

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 27th Session

POLAND

I. BACKGROUND INFORMATION

Poland acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) in 1991. Poland has not ratified the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) nor the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

Poland's *Act on Granting Protection to Foreigners*¹ and its bylaws (the most important one is the *Regulation on the amount of assistance for asylum-seekers*²) regulate issues related to international protection. Several amendments to the *Act on Granting Protection to Foreigners* were adopted in 2015. The latter amendments provide for free legal aid to asylum-seekers, both during their initial application and during any appeals. In addition, the amendments require the Office for Foreigners to keep an updated list of NGOs and private lawyers who specialize in refugee law. The 2015 amendments effectively transposed *Directive 2013/32/EU*³ and *Directive 2013/33/EU*⁴ into the Polish legal system, in line with the core objective of the *Common European Asylum System* which is meant to improve the legislative framework so as to ensure fair and effective access to asylum throughout the EU.⁵

Asylum applications in Poland are filled with the Border Guards (BG), which are responsible for receiving and transferring them to the Office for Foreigners. Subsequently, the Office for Foreigners review these applications and, under the supervision of the Ministry of Interior

¹ Republic of Poland, *Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland* (*Journal of Laws, Dz. U. 2003, No. 128, item 1176*), as amended, <http://isap.sejm.gov.pl/Download.jsessionid=C76EA9F547B0643DE9351BAE3DD394FC?id=WDU20031281176&type=3>

² Republic of Poland, Ministry of Interior, *Regulation of the Ministry on the amount of the assistance granted to asylum seekers*, (*Journal of Laws 2011, no 261, item 1564*, available at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20112611564>).

³ European Union: Council of the European Union, *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*, 29 June 2013, OJ L 180/60 -180/95; 29.6.2013, 2013/32/EU, available at: <http://www.refworld.org/docid/51d29b224.html>.

⁴ European Union: Council of the European Union, *Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)*, 29 June 2013, OJ L 180/96 -105/32; 29.6.2013, 2013/33/EU, available at: <http://www.refworld.org/docid/51d29db54.html>.

⁵ See European Commission – Migration and Home Affairs Website, *Common European Asylum System*, updated 23 July 2015, available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm.

and Administration, provides financial assistance to asylum-seekers. In addition, the Ministry of Family, Labour and Social Policy provides integration services for beneficiaries of international protection. However, according to a report by the Supreme Audit Office, these integration services were ineffective due to decentralization of the system and the lack of cooperation between responsible institutions.⁶

On 31 December 2015, the Office for Foreigners counted 4,456 persons with a valid residence card who had been granted international protection status.⁷ In 2015, Poland registered 12,242 asylum applicants, 515 of whom were granted asylum. The vast majority of the decisions are on discontinuation due to absconding. The overall rate of positive decisions (granting refugee status or subsidiary protection) issued by two administrative instances⁸ was 15.1 per cent. Russian and Ukrainian nationals submitted the highest number of asylum applications in 2015, with 7,922 and 2,295 applications respectively. There was an increase in the number of applications from Tajik nationals (540, the third highest number) and Syrian nationals (295) during 2015. According to the most recent census, in 2011, there were 2,020 stateless persons and 8,805 foreigners with undetermined nationality residing in Poland.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 90.27: “Consider signing and ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (Norway).”⁹

We wish to note that Poland ratified the *Council of Europe Convention on preventing and combating violence against women and domestic violence*¹⁰ (the *Istanbul Convention*) on 27 April 2015, which entered into force on 1 August 2015. Poland made two reservations to the *Istanbul Convention*: the first stipulates that Article 30 (2) only applies to victims with Polish or EU citizenship, and the second excludes perpetrators without Polish citizenship from Article 44 (1)(e). Despite these reservations, the ratification of the *Istanbul Convention* demonstrates a positive step towards addressing and combating sexual and gender-based violence (SGBV) in Poland. In addition, it shall strengthen the protection of the persons of concern to UNHCR in Poland both with regard to the asylum applications based on gender violence and *non-refoulement* of such victims (art. 60 and 61 of the above Convention) as well as the reception of the above persons, where some gaps still exist (see Issue 2 below).

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

⁶ Information about the final report of the Supreme Audit Office on the system of social support for refugees in Poland, published on their website on 13 November 2015, is available at: <https://www.nik.gov.pl/aktualnosci/nik-o-systemie-pomocy-spolecznej-dla-uchodzcow.html>.

⁷ Of the 4,456 persons, 1,545 had refugee status and the rest held a subsidiary protection status.

⁸ The Office for Foreigners under the Ministry of Interior and the Refugee Board, an independent asylum body.

⁹ All recommendations made to Poland during its 2nd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review of Poland” (09 July 2012), available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/PLSession13.aspx>.

¹⁰ Council of Europe, Council of Europe Convention on preventing and combating violence against women and domestic violence, 11 May 2011, available at: <http://www.refworld.org/docid/4ddb74f72.html>.

Issue 1: Combatting discrimination and xenophobia

Linked to 2nd cycle UPR recommendation no. 90.48: “Continue its efforts to investigate racially motivated crimes and to bring perpetrators to justice so that members of vulnerable groups can live in safety and dignity (Switzerland);” and no. 90.61: “Accelerate the finalization of the action plan by the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance with a view to ensure a well-planned and coordinated approach in combating acts of racism and xenophobia (Indonesia).”

In recent years, there have been reports of a sharp increase in xenophobic and discriminatory attitudes towards asylum-seekers and beneficiaries of international protection. Some of the incidents involved host community reluctance to accept reception centres in their community. Additionally, following the refugee influx into Europe and the events in France (such as the 13 November 2015 and 14 July 2016 attacks), a more xenophobic and discriminatory attitude towards refugees and asylum-seekers has been observed. These attitudes and actions may significantly impair the ability of asylum-seekers and refugees to integrate into society and fully enjoy their rights.

Racially and ethnically-motivated crimes are penalized under the *Polish Penal Code*. The Police or Prosecutor’s Office may receive a report from a victim or a witness prompting an investigation, or they may start an investigation and proceed *ex officio*. According to the information presented by the Prosecutor’s Office in Parliament,¹¹ there have been 1,548 proceedings of crime-related cases of racism and xenophobia carried out in 2015. Most of the crimes referred to internet commentaries, signs or slogans, or verbal offences (51 per cent). During the same time period, charges were brought against 468 persons in 331 cases (21 per cent of all initiated cases); of the 205 court decisions rendered, 137 cases led to a conviction (of 180 persons) and 58 cases were withdrawn. This demonstrates a low percentage of successfully identified perpetrators, which may create an impression that there is impunity for racially and ethnically-motivated crimes in Poland.

Furthermore, UNHCR is concerned with the fact that the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, created in 2013 to coordinate activities of administrative bodies in the above areas, was dissolved on 27 April 2016. No replacement has been proposed so far.

Recommendations:

UNHCR recommends that the Government of Poland:

- a) Reinforce administrative and institutional measures, including by re-establishing the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance, in order to prevent and respond to incidents involving racial discrimination, xenophobia, and other forms of related intolerance including against asylum-seekers and beneficiaries of international protection;
- b) Undertake comprehensive public education campaigns to raise awareness of the harmful effects of racial discrimination and xenophobia;
- c) Ensure the investigation, prosecution, and punishment of any act of discrimination or violence motivated by the victim’s national or ethnic identity; and

¹¹ Republic of Poland, Parliament’s bulletin, Report from the sitting of the Commission of the National and Ethnic Minorities, p.24, available at: http://orka.sejm.gov.pl/kronika.nsf/0/D463AF0E32E24521C1257FB5002BC62A/%24File/kronika013_8.pdf.

- d) Ensure proper coordination among administrative bodies and availability of funding in the field of preventing and combatting the racial discrimination, xenophobia, and other forms of related intolerance following the closing of the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance.

Issue 2: SGBV

Linked to 2nd cycle UPR recommendation no. 90.81: “Ensure that victims of domestic violence have access to adequate assistance, including legal and psychological counselling, medical help and shelter (Liechtenstein).”

Asylum-seekers and refugees living outside the reception facilities face difficulties in accessing sexual and gender-based violence (SGBV) prevention and response assistance due in part to geographic distance and/or isolation. As a result, those granted refugee status or subsidiary protection as well as asylum-seekers in Poland who are SGBV survivors or at-risk of SGBV rarely have access to information regarding the national SGBV response system, and consequently are not able to access available services.

Furthermore, the current national SGBV response system, known as the “Blue Line,” has limited interpretation services, and is not prepared to respond to the particular needs of asylum-seeking and refugee SGBV survivors due to their limited knowledge of cultural differences and refugee situations, including possible traumatic experiences relating to past persecution.

Recommendations:

UNHCR recommends that the Government of Poland:

- a) Improve access to the national system for prevention and response to SGBV, particularly for asylum-seekers and refugees;
- b) Ensure that SGBV prevention and response assistance is fully accessible to all refugees and asylum-seekers in Poland, regardless of their geographic location; and
- c) Improve the availability of interpretation services for the SGBV response system and ensure that staff members are adequately trained and sensitized in order to effectively assist SGBV survivors who are refugees or asylum-seekers.

Issue 3: Detention of children

Linked to 2nd cycle UPR recommendation no. 90.118: “Improve the detention conditions of children of foreigners who seek to receive the status of refugees and who live in the territory of Poland in closed facilities (Russian Federation);” **and 90.121:** “Take measures to improve detention conditions of migrant-children and ban legally the practice of detaining those children (Belarus).”¹²

Asylum-seekers in Poland may be detained based on a court ruling, following the BG request.¹³ The *Law on Foreigners*,¹⁴ which entered into force on 1 May 2014, introduced

¹² In addition to: *Ibid.*, no. 45a: “Avoid all forms of detention of asylum seekers under 18 years of age and families with children and consider all possible alternatives, including unconditional release, prior to detention.”

¹³ Border Guard upon the apprehension of a foreigner may apply the alternatives to detention themselves or file the motion to the Court to decide if to detain a foreigner or apply the alternatives.

¹⁴ Republic of Poland, Act of 12 December 2013 on foreigners (Journal of Laws, Dz. U. 2013 item 1650 with further amendments), available at: <http://isap.sejm.gov.pl/Download?id=WDU20130001650&type=3>.

alternatives to detention.¹⁵ However, it still provides for the possibility of placing asylum-seekers in detention, including accompanied children.¹⁶ Furthermore, children placed in detention in Poland are only offered individual tuition programs which are in practice limited to only a few hours of teaching per week. This practice does not enable these children to fully enjoy their right to education, recognized under Article 28 of the *Convention on the Rights of the Child*¹⁷ (*CRC*) which was ratified by Poland on 7 June 1991.

For UNHCR, the detention of asylum-seekers should only be used as a measure of last resort, and for as short as possible. Furthermore, UNHCR strongly believes that, in principle, children who are asylum-seekers should not be detained. As in all cases involving children, their best interests will remain of paramount importance. Thus, this requires for the Government to consider all possible alternatives, including unconditional release, prior to detention. This should not be limited to unaccompanied children or separated minors, but should be extended to all cases involving children, which implies that families with children or asylum-seeking adults who are responsible for children should only be detained in exceptional circumstances. Detention of children is permitted only as a measure of last resort and only when it is ‘in the best interest of the child,’ for the shortest appropriate period of time in conditions that ensure the realization of the rights enshrined in the *CRC*, including access to education and health. In addition, as a general rule, pregnant women and nursing mothers, who both have specific needs, should not be detained. Alternative arrangements should take into account the particular needs of children, in particular girls, including safeguards against SGBV and exploitation.

Recommendations:

UNHCR recommends that the Government of Poland:

- a) End the detention of children, including accompanied, unaccompanied or separated children;
- b) Implement, without delay, alternatives to the detention of children in law and in practice;
- c) Where unavoidable, ensure that detention is only applied as a measure of last resort and for the shortest appropriate period of time, while also ensuring children’s access to full-time education; and
- d) Ensure that the best interests of the child is determined prior to any court’s decision on detention.

Issue 4: Statelessness

Linked to 2nd cycle UPR recommendation no. 90.98: “Continue its efforts to assure birth registration of all children including the children of undocumented migrants (Holy See).”

¹⁵ Among the alternatives there are: 1) Obligation to live in a specified area (i.e. town or village), 2) Obligation to report to designated unit of the Border Guard (usually once in two/three weeks), 3) Bail and 4) Seizure of the travel document.

¹⁶ UNHCR notes that there is a discrepancy between the treatment of accompanied and unaccompanied asylum-seeking children in Poland in regards to detention. Accompanied asylum-seeking children may be placed in detention with their family member(s) if an adult family member is in detention. In contrast, under the current existing legal regulations, unaccompanied children either applying for asylum or under the age of 15 old cannot be placed in detention.

¹⁷ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html> [accessed 20 July 2016] (hereinafter referred to as “*CRC*”).

As previously stated, Poland has not ratified the *1954 Convention* nor the *1961 Convention*. While Polish legal regulations,¹⁸ to a large extent, meet the standards set out in the two main international statelessness instruments, there are still gaps that may lead to statelessness; in particular, the fact that children born to parents who are non-nationals, or children whose fathers have denied paternity, cannot acquire citizenship.¹⁹

Stateless persons in Poland are left in a legal limbo due to the lack of a statelessness determination procedure. Without a passport or travel documents they cannot leave the Polish territory. In addition, absence of a work permit in Poland also prevents access to social benefits and public healthcare.²⁰

Accession to both the *1954 Convention* and the *1961 Convention* would strengthen the legal framework for the protection of stateless persons and for the prevention of statelessness in Poland. It would ensure the respect for, and observance of, human rights and fundamental freedoms for all without discrimination. In that sense, the Committee on the Rights of the Child, in paragraph 19 of its *Concluding Observations* (30 October 2015), recommended that Poland “[c]onsider acceding to the *1954 Convention Relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*.”²¹

Recommendations:

UNHCR recommends that the Government of Poland:

- a) Accede to the *1954 Convention Relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*;
- b) Ensure that the *Law on Polish Citizenship* provides adequate safeguards against statelessness at birth; and
- c) Take appropriate measures to address the problem of children with undetermined nationalities residing in its territory.

Additional protection challenges

Issue 5: Protection of persons with specific needs

UNHCR welcomes recent initiatives undertaken by the Polish authorities in cooperation with civil society to address the situation of applicants with specific needs in the asylum and reception procedures.²² However, concerns remain about the lack of a comprehensive mechanism to identify and support people with specific needs. According to Polish law, when medical or psychosocial examinations indicate that a person is, among others, a victim of

¹⁸ Republic of Poland, Law on Polish Citizenship of 2 April 2009, Journal of Laws of 2012, item 161, with later changes: <http://isap.sejm.gov.pl/Download?id=WDU20120000161&type=3>

¹⁹ This may happen, for example, when obtaining the citizenship requires official registration with the authorities of the country of nationality and refugees or asylum-seekers do not have access to this procedure.

²⁰ The Halina Niec Legal Aid Centre, “The Invisible. Stateless persons in Poland”, a report of 2013, http://media.wix.com/ugd/1fb8cf_44ee51f3190242c7a3d6b77ad05c7428.pdf

²¹ Committee on the Rights of the Child, *Concluding Observations*, (30 October 2015), CRC/C/POL/CP/3-4, para. 19, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPOL%2fCO%2f3-4&Lang=en.

²² Projects such as: “Streamlining of identification of people with special needs in the procedure for granting the refugee status” (2014–2015); “I notice, I help – integration and development of activities and procedures of the Office for Foreigners and Border Guard with regard to complex identification of vulnerable groups among persons looking for protection within the territory of the Republic of Poland”; and “Procedure for handling foreigners requiring special treatment with regard to social aid”, source from the Office for Foreigners.

violence or is disabled, she/he should be provided with support and appropriate treatment during the asylum procedure in line with his/her specific needs.²³ There are initiatives by relevant authorities, UNHCR and NGOs aimed at improving the situation of asylum-seekers and refugees with specific needs in the country. However, so far in practice there is limited systematic support available regarding the proper identification of persons with specific needs and their treatment throughout the asylum procedure and beyond.

Recommendations:

UNHCR recommends that the Government of Poland:

- a) Strengthen the currently developed system of early identification and referral of asylum-seekers and beneficiaries of international protection with specific needs, including by ensuring those working with them have received appropriate training; and
- b) Provide adequate support for asylum-seekers and beneficiaries of international protection with specific needs.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
September 2016**

²³ Republic of Poland, *Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland* (Journal of Laws, Dz. U. 2003, No. 128, item 1176), as amended, <http://isap.sejm.gov.pl/Download.jsessionid=C76EA9F547B0643DE9351BAE3DD394FC?id=WDU20031281176&type=3>, See Article 68 for the full list.

ANNEX

Excerpts²⁴ of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

POLAND

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Poland.

I. Universal Periodic Review (Second Cycle – 2012)

| Recommendation ²⁵ | Recommending State/s | Position ²⁶ |
|---|----------------------|------------------------|
| Migrants | | |
| 90.36. Adopt measures to adapt the migratory policies to the standards established by the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; | Mexico | Noted ²⁷ |
| 90.39. Take measures to guarantee full access to education and to health to all vulnerable groups, including illegal migrants; | Holy See | Supported |
| 90.119. Ensure basic services for children of irregular migrants, including education, health and medical care; | Uruguay | Supported |
| Non-discrimination, hate crime, racism and xenophobia | | |
| 90.45. Redouble its efforts to address racially motivated hate crimes by ensuring that all such incidents are thoroughly investigated and that perpetrators are brought to justice, and to continue to raise awareness of its people on this issue; | Malaysia | Supported |

²⁴ These excerpts have been provided by the Human Rights Liaison Unit as an attachment with the call for input and can be included in the submission as an annex.

²⁵ All recommendations made to Poland during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Poland" (09 July 2012), available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/PLSession13.aspx>.

²⁶ Poland's views and replies can be found in: *Addendum* (7 September 2012), available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/PLSession13.aspx>.

²⁷ *Addendum*: "There are no immediate plans for Poland to ratify the Convention on the Protection of the Rights of all the Migrant Workers and their Families; however, the Polish Government remains fully committed to the protection of rights of members of all vulnerable groups, including migrants. (90.36)."

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| 90.46. Adopt additional measures in order to avoid the crime of incitement to hate and to promote the fight against discrimination and racism; | Peru | Supported |
| 90.47. Strengthen measures to prevent racist violence, hate crimes and discrimination against foreigners, especially Muslims, Roma and the people of African origin; | Republic of Korea | Supported |
| 90.48. Continue its efforts to investigate racially motivated crimes and to bring perpetrators to justice so that members of vulnerable groups can live in safety and dignity; | Switzerland | Supported |
| 90.49. Put in place a legislation to criminalize the promotion of racial hatred and discrimination as well as further promote tolerance through public awareness campaigns and education; | Thailand | Supported |
| 90.50. Enact public awareness campaigns and government training, as well as increased enforcement of anti-discrimination and hate crime laws, in order to decrease anti-Semitism and discrimination against members of ethnic minority groups; | United States | Supported |
| 90.51. Take measures to combat de facto and de jure discrimination towards irregular migrants; | Uruguay | Supported |
| 90.52. Consider establishing in its domestic legal system norms that strengthen the fight against discrimination; | Argentina | Supported |
| 90.53. Further strengthen its policies and programmes aimed at combating discrimination and intolerance and ensure that incidents are subject to prompt and independent investigation and effective prosecution; | Austria | Supported |
| 90.54. Strengthen measures to eradicate incitement to ethnic or religious hatred and xenophobia; | Iraq | Supported |
| 90.55. Adopt strong anti-discrimination policies and address hate crimes by ensuring that such incidents are thoroughly investigated; | Brazil | Supported |
| 90.56. Make more efforts in law making and law enforcement to combat incitement to racial and religious discrimination in the internet; | China | Supported |
| 90.57. Take effective measures to combat racism and incitement to racial hatred; | Cuba | Supported |
| 90.60. Further adopt and enact legislation to criminalise racial and racially-motivated and hate crimes; to institutionalise national mechanisms for the collection of | Egypt | Supported |

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| data on, and monitoring of, incidents of racism, racial discrimination and xenophobia; and to adopt laws and concrete measures to ensure the prompt, impartial and independent investigation, prosecution and punishment of perpetrators of incidents of racial, and racially-motivated hate speech, discrimination, and crimes; | | |
| 90.61. Accelerate the finalization of the action plan by the Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance with a view to ensure a well-planned and coordinated approach in combating acts of racism and xenophobia; | Indonesia | Supported |
| 90.62. Intensify measures to combat the manifestation of racism and anti-Semitism, including by police officers; | Belarus | Supported |
| 90.63. Consider, as necessary, strengthening anti-discrimination policies and measures, paying particular attention to reception centres for asylum seekers and within the national programme against Racial Discrimination, Xenophobia and related intolerance; | Ireland | Supported |
| 90.64. Conduct immediate, independent, objective and adequate investigations in all cases of racially motivated crimes and hate crimes in the framework of judicial process; | Uzbekistan | Supported |
| 90.65. Implement more effective monitoring of alleged cases of discrimination, ethnic and national hostilities, and racial or ethnic hatred; | Uzbekistan | Supported |
| LGBTI | | |
| 90.66. Include sexual orientation and gender identity in the hate speech provisions of the national Criminal Code, and adopt appropriate legal measures making sexual orientation and gender identity as possible discrimination grounds in any context; | Slovenia | Supported |
| 90.70. Strengthen anti-discrimination laws with regard to a better protection of LGBT persons and persons with disabilities; | Austria | Supported |
| 90.71. The adoption of policies that safeguard the rights of LGBT people and fight discrimination based on sexual orientation; | Brazil | Supported |
| Detention conditions | | |
| 90.74. Solve the problem of the prison overcrowding and make the detention conditions to meet international | Russian Federation | Supported |

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| standards; | | |
| 90.75. Take additional legal and other measures to reduce pre-trial detention and overcrowding in detention facilities through increased resort to alternative forms of punishment; | Austria | Supported |
| 90.77. Strengthen measures to address overcrowding in detention centres, including through increased resort to alternative forms of punishment and adopt measures to reduce the use of pre-trial detention; | Ireland | Supported |
| 90.118. Improve the detention conditions of children of foreigners who seek to receive the status of refugees and who live in the territory of Poland in closed facilities; | Russian Federation | Partially Supported 28 |
| Trafficking | | |
| 90.82. Continue to take measures to guarantee the rights of victims of the crime of trafficking, especially in the area of physical and psychological care; | Chile | Supported |
| 90.84. Bring its domestic legislation relating to the protection of the rights of children, especially in cases of child prostitution, child pornography, and child victims of trafficking, in line with its obligations under the CRC; | Thailand | Supported |
| 90.86. Adopt immediate measures, including legislative to eradicate sexual exploitation of children and recruitment of adolescents into prostitution. Provide for the relevant legal protection for child victims of human trafficking in the framework of judicial process; | Belarus | Partially Supported 29 |
| Roma minority | | |
| 90.113. Enhance effort towards full integration of the Roma community into the society with a view to improve their overall living condition; | Malaysia | Supported |
| 90.115. Strengthen its efforts to fully integrate the Roma into society and to combat discrimination against them, so they can enjoy their economic, social and cultural rights, especially in education, employment and housing; | Chile | Supported |

²⁸ **Addendum:** “Partially accepted; an amendment to the Law on Foreigners is being prepared in order to introduce a ban on detaining children under 13 in closed facilities; however, it is going to be applied only to children seeking to receive the status of refugees; a complete ban on placing minors and their guardians in closed facilities could lead to negative trend of using children by adults for migratory purposes as a safe guard against being placed in closed facilities. (90.118)”.

²⁹ **Addendum:** “The Government of Poland is particularly committed to the protection of rights of members of the most vulnerable groups of the society, including children; specific provisions protecting children are included in Polish legislation, for example in Penal Code; the provisions regarding child prostitution, child pornography and sale of children are already included in the Polish Penal Code. (90.86)”.

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| 90.117. Ensure full implementation of the right to education of persons belonging to national minorities in particular to refrain from closing schools with minority language of instruction, to provide necessary funding for these schools, also to fully finance publication of textbooks in national minorities languages; | Lithuania | Supported |
| Birth registration | | |
| 90.98. Continue its efforts to assure birth registration of all children including the children of undocumented migrants ; | Holy See | Supported |
| 90.120. Pay more attention to solve the problem of birth registration of illegal migrants; | Iraq | Supported |

II. Treaty Bodies

Committee on the Rights of the Child

Concluding Observations, (30 October 2015), [CRC/C/POL/CP/3-4](#)

Non-discrimination

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

- (a) There is no comprehensive law on prohibition of discrimination on all grounds, in all aspects of life and in all forms, including multiple forms of discrimination;
- (b) Gender stereotypes concerning the roles and responsibilities of women and men in the family and in society persist;
- (c) Children belonging to ethnic, religious, linguistic and other minority groups, including Roma, Arab, Asian and African descendants, Muslims, Jews, non-citizens, including refugees, asylum seekers and migrants, persons with disabilities, and lesbian, gay, bisexual and transgender children face discrimination and may become targets of hate crimes;
- (d) Incidents of racial violence and abuse, including hate speech, are increasing, as are acts of xenophobia and homophobia.

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

- (a) **Amend the Law on equal treatment so that it covers the issue of discrimination based on all grounds in all areas, including gender, sexual orientation, disability, religion or age, in the fields of education, health care, social protection, housing, and private and family life, and provides for the definition of multiple forms of discrimination;**
- (b) **Amend the Penal Code to define hate speech and other hate crimes motivated by racism, xenophobia and homophobia as specific punishable offences and ensure that such incidents are**

thoroughly investigated and that perpetrators are brought to justice;

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

Nationality

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

19. The Committee urges the State party to:

- (a) Take all necessary measures without delay to grant Polish nationality to stateless children;**
- (b) Take appropriate measures to address the problem of children with undetermined nationalities residing in its territory;**
- (c) Consider acceding to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

Right to identity

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

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

Harmful practices

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

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

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

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

- (a) Children living in rural areas and small towns still face inequality in accessing quality education;
- (b) Participation in preschool, primary, secondary and vocational education of Roma children remains lower than that of other children, and many Roma children still face difficulties keeping up in mainstream schools or are misplaced in special schools due to their low level of the Polish language and culturally insensitive testing;
- (c) Children with HIV/AIDS tend to be segregated in preschool and compulsory education;
- (d) Asylum-seeking children placed in detention centres do not have access to full-time education.

43. The Committee recommends that the State party:

- (a) **Further step up its efforts to improve access to quality education in rural areas and in small towns, including access to preschool, secondary and higher education;**
- (b) **Facilitate the participation and inclusion of Roma children in education at all levels, including preschool, raise awareness of teachers and staff of psychological and pedagogical counselling centres on Roma history and culture, ensure the use of non-verbal and culturally sensitive tests, and strengthen the role and capacity of Roma education assistants in compulsory education, by clearly defining their status, improving their working conditions and providing capacity-building opportunities;**
- (c) **Eliminate stigma and discrimination against children with HIV/AIDS and their segregation in education in line with the Committee's general comment No. 3 (2003) on HIV/AIDS and the right of the child and the 2006 International Guidelines on HIV/AIDS and Human Rights;**
- (d) **Ensure the full enjoyment of the right to education by asylum-seeking children, regardless of their status, length of stay or residence, on equal footing with all other children in the State party.**

Asylum-seeking and refugee children

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

- (a) The Act on foreigners still provides for the possibility of placing asylum-seeking children in detention together with their family members if an adult family member is in detention;
- (b) There are no procedures for systematically providing information to asylum-seeking children and their guardians on their rights and obligations, asylum procedures and available services;
- (c) There is no State-funded, free legal assistance for asylum seekers, including unaccompanied children;
- (d) The procedures for family reunification are not physically and economically accessible by many asylum seekers and refugees and are overly demanding in terms of requirements for documentation and physical verification of applicants;

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

45. The Committee recommends that the State party:

- (a) **Avoid all forms of detention of asylum seekers under 18 years of age and families with children and consider all possible alternatives, including unconditional release, prior to detention. Committee draws the State party's attention to the UNHCR's Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers (26 February 1999);**
- (b) **In the light of the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, ensure that all asylum-seeking children and their guardians are systematically provided with information on their rights and obligations, asylum procedures and available services. In this regard, consider amending relevant national legislation, including the Act on protection of aliens within the territory of Poland (2003);**
- (c) **Consider expanding the scope of free legal assistance to all asylum-seeking and refugee children at all stages of the application process for international protection, by amending relevant legislation and providing financial support to non-governmental organizations (NGOs) which provide legal assistance to asylum-seeking and refugee children;**
- (d) **Take all necessary measures to safeguard the principle of family unity for refugees and their children, including by making administrative requirements for family unification more flexible and affordable;**
- (e) **Improve the housing situation of children under international protection by ensuring access to adequate housing for groups with specific needs, such as single-mothers and families with many children, as well as by taking proactive measures to prevent homelessness among refugees.**

Committee on the Elimination of all Forms of Discrimination against Women

Concluding Observations, (14 November 2014), [CEDAW/C/POL/CO/7-8](#)

Trafficking in persons and exploitation of prostitution

26. The Committee notes the legislative and policy measures that the State party has taken against trafficking in human beings and the various measures of assistance for victims of trafficking. It nevertheless remains concerned about the limited data on the extent and purpose of trafficking, the absence of information on the origin of victims and the limited evaluation of the measures taken. The Committee is also concerned about the low number of prosecutions and convictions of perpetrators of trafficking and forced prostitution and the limited training on gender-

sensitive investigation methods for law enforcement officers. The Committee further regrets the lack of information on the extent of prostitution and the limited measures taken by the State party to reduce the demand for prostitution and to provide alternative income-generating opportunities for women who wish to leave prostitution.

27. The Committee recommends that the State party:

- (a) Compile and disseminate statistical data on the extent and purpose of trafficking and the countries of origin and destination of victims of trafficking;**
- (b) Systematically monitor and evaluate the impact of measures against trafficking;**
- (c) Ensure that women and girls who are victims of trafficking are identified properly and at an early stage and have access to medical care, legal aid, psychosocial counselling and rehabilitation and reintegration programmes, regardless of their ability or willingness to testify against traffickers;**
- (d) Ensure effective prosecution and punishment of perpetrators of trafficking;**
- (e) Train judges, prosecutors, the police and immigration officers, as well as social workers, on gender-sensitive ways to deal with victims of trafficking;**
- (f) Address the root causes of trafficking and forced prostitution by increasing the promotion of educational and income-generating opportunities for women and girls, thereby minimizing their vulnerability to exploitation;**
- (g) Address the demand side of prostitution and compile information on the extent of prostitution.**

Committee on the Elimination of Racial Discrimination

Concluding Observations, (19 March 2014), [CERD/C/POL/CO/20-21](#)

Discrimination against non-citizens

15. The Committee is concerned about the continuing practice of detaining minors with their parents in guarded centres for asylum seekers, which prevents those minors from having access to an appropriate education. The Committee is further concerned about information that non-citizens, in particular migrants and refugees, face discrimination in the field of employment, that they are reportedly paid lower salaries, work longer hours without official contracts and also face discrimination in housing, as landlords are often reluctant to let a flat to foreign nationals or to sign agreements with them (arts. 5 and 6).

The Committee recommends that the State party refrain from detaining asylum-seeking minors and fully implement the revised Act on the Education System to address their educational difficulties by providing language classes or tutorial assistance in their mother tongue. In light of its general recommendation No. 30 (2004) on discrimination against non-citizens, the

Committee recommends that the State party remove obstacles to the enjoyment of economic, social and cultural rights by non-citizens and strengthen its efforts to apply its legislation and the Convention to combat direct or indirect racial discrimination against them, in particular with regard to education, housing and employment.

Committee against Torture

Concluding Observations, (23 December 2013), [CAT/C/POL/CO/5-6](#)

Non-refoulement and extradition

12. The Committee is concerned that foreigners can be expelled from the State party without having their expulsion decision reviewed by an independent and impartial mechanism. In addition, the Committee is concerned that the State party has not been respecting the principle of non-refoulement as it has sometimes refused to recognize a foreigner's refugee status as the sole reason to refuse extradition to a country where his or her life or personal integrity would be threatened (arts. 3 and 16).

The Committee recommends that the State party ensure that it complies fully with its obligations under article 3 of the Convention and that individuals under the State party's jurisdiction receive appropriate consideration by the competent authorities and are guaranteed fair treatment at all stages of proceedings, including an opportunity for effective and impartial review by an independent decision mechanism on expulsion, return or extradition, with suspensive effect. It also recommends that the State party fulfil its non-refoulement obligations and guarantee the right to appeal the issuance of an extradition warrant where there are substantial grounds for believing that a person would be at risk of being subjected to torture.

Protection of asylum seekers

13. The Committee welcomes the proposed amendments to the Aliens Act of 2003, which introduce alternatives to detention and give more categories of persons the right to family reunification. However, it remains concerned that under the current legislation asylum seekers, including children, are detained in guarded centres in prison-like conditions prior to expulsion. It is also concerned that insufficient legal assistance is provided to asylum seekers, especially those in detention centres (arts. 3, 10 and 11).

The Committee recommends that the State Party refrain from detaining asylum-seekers, including children, and guarantee them — including those who may face detention — access to independent, qualified and free legal advice and representation, in order to ensure that the protection needs of asylum seekers, refugees and other persons in need of international protection are effectively recognized.

14. The Committee is concerned about the lack of a mechanism in the State party to identify vulnerable asylum seekers who are victims of torture and the

insufficient provision for their specific needs during the refugee status determination process (arts. 3, 10, 11 and 16).

The Committee recommends that the State Party take all necessary measures to ensure the identification of vulnerable asylum seekers who are victims of torture and provide them with the support they require, including treatment and counselling. Furthermore, all relevant personnel, including medical personnel, should receive specific training on how to identify signs of torture and ill-treatment. To this end, the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) should be further disseminated.

Trafficking in human beings

24. While welcoming the amendments to the Penal Code introducing a definition of trafficking in human beings and several policy measures in the area, the Committee is concerned at reports that the State party remains a source, transit and destination country for human trafficking, especially for the purpose of forced labour (arts. 2, 10, 12, 13, 14 and 16).

The Committee recommends that the State party fully implement the United Nations Convention against Transnational Organized Crime and take measures to:

- (a) Enforce domestic anti-trafficking laws and policies, take effective measures to prevent human trafficking and increase protection for victims of trafficking;**
- (b) Promptly, effectively and impartially investigate, prosecute and punish the crime of trafficking in persons and related practices;**
- (c) Provide redress to victims of trafficking, including legal, medical and psychological aid and rehabilitation, as well as adequate shelters and assistance in reporting incidents of trafficking to the police;**
- (d) Prevent the return of trafficked persons to their countries of origin where there are substantial grounds to believe that they would be in danger of torture; and**
- (e) Enhance international cooperation with regard to preventing and punishing trafficking.**

III. Special Procedures

N/A