

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/POL/CO/5-6)

POLAND

(...)

C. Principal subjects of concern and recommendations

(...)

Fundamental legal safeguards

8. The Committee welcomes the Act of 27 September 2013 amending the Code of Criminal Procedure to provide the accused and the defence lawyer with access to case files in pretrial proceedings. However, the Committee is concerned that certain restrictions still remain on fundamental legal safeguards for persons detained by the police, particularly regarding access to a lawyer from the outset of detention. It is also concerned that, under article 1 of the Executive Penal Code, the prison authorities reserve the right to be present at all meetings between the detainee and his or her defence counsel, and to monitor their telephone communications and correspondence. Furthermore, the Committee remains concerned at the lack of an appropriate system of legal aid in Poland (arts. 2 and 16).

The Committee recommends that the State party take effective measures to guarantee that all persons deprived of their liberty are afforded, in law and in practice, all the fundamental legal safeguards from the outset of deprivation of liberty, including the right to have prompt access to an independent lawyer and, if necessary, to legal aid in accordance with international standards. It further recommends that the State party take the necessary measures to ensure the confidentiality of lawyer-client meetings and communications via telephone and correspondence.

(...)

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.

(...)

Investigations and legal proceedings

18. The Committee is concerned at reports that the police use illegal methods and abuse their power during interrogations, and that few criminal proceedings are conducted into such allegations, the majority of cases being discontinued by the prosecution authorities. It is also concerned that lengthy court proceedings have created a backlog of cases in the court system. Furthermore, while noting the statistics provided on convictions under articles 231 (abuse of power), 246 (obtaining testimony using force) and 247 (tormenting a person deprived of liberty) of the Penal Code, the Committee regrets the lack of information provided on the number of complaints filed, criminal proceedings brought, persons acquitted and the length of sentences handed down in relation to these crimes (arts. 2, 12, 13 and 16).

The Committee recommends that the State party:

- (a) Ensure that all reports of torture or ill-treatment are investigated promptly, effectively and impartially;**
- (b) Promptly undertake an effective and impartial investigation on its own initiative whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed;**
- (c) Prosecute persons suspected of having committed torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims are afforded appropriate redress;**
- (d) Improve the functioning of the judicial system and take measures to reduce the backlog of cases in its courts; and**
- (e) Provide full statistics on crimes related to torture and ill-treatment, including on the number of complaints filed, criminal proceedings brought, persons acquitted and sentences handed down.**

(...)

Redress and compensation

21. The Committee is concerned at the information provided by the State party indicating that, between 2005 and 2010, there were no final rulings by the State Treasury to remedy damages arising from the offence of abuse. It is also concerned that no data has been provided about any compensation granted in 2011 and 2012 (art. 14).

The Committee urges the State party to take immediate legal and other measures to ensure that victims of torture and ill-treatment obtain redress and have an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible. The Committee requests the State party to provide information on the redress and compensation provided to victims of torture and ill-treatment, especially since 2011.

(...)

29. The Committee requests the State party to provide, by 22 November 2014, follow-up information in response to the Committee's recommendations related to (a) strengthening legal safeguards for persons who are deprived of their liberty, (b) conducting prompt, impartial and effective investigations into all reports of torture or ill-treatment, and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as contained in paragraphs 8 and 18 of the present concluding observations. In addition, the Committee requests follow-up information on remedies and redress provided to victims of torture and ill-treatment, as contained in paragraph 21, and on protection for asylum seekers, as contained in paragraph 13 of the present concluding observations.

(...)
