



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés



Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedure Reports

- Universal Periodic Review:

POLAND

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and the Human Rights Council's Special Procedure Reports, relating to issues of interest and persons of concern to UNHCR with regards to Poland.

1. Treaty Body Reports

CCPR/C/POL/CO/6

HUMAN RIGHTS COMMITTEE, 100th session

15 November 2010

7. The Committee remains concerned about the continued social marginalization and discrimination faced by members of the Roma minority, especially in the fields of education, employment and housing (arts. 2, 26 and 27).

The State party should continue to take all necessary measures to ensure the practical enjoyment by the Roma of their rights under the Covenant by implementing and reinforcing effective measures to prevent and address discrimination and the serious social and economic situation of the Roma.

14. The Committee is concerned that the Criminal Code does not contain a legislative provision protecting victims of trafficking from being prosecuted, detained or punished for the illegality of their entry or residence or for the activities in which they are involved as a direct consequence of their situation as trafficked persons (art. 8).

The State party should include in its Criminal Code a provision protecting victims of trafficking from prosecution, detention or punishment for activities they were involved in as a direct consequence of their situation as trafficked persons. The State party should furthermore take measures, including legislative, to ensure that a trafficked victim's protection is not made conditional upon the person's cooperation in legal proceedings.

18. The Committee is concerned about the absence of specific laws concerning the detention of foreigners after the deadline for their expulsion and that some have been detained in transit zones beyond the deadline of their expulsion without a court order. It also notes with concern reports of inadequate medical assistance in some detention centres for asylum-seekers, as well as of poor conditions in transit zones and deportation detention centres where foreign nationals awaiting deportation are held. Finally, the Committee is concerned about reports that detained foreigners are often

unable to learn about their rights, as boards containing such information are often displayed only in offices and interrogation rooms and only in Polish, and some interpreters are not sufficiently qualified to translate (art. 12 and 14).

The State party should take measures to ensure that the detention of foreigners in transit zones is not excessively protracted and that, if the detention is to be extended, the decision is adopted by a court. The State party should ensure that the regime, services and material conditions in all deportation detention centres are in conformity with minimum international standards. Finally, the State party should ensure that detained foreigners have easy access to information on their rights, in a language they can understand, even if this requires the provision of a qualified interpreter.

E/C.12/POL/CO/5

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 43rd session

2 December 2009

14. The Committee remains concerned that the Roma communities in the State party continue to face widespread discrimination in areas such as employment, education, land tenure, access to welfare benefits, housing and health care, which impair the enjoyment of their economic, social and cultural rights (art. 2.2).

The Committee reiterates its recommendation that the State party combat discrimination against Roma communities in areas such as employment, education, land tenure, access to social welfare benefits, housing and health care. The Committee also urges the State party to take all effective measures for the advancement of Roma communities, including by allocating sufficient funds for the realization of programmes in their favour. The Committee calls on the State party to ensure that the implementation of the various national social inclusion programmes take into account the specific situation of Roma communities in the State party.

23. The Committee is concerned that the State party is a country of origin and destination and a point of transit for trafficking in humans, especially children and women, and for purpose of sexual exploitation (art. 10).

The Committee urges the State party to implement the national programme for combating the trafficking of human beings and adopt effective strategies to combat the phenomenon. The Committee calls on the State party to provide statistical data on the extent of the problem of trafficking in its next periodic report.

CRC/C/OPSC/POL/CO/1

COMMITTEE ON THE RIGHTS OF THE CHILD, 52nd session

22 October 2009

8. While noting that the general principles of the Convention on the Rights of the Child have been taken into account to some extent in the design and application of measures of implementation adopted by the State party under the Optional Protocol, the Committee is concerned that this has not been done fully. The Committee is particularly concerned that children's views are not given due consideration in all matters affecting them, including the creation of policies and programmes, and that

this may be a consequence of the inadequate application of the principle of the right of the child to express his/her views and to have those views given due weight. The Committee is also concerned at discriminatory attitudes faced by some vulnerable children, including Roma children and asylum-seekers, which may affect their protection and prevent the full enjoyment of their rights as enshrined in the Optional Protocol.

9. The Committee recommends that the general principles of the Convention on the Rights of the Child, in particular the principles of non-discrimination and respect of the views of the child, be included in all measures taken by the State party to implement the provisions of the Optional Protocol, including judicial or administrative proceedings.

24. The Committee notes that the State party adopted in 2003 the Programme for the Roma Society in Poland, which is intended to continue for ten years and aims to address the social exclusion that affects a large part of the Roma community, including children. The Committee also notes that the State party has taken measures to address the problems of other vulnerable groups such as children left behind when their parents have emigrated, children in residential care institutions and unaccompanied children who have crossed the border and escape from the care institutions in which they are placed.

25. The Committee encourages the State party to continue systematic prevention activities targeting particular groups of children in order to protect them from the offences covered under the Optional Protocol.

34. The Committee notes with interest the programme of assistance and protection for victims/witnesses of human trafficking which provides material, medical and psychological support to trafficking victims or witnesses. The Committee notes that an amendment to the Penal Code has been drafted that allows for the possibility to begin penal proceedings within five years of the moment the victim turns 18.

35. The Committee recommends that the State party adopt the above-mentioned amendment without delay but that it consider extending the period within which a person can begin penal proceedings after he turns 18 to longer than five years.

CRC/C/OPAC/POL/CO/1

COMMITTEE ON THE RIGHTS OF THE CHILD, 52nd session

22 October 2009

16. The Committee regrets the paucity of information on measures to identify children who may have been involved in armed conflict abroad.

17. The Committee recommends that the State party establish an identification mechanism for children, including asylum-seeking and refugee children, who may have been involved in armed conflict abroad. The Committee further recommends that the State party take measures to provide these children with appropriate assistance for their physical and psychological recovery and their social reintegration.

CERD/C/POL/CO/9

**COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION,
75th session**

14 September 2009

4. The Committee, while noting measures to address discrimination against the Roma, such as the 2003 Programme for the Roma Community in Poland, remains concerned about the continued social marginalization and discrimination faced by members of the Roma minority, particularly in the fields of education, employment and housing. The Committee notes the State party's indication that, relative to the general population, high poverty levels persist among the Roma. (arts. 2 and 5)

The Committee recommends that the State party, taking into account general recommendation No. 27 (2000) on discrimination against Roma:

(a) Enhance its efforts towards the full integration of the Roma into Polish society and combat discrimination against the Roma by improving the enjoyment of economic, social and cultural rights, particularly in education, employment and housing;

(b) Develop and implement poverty eradication programmes to combat poverty among the Roma and other economically marginalized population groups;

(c) Provide updated statistical information and data on life expectancy and poverty levels in the State party, disaggregated by region and ethnic group.

10. The Committee has taken note of information indicating that the State party is a country of origin, transit and destination for trafficked persons. (art. 5)

The Committee requests that the State party provide, in its next periodic report, updated statistical data and information on the prevalence of trafficking as well as the impact of any measures taken to combat it.

CAT/C/POL/CO/4

COMMITTEE AGAINST TORTURE, 38th session

25 July 2007

12. The Committee notes with concern the absence of specific laws concerning the detention of aliens after the deadline for their expulsion and the fact that some have been detained in transit zones beyond the deadline of their expulsion without a court order. (arts. 3 and 11)

The State Party should take the necessary measures to address this situation and ensure that the detention of aliens in transit zones is not excessively protracted and that, if the detention were to be extended beyond a few days, the decision is adopted by a court.

13. The Committee also notes with concern the regime and material conditions of detention in transit zones or deportation detention centres where foreign nationals awaiting deportation under the aliens' legislation are held. (arts. 3 and 11)

The State Party should review the regime and material conditions of deportation detention centres, including the size of cells and the regime of activities of the detainees, in order to ensure that they are in conformity with minimum international standards.

18. While acknowledging the efforts made by the State Party in combating and preventing trafficking in human beings by adopting new legislation and measures, the Committee is concerned about the absence of a definition of trafficking in human beings in its Penal Code. The Committee also regrets the lack of information on the number of cases brought to court and on the penalties imposed to perpetrators. (art. 16)

The State Party should include in its Penal Code a definition of human trafficking in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (CEDAW/C/POL/CO/6). The State party should provide detailed information and statistics on the number of cases brought to court and penalties imposed to perpetrators, where appropriate.

CEDAW/C/POL/CO/6

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, 37th session

2 February 2007

20. While welcoming the adoption of the National Programme to Combat and Prevent Trafficking in Human Beings, and measures taken to combat such trafficking and provide assistance to victims, the Committee is concerned about the limited data on the scope of that phenomenon and the remaining gaps in the legal framework to combat it. It is also concerned about the lack of impact assessments of measures taken.

21. The Committee urges the State party to include in its penal code a definition of trafficking in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. It also urges the State party to strengthen data collection on trafficking and to monitor systematically the impact of, and results achieved in, the implementation of its policies and programmes in that area, including bilateral and multilateral agreements.

28. The Committee regrets the lack of data and information on the situation of certain groups of women and girls in Poland, including Roma, refugees, asylum seekers and migrants, who are particularly disadvantaged.

29. The Committee requests the State party to collect quantitative and qualitative information on the situation of disadvantaged groups of women and girls in Poland. It calls upon the State party to ensure that their special needs in areas such as education, health care and protection from violence are met, and to support their integration into Polish society.

2. Special Procedure Reports

A/HRC/14/32/Add.3

HUMAN RIGHTS COUNCIL, 14th session

Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo

2 June 2010

85. **The Special Rapporteur recommends:**

(a) The adoption, as soon as possible, of a definition of trafficking in accordance with article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) and article 4 of the Council of Europe Convention on Action against Trafficking in

Human Beings. Such a definition would therefore also capture trafficking for labour exploitation;

(b) The inclusion in the Criminal Code of a specific provision for children victims of trafficking, in accordance with article 3(c) of the Palermo Protocol;

(c) Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

86. Legislation must be amended to include a provision prohibiting the criminal prosecution, detention and punishment of trafficked persons for activities they were involved in as a direct consequence of their situation as trafficked persons.

88. The Special Rapporteur strongly encourages the Government to promote trainings for particularly vulnerable groups and for professionals working in the field of anti-trafficking on the mechanisms of internal/domestic recruitment for trafficking.

89. The Special Rapporteur encourages the Government to improve the identification of victims of trafficking and to ensure compliance with the reflection period provided for under the Council of Europe Convention on Action against Trafficking in Human Beings so that pressure is not mounted on a victim to cooperate with authorities as the only option or as a necessary condition for the exercise of the right to remain in country.

93. The Government should undertake measures, including in legislation, to ensure that a trafficked victim's entitlement to protection from further exploitation and to physical and psychological care shall not be made conditional upon the capacity or willingness of the trafficked person to cooperate in legal proceedings.

96. Assistance to victims, including the grant of a temporary or permanent residency permit, should not be made conditional upon a victim's preparedness to cooperate with the authorities or to act as a witness.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
November 2011**