



OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS



***Concluding observations of the Human Rights Committee :
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ADVANCE UNEDITED VERSION

Concluding observations of the Human Rights Committee

POLAND

1. The Committee considered the fifth periodic report of Poland (CCPR/C/POL/2004/5) at its 2240th and 2241st meetings (CCPR/C/SR.2240 and CCPR/C/SR.2241), held on 27 and 28 October 2004, and adopted the following concluding observations at its 2251st meeting (CCPR/C/SR.2251) on 4 November 2004.

A. Introduction

2. The Committee welcomes the timely submission of Poland's fifth periodic report, which it finds to be extensive and thorough. It also notes with appreciation its open and constructive discussion with the delegation.

B. Positive aspects

3. The Committee welcomes the commitment of the State Party to respect the rights recognized in the Covenant to all individuals subject to its jurisdiction in situations where its troops operate abroad, particularly in the context of peacekeeping and peace-restoration missions.

4. In its concluding observations on the State Party's fourth report, the Committee expressed concern about excessive delays in criminal and civil trials in Poland. It therefore welcomes the recent passage of legislation making provision for complaints against the violation of the right of a party in judicial proceedings to have his or her case examined without undue delay.

5. The Committee notes with satisfaction improvements made in the area of women's rights, in particular by the appointment of a Government Plenipotentiary on the Equal Status of Women and Men. It also welcomes the extension of the Plenipotentiary's competence to issues relating not only to discrimination on the basis of sex but also on grounds of race and ethnic origin,

religion and beliefs, age and sexual orientation.

6. The Committee welcomes the State Party's commitment to ratify the Second Optional Protocol to the Covenant.

C. Principal subjects of concern and recommendations

7. While the Committee notes the consideration being given by the State Party to improving methods for the implementation of the Committee's Views, it observes that no consistent procedure is yet in place.

The State Party should ensure that all Views issued by the Committee under the Optional Protocol are complied with, and that appropriate mechanisms are available for this purpose.

8. The Committee reiterates its deep concern about restrictive abortion laws in Poland, which may incite women to seek unsafe, illegal abortions, with attendant risks to their life and health. It is also concerned at the unavailability of abortion in practice even when the law permits it, for example in cases of pregnancy resulting from rape, and by the lack of information on the use of the conscientious objection clause by medical practitioners who refuse to carry out legal abortions. The Committee further regrets the lack of information on the extent of illegal abortions and their consequences for the women concerned (art. 6).

The State Party should liberalize its legislation and practice on abortion. It should provide further information on the use of the conscientious objection clause by doctors, and, so far as possible, on the number of illegal abortions that take place in Poland. These recommendations should be taken into account when the draft Law on Parental Awareness is discussed in Parliament.

9. The Committee also reiterates its concern about family planning regulations adopted by the State Party. The high cost of contraception, the reduction in the number of refundable oral contraceptives, the lack of free family planning services and the nature of sexual education are also of concern to the Committee (art. 6).

The State party should assure the availability of contraceptives and free access to family planning services and methods. The Ministry of Education should ensure that schools include accurate and objective sexual education in their curricula.

10. While the Committee appreciates progress made in the area of equality between men and women in the public service, it notes with concern that the number of women in senior positions is still low. The Committee also remains concerned about the disparities in remuneration between men and women (arts. 3 and 26).

The State party should ensure equal treatment of men and women at all levels of public service. Appropriate measures should also be taken to ensure that women enjoy equal

access to the labour market and equal wages for work of equal value.

11. Notwithstanding a variety of programmes intended to deal with domestic violence, the Committee regrets that the number of cases of domestic violence remains high. It is also concerned that measures such as restraining orders and temporary arrests are not widely used, that appropriate protection is not afforded to victims, that shelters do not exist in many places, and that training for law enforcement officers is inadequate. (arts. 3 and 7).

The State party should ensure that law enforcement officers are properly trained and that appropriate measures to address domestic violence cases, including restraining orders, are available as required. The State party should also increase the number of shelters and other means of protection for victims throughout the country.

12. While taking note of measures to address overcrowding in prisons, the Committee remains concerned that many inmates still occupy cells which do not meet the requirements established by the UN Standard Minimum Rules on the Treatment of Prisoners. It is also concerned that judges do not make full use of alternative types of punishment available under the law (art. 10).

The State Party should take further measures to address overcrowding in prisons and to ensure compliance with the requirements of article 10. It should also encourage the judiciary to impose alternative forms of punishment more frequently.

13. While welcoming recent changes in legislation designed to reduce pre-trial detention, the Committee is concerned that the number of persons in pre-trial detention remains high (art. 9).

The State party should take further steps to reduce the number of persons in pre-trial detention.

14. The Committee notes the State Party's intention to undertake a comprehensive reform of the Polish legal aid system, but regrets that persons detained cannot at this time enjoy their right to legal aid from the beginning of their detention (art. 14).

The State party should take measures to ensure that all persons, including those in detention, have access to legal aid at all times.

15. The Committee notes that the duration of alternative military service is 18 months, whereas for military service it is only 12 months (art. 18 and 26).

The State party should ensure that the length of alternative service to military service does not have a punitive character.

16. While the Committee notes that the Labour Code has now been amended to include a non-discrimination clause relating to employment, it regrets that a general non-discrimination provision covering all appropriate grounds has not yet been introduced into national legislation (arts. 26 and 27).

The State party should broaden the scope of its non-discrimination law to extend to areas other than employment.

17. While noting measures taken to improve the conditions of the Roma community, the Committee is concerned that the Roma continue to suffer prejudice and discrimination, in particular with regard to access to health services, social assistance, education and employment. It is also concerned that acts of violence against members of the Roma community are not appropriately investigated and sanctioned (arts. 2, 26 and 27).

The State party should intensify its efforts to prevent discrimination against the Roma community and ensure their full enjoyment of their Covenant rights. The police and judiciary should be properly trained to investigate and sanction all acts of discrimination and violence against the Roma.

18. The Committee is concerned that the right of sexual minorities not to be discriminated against is not fully recognised, and that discriminatory acts and attitudes against persons on the ground of sexual orientation are not adequately investigated and punished (art. 26).

The State Party should provide appropriate training to law enforcement and judicial officials in order to sensitise them to the rights of sexual minorities. Discrimination on the ground of sexual orientation should be specifically prohibited in Polish law.

19. The Committee notes with concern that incidents of desecration of Catholic and Jewish cemeteries, and acts of anti-Semitism, have not always been properly investigated and the perpetrators punished (arts. 18, 20 and 27).

The State Party should intensify efforts to combat and punish all such incidents. Law enforcement bodies and the judiciary should be properly trained and instructed on how to address such complaints.

20. While taking note of the draft Law on National and Ethnic Minorities and on Regional Languages, the Committee is concerned that current legislation does not allow linguistic minorities to use their own language when dealing with administrative authorities in areas where their numbers warrant (arts. 26 and 27).

The State party should ensure that new legislation on minorities is in full compliance with article 27 of the Covenant, in particular regarding the rights of minorities to be recognised as such and to use their own languages.

21 The State party should widely disseminate the text of its fifth periodic report and the present concluding observations

22. In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, additional information on the assessment of the situation

and the implementation of the Committee's recommendations in paragraphs 8, 9 and 17. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 November 2008, information on its other recommendations and on the Covenant as a whole.

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