and monitor the efficiency of proceedings where pre-trial detention had been used for more the one year. Furthermore, as of 2015, as part of external administrative supervision, the presidents were advised of the need to supervise the monitoring of proceedings when pre-trial detention is used longer than 2 years. The need to observe relevant international standards was stressed.
- An amendment to CPP entered into force on 1 July 2015, which bans the earlier practice of applying pre-trial detention in the case of crimes punishable by a maximum of 2 years of deprivation of liberty and introduces the rule that the probability of a stringent penalty for the alleged offence cannot be (unlike in previous legislation) the only self-executing reason for the use of this isolation measure.
- NSJPS holds regular trainings to disseminate international standards on e.g. pre-trial detention. For instance, in 2012 a series of comprehensive trainings began on the violations of the European Charter of Human Rights most frequently identified by the ECHR in cases against Poland and related to the operation of the justice system, including prolonged use of pre-trial detention. As of 2012 ca. 800 judges have attended the trainings. Ultimately, over the next 5-7 years all judges of common courts are to have attended these trainings.

115. Furthermore, at present the problem of excessive use of pre-trial detention may be considered a thing of the past. This was confirmed by the final resolution of the Committee of Ministers of the Council of Europe of 2 December 2014 which closed supervision over the execution of this group of ECHR judgements.

Questions addressed in para. 17

Prevention of overcrowding of penitentiary units

116. As of 2010 Polish penitentiary units (as a result of the action taken) have not been affected by overcrowding. The Government takes efforts to solve the existing issue of high prison population.

117. As of 31 December 2014 the Prison Service had 155 DT and CF and 37 external wards with a total of 87,742 residential places (including 73,872 places in residential wards). They were occupied by 77,371 prisoners (including in residential wards 75,457 prisoners). Relative to 2012, the number decreased by 6,785. As of 21 August 2015 population of residential wards in penitentiary units was 86.6%, and had been stable for over a year. For comparison, the population of the wards as of 31 December 2009 was 99.6%.

118. As of 2000 action has been taken to reduce the population of penitentiary units, including e.g.:

- Acquisition of new residential places.
- Introduction of the possibility to serve the penalty of deprivation of liberty outside a correctional facility in EMS. This measure (still tentatively introduced) was discussed in the previous Report; now it has been permanently included into Polish law. The efficacy of EMS use is testified by the steady increase in the number of people who are subject to this form of serving a penalty (statistics in the Appendix).

- Encouragement of directors in penitentiary units to more frequently use (in justified situations) the possibility of filing motions for conditional parole of prisoners after they have served at least half of their sentences.
- Introduction in early 2012 into EPC of the principle that substitute penalties of deprivation of liberty and substitute penalties of detention for unpaid fines are executed last. The execution of the above penalties later offers the chance to pay the amounts of the fine, which as a consequence may relieve them of substitute penalties, and thus limit the number of persons deprived of liberty.
- In September 2013 a few less serious offences earlier carrying the penalty of deprivation of liberty were re-qualified to misdemeanours, punishable with detention for a maximum period of 30 days, restriction of liberty or a fine (e.g. cycling under the influence, theft of an object worth less than ca. 100 euro). It was discovered that the penalty of deprivation of liberty (a minimum of 1 month) is inadequate to the magnitude and social nuisance of these offences. This limited the number of prisoners of CF for petty offences.
- Introduction of changed principles of adjudicating and execution of the penalty of restriction of liberty aiming at increasing the frequency of its use through e.g. the extension of the group of entities for the sake of which prisoners could work and through the covering of some costs related to their employment by State Treasury (costs of medical examinations and insurance of working prisoners).
- A comprehensive reform of criminal law is taking place; the amendment of the Penal Code is at its final legislative stage and it will enhance the efficiency and extend the use of non-isolation penalties (see para. 129).

119. For questions of use of preventive measures other than deprivation of liberty – see paras. 115-118.

Improvement of health care quality

120. Quality of health care offered to persons deprived of liberty depends on 3 elements:

(a) Accessibility, scope and clinical value of the services;

(b) Professional qualifications of the health care personnel;

(c) Conditions of rendering the services, the equipment and devices used.

121. The underlying principle of the Polish penitentiary law is the equivalence of health care offered to the general public and persons deprived of liberty. This applies to all the above elements assuring its quality.

Ad. a) Health care services are provided on an ongoing basis in response to the needs of each person deprived of liberty. Units with prison hospitals assure round-the-clock health care, and the medical personnel are present there during the working hours of administration, and in addition the penitentiary service sometimes uses the serviced of State Medical Emergency Service. Health care, medications and medical products (e.g. prostheses, orthopaedic equipment) are provided on an ongoing basis in response to the needs and free of charge. A person deprived of liberty has the same rights as other patients. It should be stressed that the wait-time of patients deprived of liberty for specialised medical services is shorter than for the general public;

Ad. b) Health care services are provided to persons deprived of liberty by medical personnel with adequate qualifications. The medical staff are obliged to observe the generally applicable standards of professional conduct and ethics irrespective of the patients' legal status. The decisions taken by the medical personnel are fully independent of

those of prison administration; the latter is supposed to assure the effective implementation of medical indications;

Ad. c) PS on an ongoing basis and within its budget renovates the premises where health care services are provided and modernises the equipment.

122. PS officers attend trainings on international standards, including ECHR case law regarding violations in prison health care. The trainings help eliminate possible irregularities, human errors and sensitise attendees to prisoners' health needs.

123. It should be stressed that quality of the health care services provided to persons deprived of liberty is equivalent to that offered to the general public (in the legal and practical aspect). Possible deficiencies in individual cases reflect the general health care system in Poland or are a result of a human error. When provision of premium health care is impossible, the prisoner may appeal to the penitentiary court for a break in serving the penalty or lifting pre-trial detention.

Reduction of violent behaviour among prisoners

124. Penitentiary units implement re-integration programs which cater to the needs of the various groups of prisoners as to: prevention of aggression and violence, prevention of addictions, prevention of pro-criminal attitudes, occupational empowerment, developing social skills, developing cognitive skills, family integration, ecology, cultural, educational, sports, etc. In 2014 they were attended by a total of 129,270 prisoners, including 2,559 persons in pre-trial detention. The offer of cultural, educational and sports activities is offered in all penitentiary units, and their quality and quantity are monitored especially closely.

125. Reduction of aggression and violence among prisoners is made possible through an increased frequency and quality of programs available for prisoners.

Extension of the use of alternative penalties

126. Recently there has been an evident tendency for a more widespread use of more lenient and non-isolation penalties rather than stringent and unconditionally executed. The amendment of the Penal Code which entered into force on 1 July 2015 includes solutions aiming at extending the use of non-isolation penalties, including EMS. The above amendment (adopted under the auspices of the Government) envisages (when it is possible and justifiable) the primacy of use of penalties other than deprivation of liberty (restriction of liberty and fine) over the penalty of deprivation of liberty (including its conditional suspension) and a more common use of EMS in the execution of penalties, penal measures and preventive measures.

127. MJ has since 2014 been a beneficiary of the project "Dissemination of use of non-isolation penalties and probation measures in the system of criminal courts", implemented within the Norwegian Financial Mechanism, consisting of e.g. a series of training for judges, penitentiary judges, public prosecutors, officials of self-government units where the penalty of restriction of liberty and the substitute penalty of social work are executed. Statistics concerning the types of the penalties adjudicated can be found in the Appendix.

Questions addressed in para. 18

128. The criteria and procedure of qualification to the category of prisoners posing a serious social risk or a serious risk for the safety of the facility (hereinafter: "N" prisoners) are defined in EPC.

129. "N" prisoners are placed in a designated ward or cell of a DC or a CF of closed type in conditions assuring enhanced levels of protection to the general public and security of

the penitentiary unit. Cells for "N" prisoners meet the criteria guaranteeing respect for their dignity and rights. Detailed criteria to be met by residential cells for "N" prisoners are defined in the regulation of the Minister of Justice on ways of protecting PS organisational units.

130. The penitentiary commission is authorised to qualify prisoners for placement in the above conditions and to verify relevant decisions at least once every three months, examining e.g. the incidence of factors justifying a prisoner's qualification into the "N" category. The penitentiary commission is appointed by the director of the correctional facility and its meetings are attended, apart from appropriate officers, also by the tutor of the prisoner whose application is being considered.

131. The decisions taken are each time communicated to the penitentiary judge (in the case of a person in pre-trial detention the authority at whose disposal he or she remains), who may repeal them provided they are unlawful. Decisions of the penitentiary commission concerning qualification into the "N" category and verifications of the decisions may be appealed by the prisoner to a court of law on account of their unlawful character.

132. Frequent verification of the decisions guarantees a realistic evaluation of the prisoner's individual situation and the potential need to continue the use of an extended protection system. During the execution of ECHR rulings, penitentiary commissions were obliged to be especially thorough in their analysis and consider each case individually as to the justifiability of the above qualification and further stay of the prisoner in the above regime. Special attention is paid to the actual risk posed by the prisoner and the justifiability of the factors for this qualification. Observable changes in the prisoner's conduct are analysed more extensively than before.

133. As a result of a case-by-case approach of penitentiary commissions, in recent years there has been a marked steady decrease in the number of "N" prisoners, which testifies to the proper operation of the qualifying and verification mechanism. In 2009 the "N" included 337 prisoners, whereas in 2014 – 162, the lowest number since 1999.

134. Irrespective of the above, legislative work, supported by the Government, is taking place in the Sejm, aiming at eliminating from the EPC any and all automatic approach to qualifying and verifying the "N" status.

Questions addressed in para. 19

135. The law entered into force on 22 January 2014. It applies to any person who jointly meets the following three criteria:

- Is serving the penalty of deprivation of liberty or the penalty of 25 years of deprivation of liberty in the therapeutic system
- During the execution proceedings the person demonstrated a mental disorder (mental retardation, identity disorder or a disorder of sexual preferences)
- The nature or intensity of the disorder makes it "highly probable" that the prisoner will commit an offence: with the use of violence or a threat of its use, against life, health or sexual freedom (condition: such an offence must carry a sentence of at least 10 years of deprivation of liberty)

136. Such individuals are defined in the law as "persons posing a risk" and are subject to preventive custody (e.g. the obligation to notify the Police about the change of place of residence or employment) or placement in NCPDB.

137. The above law does not infringe the rights under Art. 9 of the Covenant, also with respect to the right to appeal a court decision to a higher instance and the right to claim compensation for unlawful deprivation of liberty. The measures envisaged in the law are

not penalties but a kind of therapy of people with mental disorders, who pose a risk against life, health or sexual freedom of other people. cases under this law are considered by a provincial court applying CCivP. To qualify a prisoner as a person posing a risk, the director of a correctional facility files a motion prior to the conclusion of a sentence to the provincial court having jurisdiction *ratione loci*, appending a statement by an expert psychiatrist and psychologist and information about the results of earlier therapy and social reintegration. The court then appoints two expert psychiatrists and additionally an expert psychologist (for a person with an identity disorder) and expert physician sex therapist or psychologist sex therapist (for a person with sexual preferences disorders). The proceedings are conducted by a panel of 3 professional judges in the presence of a public prosecutor and plenipotentiary of the prisoner (who may be court-appointed if the prisoner has not appointed any). At the request of expert psychiatrists, the court may order enforced observation of the individual in a psychiatric establishment (up to four weeks). The court adjudicates on:

- Preventive custody without specifying its duration – when there is a "high probability".
- Or enforced therapy for unspecified time in NCPDB – when it is "extremely highly probable" that the prisoner will commit an offence: with the use of violence or a threat of its use, against life, health or sexual freedom, if such an offence carries the ultimate sentence of at least 10 years of deprivation of liberty. When deciding on preventive custody, the court may additionally order therapy in a designated centre. Court decisions can be appealed against.

138. The court, no less than once in 6 months, determines if a further stay in NCPDB of a person posing a risk is indispensable, and bases its decisions on physicians' statements and therapy results. The court, *ex officio* or following a motion of the head of NCPDB, may at all times decide on terminating the stay of a person in NCPDB if the results of therapy and the person's conduct justify a suspicion that the person's further stay in NCPDB is unnecessary.

139. Until mid-August 2015, directors of penitentiary units submitted 60 motions to courts about recognising the prisoners indicated as persons posing a risk. To date, in 19 cases the court ruled on the placement of a person posing a risk in NCPDB, and in the case of 16 prisoners preventive custody was adjudicated.

140. The law on conduct with persons with mental disorders posing a threat to life, health or sexual freedom of other people was appealed against to CT. It should be stressed that according to the amended PC, the law will apply only to those perpetrators who committed an offence after its entry into force, i.e. after 1 July 2015. Furthermore, as of that day, the penal measures such as preventive custody and placement in NCPDB were replaced by preventive measures such as electronic supervision of place of stay, therapy, addiction therapy, and stay in a psychiatric facility.

Protection of foreign nationals subject to expulsion (Art. 7, 9, 10, 13 and 24)

Questions addressed in para. 20

141. The law on foreign nationals entered into force on 1 May 2014; it introduced into Polish legal order e.g. 15 EU directives, including the Directive on the common standards and procedures for returning illegally staying third-country nationals. The Directive principally changes the earlier approach of the Member States to the question of expulsions,

departing from forced expulsions of illegally staying third-country nationals and focusing on their free return. The new Polish law follows this philosophy.

Retention of foreigners in the transit zone

142. Polish authorities take efforts to minimise the stay of a foreigner in the transit zone. Expulsion of a foreigner by air, in the case of an indirect flight, takes place after all the details have been arranged with appropriate authorities of transit states. When a foreigner is returned, he or she is re-admitted by the Polish side and immediately placed in a detention centre where s/he lived prior to expulsion. It is assumed in such a case that if expulsion failed, the earlier court decision concerning the placement of a foreigner in a guarded centre remains valid. If the inability to leave the territory of Poland results in the expiry of the term of stay in a guarded centre as determined in a court decision, its extension requires another court decision, which may be appealed to a higher instance.

The right of foreign nationals to obtain information

143. The authority conducting proceedings obliging foreigners to return or carrying out monitoring activities, informs foreigners in writing, in a language they understand, about the principles of the proceedings pending and about their rights and obligations.

144. In the course of proceedings obliging foreigners to return, persons who do not speak Polish well can communicate through an interpreter. The authority which issued the decision on the obligation to return is obliged to inform the foreigner, in a language he or she understands, about the legal basis of the solution adopted and the existing appeals procedure. The justification contains moreover information on the reasons for expulsion. Furthermore, foreigners obliged to return are informed about non-governmental organisations providing relevant assistance, including legal aid.

145. Detained foreigners are furthermore provided with information in writing, available in 24 languages, about their rights. Foreigners with respect to whom proceedings have been launched as to obliging them to return, receive information about the principles and manner of conduct of such proceedings, translated into 20 languages. Similar information in writing, translated into 16 languages, is available in the event of monitoring the legality of stay, carried out by the Border Guard. Persons placed in guarded centres and detained foreigners, also have access to information about their rights and obligations in 15 languages.

146. As to the *non-refoulement* principle, it should be indicated that factors justifying its application are examined *ex officio* by the authority conducting the proceedings and if such factors are identified the authority may take action to offer the foreigner protection.

147. Work is in progress on the amendment of the law on offering foreigners protection on the territory of the Republic of Poland.

Health care, benefits and material conditions in guarded centres

148. In 2014 audits of all the guarded centres for foreigners were carried out; they were attended also by representatives of non-governmental organisations. It was indicated that the changes introduced a few years before contributed to the improvement of the living conditions in these centres.

149. New methods of body searches were adopted, which are meant to reduce the regime of the centres and therefore raise the foreigners' comfort. The obligation of maintaining cleanliness of common rooms and toilets, previously resting with the detainees, was entrusted to cleaning staff. Foreigners were offered a more extensive possibility of using

private cell phones, access to programs broadcast by the communications media and better conditions in the visitation rooms.

150. Health care of all the persons staying in guarded centres and detention centres for foreigners is state-financed. The level of health care is analogous to that offered to the general public. Persons staying in guarded centres and detention centres for foreigners have medical check-ups at least once a month and directly prior to release, as well as, if possible, when there is a need of their being transported to another place. Foreigners are not placed under detention if this might jeopardise their health status.

Migrant children in guarded centres for refugees and care and education centres

Years	*Accompanied minors in guarded centres*	*Unaccompanied minors in guarded centres*	*Unaccompanied minors in care and education centres*
2011	187	14	13
2012	111	16	50
2013	391	4	21
2014	329	19	25

Right to due process of law and access to a lawyer (Art. 14 and 9)

Questions addressed in para. 21

151. In the period covered by the Report, the number of employees of the judiciary did not rise significantly. Action is taken to balance off the workload of individual units. Data on the workload of individual courts are analysed on an ongoing basis within the national system of personnel management, which allows an adequate use of judicial personnel depending on the current needs, within the available number of positions. In 2014 changes were introduced with a view to curtailing the period of appointing judges in common courts.

152. A widespread use of new technologies, including IT systems, aims at streamlining judicial proceedings, in particular shortening their duration. As of 2010 it has been possible to solve some categories of civil lawsuits via an electronic system (so-called e-court), to record the course of the proceedings and to file an electronic protocol, which shortened civil proceedings. The IT process of court departments in charge of land and mortgage registers and of the land and mortgage registers themselves was concluded, as was that of the National Court Register and the Pledge Register.

153. Procedural changes were introduced, e.g. via the extension of court clerks' competences to reduce the workload of judges, some process activities were streamlined (e.g. hearing the parties in the civil procedure) and the process of appointing judges for vacant positions was sped up.

154. The biggest in years reform of criminal proceedings, which entered into force in July 2015, is currently being implemented. It introduced a bigger degree of adversarial proceedings through increasing the roles of the parties, stressed evidentiary proceedings in court rather than in the preliminary stage, and moreover led to a wider use of consensual manners of concluding proceedings. The reform limited the possibility of the appellate court referring the case for reconsideration in first instance, which affected the length of proceedings.

155. The decrease in the use and duration of pre-trial detention also shortened the duration of criminal proceedings (see paras. 115-118).

156. In 2009 NSJPS was established, responsible for preliminary trainings of prospective judges and public prosecutors and guaranteeing a high level of instruction. The school holds on-the-job trainings for the judiciary, covering e.g. questions of efficient court proceedings and relevant international standards.

157. According to EU data for 2015, Poland ranked third among all the EU Member States as to the speedy course of judicial proceedings in the category "civil, commercial, administrative and other cases"[2].

Questions addressed in para. 22

158. All the assurances offered to persons detained by the Police are in place since the onset of detention. The detainee must be notified without delay about the reasons for detention and his or her rights, and heard out, and this fact of giving instruction is recorded in the protocol drawn up subsequently, signed by the detainee, too. Information about the rights is included in rooms for detainees. A detainee receives a copy of the information in writing without delay.

159. CPP guarantees the detainee immediate contact with an advocate they have indicated.

160. In the period covered by the Report a significant change increasing the detainee's rights took place. In 2011 CT deemed as unconstitutional a CPP provision which did not indicate concrete justification for reserving the presence of an officer during a detainee's conversation with the advocate. To execute this ruling, in 2013 officers were obliged to demonstrate the special circumstances justifying their presence.

161. CPP assures the detainee confidential contact with the advocate also via correspondence. However, because of the short time of detention (as a rule 48 hours), this hardly occurs in practice. In turn, the correspondence of a detainee with the advocate may be monitored only in special circumstances within 14 days of detention.

162. Amended CPP, in force since July 2015, extends access to free legal aid at the level of judicial proceedings. Under the current law, appointment of a legal counsel takes place at the request of the accused, irrespective of his or her material status.

163. As to such aid at the earliest stage of preliminary proceedings, at present the EU conducts work on the draft directive obliging the Member States to provide free of charge legal aid as of the moment of detention through the moment of a court decision about granting legal aid *ex officio*. Poland supports the above draft directive, which it will implement after it has been adopted.

164. Irrespective of the above, in August 2015 Parliament passed a law on free of charge legal aid (at the stage of pre-judicial proceedings), free of charge legal information and legal education of the general public. Within the system, persons in a difficult situation will be e.g. able to receive comprehensive information about their legal status and receive assistance during the compilation of relevant documents. These services will be provided by advocates or attorneys at law and the relevant costs will be covered by the state.

165. The legal regulations in force guarantee detainees wide access to medical care; the Police are to assure these persons access to medical examinations on detainees' demand.

[2] European Commission, The 2015 EU Justice Scoreboard, source: http://ec.europa.eu/justice/effective-justice/files/justice_scoreboard_2015_selected_graphs_en.pdf.

166. Detainees have the right to appeal to court, where they can demand the examination of the justifiability, legality and correctness of detention. In cases of clearly unjustified detention, they may claim financial recompense.

Right to privacy (Art. 17)

Questions addressed in para. 23

167. The questions of the use of technical means allowing control and recording of content, including conversations or electronic mail, were regulated in the provisions of relevant laws, including CPP. An amendment of this act entered into force in June 2011; it extended and streamlined the control of the court or public prosecutor over relevant activities taken by law enforcement.

168. At present, pursuant to CPP, at the request of a public prosecutor, the court may allow the use of these measures to identify and obtain evidence in pending proceedings or to prevent another offence. In emergency cases, consent for their use is granted by a public prosecutor, whose decision must be approved by the court within 3 days. CPP allows control of content only in cases concerning a finite catalogue of the most serious crimes. It cannot exceed 3 months, and only in special circumstance can be prolonged by another 3 months. The content recorded which does not concern actions of criminal nature, are destroyed pursuant to a court decision.

169. During the so-called operational control, law enforcement, in particular the Police, have the right to use control measures and record content. The 2011 amendment assures control as to merit of a motion of such a force to start a control and of extending the period of its application at all stages of the proceedings. The applying authorities are obliged to submit to a public prosecutor and a court of material confirming the circumstances justifying the use or continuation of operational control. The motions are examined as to content and form.

170. Information obtained via illegal investigative methods will not be allowed as evidence in any proceedings. Furthermore, law enforcement officers who used illegal investigative methods or incorrectly used legal methods, are subject to criminal and disciplinary liability.

171. The use of control and recording content is monitoring on an ongoing basis by Parliament, which annually receives relevant information from the Prosecutor General.

172. The rights of services to carry out operations control were in 2014 examined by CT, who did not find a lack of compliance with the Constitution.

Compliance of regulations with the Covenant

173. The offence of insulting religious feelings – Polish PC protects religious sentiments against insult, and object of religious worship and venues of religious cult are protected against desecration. Moreover, PC provisions prohibit malicious interruption of religious ceremonies. In the context of the right to privacy, these provisions protect faith as an integral part of a person's identity, which should be free from infringement by third parties and implement the obligation of the state, arising from Art. 18 of the Covenant, to assure the right to possess religious beliefs and their uninterrupted manifestation, which corresponds to the interpretation indicated by the Committee in their General Comment No. 22.

174. As to the provisions concerning insulting symbols of the state (as well as other states, on condition of reciprocity, and international organisations), they are meant to protect the interests not only of the states themselves but of their citizens. The symbols are

a token of identity and dignity of the persons identifying themselves with a particular state, and as such demand special protection.

175. Restriction of the freedom of expressing beliefs, introduced by the aforementioned PC provisions, is within the limits set forth in the Covenant – they prohibit action exceeding acceptable criticism and infringing the rights of other people.

Freedom of thought, conscience, freedom of speech and expression, freedom of association and the right to peaceful assemblies (Art. 19 and 21)

Questions addressed in para. 24

176. Poland does not plan to amend the provisions of the Penal Code in this respect. The regulations in force establish the adequate balance between the freedom of the press and the need to protect the legally guaranteed third party interests and their dignity.

177. Statistics in the Appendix.

Questions addressed in para. 25

178. Polish authorities guarantee to all individuals, including LGBT persons, the right of assembly under the same conditions.

179. In July 2015 a new law of assembly was adopted implementing the CT ruling of 18 September 2014 where some of the provisions of the previous act were found unconstitutional. The questioned provisions concerned e.g. the manner of notifying authorities of a public assembly or the determination of the minimum number of participants in the legal definition of an assembly. The new law regulated the duration of administrative and judicial proceedings, simplified the issue of notifying about an assembly, as well as introduced the definition of a "spontaneous assembly".

180. With respect to mass events organised by representatives of the LGBT community, some were supported by the Polish authorities, to mention e.g. the 2013 parade, held under the honorary auspices of the Government Plenipotentiary for Equal Treatment.

Protection of minors and the rights of the child (Art. 9, 10 and 24)

Questions addressed in para. 26

181. The law on the amendment of the law on the procedure in cases related to juveniles introduced new provisions which set forth in detail the placement and stay of children in such premises. According the law, the Police or Border Guard may detain and then, if it is necessary due to the circumstances of the case, place in a PCC a minor justifiably suspected of having committed an offence, of intending to remain in hiding or cover tracks or when his or her identity cannot be ascertained. A minor detained during his or her wilful stay outside a shelter for minors or outside a youth educational facility or a remand house can also be placed in a PCC for a period not exceeding 5 days. Furthermore, a minor may be placed in a PCC: for the time of a justified break when convoyed or escorted, no longer than 24 hours and at the request of a family court, for the time necessary for carrying out specific process activities, no longer than 48 hours.

182. A minor should be released immediately and transferred to the parents or guardian when: the reason for detention ceases to take place, at the request of a court or if within 24 hours of detention the court was not notified. Compared to the earlier legal state, the minor must be released immediately and transferred to the parents or guardian if within

48 hours of the court being notified the minor has not been notified of a decision to place him or her in a shelter for minors or to place him or her temporarily in a youth educational facility, professional foster family, or a health care institution. The period of 48 hours, left for the court to analyse the evidence collected, carry out necessary actions and make a decision on the justifiability of placing a minor in a shelter for minors or the use of another temporary measure envisaged by the law, is the time both sufficient and necessary. If such a decision is communicated to the minor, the minor may stay in a PCC for the time necessary to transfer him or her to an appropriate professional foster family, or an appropriate health care institution, centre or shelter, no longer however than for another 5 days. The above regulations mean that the Polish legislator did not exclude the placement in a Police Children's Chamber of minors who wilfully stay outside a shelter for minors or outside a youth educational facility or a remand house, yet the mechanisms introduced prevent prolonged stays detained minors in Police Children's Chambers.

183. It must be emphasised that supervision over all the above activities is held by a family court.

184. The above provisions reduce to the minimum the possibility of placement in Police Children's Chambers minors who have never committed an offence. They harmonise the objectives of proceedings with respect to minors with their fundamental rights, laying solid foundations for their protection.

185. At present the detailed conditions of placement, stay and living conditions in Police Children's Chambers are set forth in the regulation of the Minister of the Interior and the regulation of the Commander in Chief of the Police. The 9 February amendment eliminated the possibility of placement of minors in isolation rooms. The placement of a minor in temporary premises is used pursuant to the provisions of the law on the Police. They apply to a minor detained or escorted for the time of performing specific activities or awaiting transfer to PCC. A minor cannot stay in temporary premises longer than 6 hours. The procedure of admission and stay of a child in Police Children's Chambers is monitored by the court. Tailor-made educational methods and available activities programs help treat minors adequately to their age and needs. Minors of different sex are placed in separate bedrooms and those who are under 18 do not share accommodation with young adults. Moreover, minors under the influence of alcohol, intoxicants, psychotropic or substitution substances are placed in separate premises. A similar procedure is applied in the case of minors who pose a threat to the health or life of themselves and others. In turn, a minor showing symptoms of an infectious disease is placed in an isolation room or a separate bedroom, and this fact is communicated to a physician. For security reasons, classes take place in separate groups, depending on the nature of the offence committed by minors and the degree of their demoralisation. According to the 2013 Concept of organisational and structural solutions, aiming to enhance the efficiency of use of Police Children's Chambers, appointed for service in these premises are officers who have experience of work with minors and adequate professional qualifications, in particular those who have completed a training on human rights protection.

186. Polish law contains a long list of educational and curative measures as alternatives to isolation measures. For examples, the law on manner of conduct in cases related to minors mentions e.g.: reprimand, injunction of redressing the wrong inflicted, performing specific work or services for the sake of the victim of the local community, apologising to the victim, starting education or work, participating in appropriate educational, therapeutic or instruction classes, abstaining from contact with specific groups of people or places, or abstaining from the use of alcohol or another substance to induce a state of intoxication, establishing responsible supervision of parents or guardian; establishing supervision of a youth or other social organisation, employer or a trustworthy person, probation officer's supervision; placement in a probation centre and in a social organisation or institution

involved in work with minors of educational, therapeutic or instructive nature, a prohibition of driving vehicles; a decision of forfeiture of proceeds of a crime, placement in a youth educational centre or in a professional foster family; obliging parents or guardian to improve the minor's educational, living or health conditions, to closely cooperate with the school, a psychological and pedagogical counselling centre or another specialist counselling centre, and a physician or health care facility; obliging parents or guardian to redress in entirety or in part the damage caused by the minor.

187. In the event of identifying in a minor mental retardation, mental illness or another disturbance of mental activities or an addiction to alcohol or other substances, a family court may decide to place the minor in a psychiatric hospital, another adequate health car institution or in a social home.

188. Polish law treats educational measures as a priority. An isolation measure may be used solely when this is justified by the high level of the minor's demoralisation and the circumstances and nature of the offence, especially if the other educational measures have proved inefficient or will not result in the minor's social reintegration.

189. CCivP guardianship provisions apply in cases related to minors, also those who have committed an offence, and CPP provisions apply, accordingly, as to the collection, recording and taking evidence by the Police, appointment and operation of a defence counsel, evidentiary proceedings with the participation of minors of juveniles other than minors and things intercepted during proceeds. Minors and their parents or guardians enjoy all the process guarantees and the rights of a party to proceedings. Process rights and guarantees did not change relative to the preceding period covered by the report.

Participation in political life (Art. 2, 25 and 26)

Questions addressed in para. 27

190. Safeguards of rights of persons with disabilities are enshrined in the Constitution of the Republic of Poland, which prohibits discrimination in political, social or economic life for any reason.

191. By Polish law, a restriction of the right to vote applies to the category of people who because of their mental illness, mental retardation or other mental disorders have no control over their conduct and were therefore incapacitated by a court ruling. Of prime importance here, then, is the factual inability to control one's conduct rather than the incidence of mental disorders.

192. Seeing the need to further enhance protection of people with mental disorders, the Ministry of Justice developed a draft amendment of CC, which, implementing the standards of the UN Convention on the Rights of Persons with Disabilities, abolishes the practice of incapacitation. On 10 March 2015 it was approved by the CM. The amendment as a rule assumes the full capacity for legal actions of an adult and only as exceptions to this rule – restrictions of the use of this capacity since this is necessary due to the health status of a person with mental disorders. The scope of the restrictions will be adopted on a case-by-case basis, with due care to the situation of a particular individual, who will be assigned a carer to monitor his or her issues. The scope of obligations and competences of the carer will depend on the mental state of the patient and may include personal contact, support, assistance and only when it is necessary representation of the patient. The amendments of civil law, via the abolition of the practice of incapacitation, will therefore contribute significantly to the reduction of the number of people who have not exercised their right to vote earlier.