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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Pre-sessional working group
Geneva, 24-28 November 2008

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

List of issues to be taken up in connection with the consideration of the fifth periodic report of Poland (E/C.12/POL/5) concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights

I. GENERAL INFORMATION

1. Please explain why the fifth periodic report does not provide information on measures undertaken to implement the general provisions of the Covenant (articles 1 to 5).
2. Please indicate whether the provisions on economic, social and cultural rights included in Section IV of the Constitution can be directly applied by domestic courts, taking into account the limitations contained in article 8, paragraph 2, of the Constitution. If so, please provide examples.

3. Please provide detailed information on the judicial or other effective remedies available to individuals in case of violation of the economic, social and cultural rights, taking into account that the Supreme Court in its decision of 8 February 2000 ruled that Covenant provisions cannot be directly invoked by individuals before national courts (E/C.12/POL/5, paras. 851-855).
4. Please indicate whether the mandate entrusted to the Commissioner for the Protection of Civil Rights (Ombudsman) include the protection and promotion of economic, social and cultural rights. If so, please provide updated information on the number and content of petitions received by the Ombudsman alleging violation of economic, social and cultural rights by public authorities. (HRI/CORE/1/Add.25/Rev.2, paras. 78-81)
5. Please provide additional information on specific training programmes, seminars and courses, if any, organised by the State party for judges, members of the Bar Council, public officials, teachers, social workers and the public at large on the provisions of the Covenant and their application. (E/C.12/POL/5, paras. 1077-1097)
6. Given the fact that many policies and programmes for the fulfilment of economic, social and cultural rights in the State party, including of persons belonging to ethnic or national minorities, fall within the responsibility of regional and local authorities, please indicate how the central authorities ensure overall guidance, adequate resource allocation and minimum standards.
7. Please indicate what steps the State party has taken to disseminate the Committee's previous concluding observations among civil society organisations and to involve them in the preparation of the fifth periodic report. (E/C.12/1/Add.82, paras. 57-58)
8. The Committee requests the State party to provide statistical data on an annual comparative basis over the last five years, disaggregated by age, gender, ethnic or national origin and – where applicable – urban/rural residence, in its replies to the issues referred to in paragraphs 17, 23, 25, 26 and 27 of the present list of issues. The Committee also requests the State party to provide the specific statistical information requested in paragraphs 13, 15, 18, 24 and 31 of the present list of issues.

II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (ARTS. 1-5)

Article 2, paragraph 2: Non-discrimination

9. Please provide detailed information on the measures adopted by the State party to strengthen its legislative and institutional framework aimed at prohibiting discrimination in all areas of life. Please indicate whether the State party intends to introduce a non-discrimination provision covering all possible grounds of discrimination in its domestic legislation, as recommended by a number of international and regional human rights mechanisms.

10. Please provide additional information on the measures undertaken pursuant to the Programme for the Roma Community in Poland (2004-2013) to eliminate the widespread prejudice and persistent discriminatory practices faced by persons belonging to the Roma community in the fields of employment, housing, education and access to health care, social assistance and public services. Please also describe the progress made, and difficulties encountered, in the implementation of this programme. (E/C.12/POL/5, paras. 874-882)

11. Please provide detailed information on the implementation of the legislation and policies adopted by the State party to eliminate all forms of discrimination against persons with physical or mental disabilities and to promote the equal and effective enjoyment of their rights in all fields of life, including employment, adequate housing, health care and services, education, cultural life, transport, and access to public places and services. Has the principle of “reasonable accommodation” been integrated into the legislation of the State party, in line with the Committee’s General Comment No. 5 (1994) on persons with disabilities? (E/C.12/POL/5, paras. 1056-1065)

12. Please provide detailed information on the legislation and policies of the State party regarding refugees and asylum seekers, and indicate what measures the State party has introduced to protect the rights of these persons during the status determination process and to facilitate their social integration. Please also indicate the steps undertaken to overcome the problems faced by persons with “tolerated status” in relation to access to unemployment allowance as well as to legal assistance, interpretation and translation of documents and access to education for their children.

Article 3: Equal rights of men and women

13. Please provide detailed information, including recent statistical data, on progress made to increase (a) the political participation of women, including representation in Parliament, Government, and other public positions; (b) representation of women in managerial and high-ranking posts in the public service, including the judiciary, the police, and academia; and (c) representation of women in managerial and high-ranking posts in the private sector. (E/C.12/POL/5, paras. 138-140)

14. Has the State party adopted the bill on gender equality? If so, please provide detailed information about its content. If not, when is this bill expected to be adopted? (E/C.12/POL/5, para. 916)

III. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT (ARTS. 6-15)

Article 6: The right to work

15. Please provide detailed information on progress made in the implementation of the different laws and strategies adopted by the State party to provide professional training and

employment opportunities for persons belonging to specific vulnerable groups, such as (i) young unemployed persons of up to 25 years of age, (ii) persons with no or limited professional qualifications, (iii) unemployed persons over 50 years of age, (iv) long-term unemployed persons, and (v) persons with disabilities. Please also provide statistical data on the employment/unemployment rate of persons belonging to these categories. (E/C.12/POL/5, paras. 7-94 and 886-911)

Article 7: The right to just and favourable conditions of work

16. Please provide detailed information on the implementation of the legislation and policies aimed at eliminating gender discrimination in the field of employment, and indicate which measures the State party intends to adopt to address the persistent gap in wages between men and women and the over-representation of women in part-time and temporary jobs. Why is the right of women and men to equal pay for work of equal value not expressly recognised in article 18^{3c} of the Labour Code? Has the State party adopted any temporary special measures pursuant to article 18^{3b}, paragraph 3, of the Labour Code to promote equalisation of opportunities for women in the field of employment? (E/C.12/POL/5, paras. 121-159, 182-193 and 912-916)

17. Please indicate whether the national monthly minimum wage provides an adequate standard of living for workers and their families. Please provide recent statistical data on the number of workers receiving wages equal to or lower than the minimum level. (E/C.12/POL/5, paras. 166-181 and 924-927)

18. Please comment on the effectiveness of the State Labour Inspectorate (PIP) in monitoring the implementation of the health and safety legislation, especially in the field of agriculture, construction industry and mining, where the majority of fatal accidents occur. Please also provide recent statistical data disaggregated by branch of activity on the number of fatal and serious accidents at work. (E/C.12/POL/5, paras. 195-209 and 928-933)

Article 8: Trade union rights

19. Please indicate whether there are any restrictions to the right to form or join trade unions, including for workers on individual contracts. Please also provide information on restrictions to the right to organise for civil servants and explain why civil servants cannot perform functions within trade unions. (E/C.12/POL/5, paras. 227-228 and 258)

20. Please provide additional information on the possibility of employers in extreme financial difficulties to suspend, with the consent of the enterprise-level trade union, the application of a collective agreement for a period of up to three years, and indicate how the rights of workers under articles 6, 7 and 8 of the Covenant are protected during the suspension of such agreements.

Article 9: The right to social security

21. Please provide information on the steps undertaken by the State party to ensure equal access to social security benefits without any discrimination based on grounds other than those indicated in the 1998 Act on the Social Security System (gender, marital status and family status).

22. Please indicate what measures the State party has undertaken to review the minimum amount of unemployment benefits so as to ensure that it provides an adequate standard of living to beneficiaries who are not entitled to other social security benefits. (E/C.12/POL/5, paras. 316)

23. Bearing in mind the Committee's General Comment No. 19 (2007) on the right to social security, please provide disaggregated data on the number of persons and families who are not covered by the social security system, for example persons working in the informal economy, and on the measures adopted by the State party to ensure, to the maximum of its available resources, an adequate protection from social risks and contingencies.

Article 10: Protection of the family, mothers and children

24. Please indicate whether domestic violence is criminalised under the legislation of the State party. Please provide detailed information on progress made in implementing the various legislative and policy measures aimed at combating domestic violence, especially against women and children, including recent statistical data concerning the number of complaints recorded, civil or criminal investigations conducted, penalties imposed, and compensation granted to the victims or their families. (E/C.12/POL/5, paras. 400-427 and 994)

25. Please provide additional information, including disaggregated statistical data, on the steps taken by the State party to protect children against all forms of exploitation and to prevent them from being employed in work that is likely to be hazardous or to be harmful to their health and development. (E/C.12/POL/5, paras. 443-446 and 937-979)

26. Please provide updated information on whether the State party has adopted a definition of trafficking in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Please also provide recent statistical data on persons trafficked for the purpose of sexual exploitation, as well as information on prosecutions and convictions, and on the sanctions imposed on perpetrators. What measures have been taken to protect victims of trafficking and provide assistance and material support to them? (E/C.12/POL/5, paras. 980-993)

Article 11: The right to an adequate standard of living

27. Please provide additional information on the implementation of the measures undertaken to combat poverty and social exclusion among vulnerable groups and

individuals, including unemployed persons, large and single-parent families, unskilled young persons, retired persons, inhabitants of rural areas and small towns, persons with disabilities and persons belonging to national and ethnic minorities. Please also provide recent statistical data on the number of persons living below the poverty line. (E/C.12/POL/5, paras. 505-523 and 996)

28. Please provide detailed information on the measures adopted by the State party to increase the present supply of available accommodation, in particular social housing, and to improve the quality of the existing housing facilities, which is reportedly of a poor quality, especially in rural areas. (E/C.12/POL/5, paras. 555-569)

Article 12: The right to physical and mental health

29. Please provide additional information, including recent statistical data, on situations in which abortion is admissible pursuant to the Act of 7 January 1993 on Family Planning, Foetus Protection and Conditions of Admissibility of Abortion, and on the use of the conscientious objection clause by medical practitioners who refuse to carry out abortions in compliance with the Act. What steps has the State party taken to protect women from pregnancy-related death and morbidity due to clandestine and unsafe abortion? (E/C.12/POL/5, paras. 1015-1044)

30. Please explain what targeted measures the State party has adopted to enhance access to family planning services and to artificial methods of contraception, as well as to raise awareness about sexual and reproductive health, including the use of contraceptives, in particular among adolescents. (E/C.12/POL/5, paras. 997-1014)

Articles 13 and 14: The right to education

31. Please provide detailed information, including recent statistical data, on the progress made by the State party to eliminate the practice of enrolling Roma pupils in special classes attended only by Roma (often referred to as “Roma classes”) and in ensuring their equal access to integrated schools and educational programmes. Please also provide information on measures adopted to improve school attendance and performance among Roma children and to help them continue their studies into higher education. (E/C.12/POL/5, paras. 877-879)

Article 15: Cultural rights

32. Please provide additional information on the measures taken by the State party to implement the Act on National and Ethnic Minorities and the Regional Language, in particular as to the possibility of persons belonging to linguistic minorities to use their own languages as “auxiliary languages” in dealing with public authorities. (E/C.12/POL/5, paras. 795-801) Please also provide additional information on the measures taken by the State party pursuant to the Act on Broadcasting to promote access of persons belonging to national or linguistic minorities to radio and television broadcasts in their languages. (E/C.12/POL/5, paras. 803-806)