



International
Labour
Office



THE STATE OF APPLICATION OF THE PROVISIONS
FOR SOCIAL SECURITY OF THE INTERNATIONAL
TREATIES ON SOCIAL RIGHTS RATIFIED BY

Poland

ILO
TECHNICAL
NOTE

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

List of international abbreviations:

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

CHAPTER I. Country profile: adequacy of social security benefits, income and poverty indicators. Determination of the Standard Reference Wage used for calculating the replacement level of benefits

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Country profile by national indicators and minimum standards of social security

Table 1. Eurostat indicators	2006	2010	2013	2014
At-risk-of-poverty threshold (40%, single person)	€1,245	€1,762	€2,066	€2,135
At-risk-of-poverty threshold (50%, single person)	€1,556	€2,203	€2,582	€2,668
At-risk-of-poverty threshold (60%, single person)	€1,867	€2,643	€3,098	€3,202
At-risk-of-poverty rate –(40%, of median equivalised income)	7.4%	5.6%	5.7%	5.6%
At-risk-of-poverty rate –(50%, of median equivalised income)	12.2%	10.5%	10.6%	10.5%
At-risk-of-poverty rate after social transfers –(60%, of median equivalised income)	19.1%	17.7%	17.1%	16.8%
At-risk-of-poverty rate before social transfers, pensions excluded –(60%, of median equivalised income)	28.6%	24.4%	23.0%	23.1%
At-risk-of-poverty rate for pensioners –(60%, of median equivalised income)	6.8%	12.8%	11.1%	10.6%
Persistent at-risk-of-poverty rate –(60%, of median equivalised income)		10.5%	9.0%	10.7%
Aggregate replacement ratio	0.59	0.57	0.60	0.63
Severe material deprivation (% of total population)	27.6%	14.2%	11.9%	10.4%
Gini coefficient	33.3	31.1	30.7	30.8

Table 2. National indicators of guaranteed minimum resources. MISSOC (2015)	
Level of sufficient income (single person)	PLN 542 (€129)
Level of sufficient income (household)	PLN 456 (€109)
Minimum benefit for persons/families without sufficient income	PLN 20 (€4.77)
Maximum benefit for persons/families without sufficient income	PLN 418 (€100)

Table 3. MISSOC (2015)

Social Security branch	Compensation rate/Level of benefit	Qualifying period
Sickness benefit	100% of reference wage	Compulsory insurance: 30 calendar days of uninterrupted sickness insurance. Voluntary membership: 90 calendar days of uninterrupted sickness insurance.
Unemployment benefit	Unemployment Allowance is paid monthly as a percentage of the Basic Unemployment Allowance: 1 to 5 years of work: 80% 5 to 20 years: 100% 20 years and more: 120% Basic Unemployment Allowance: PLN 831.10 (€198) per month for a period of three months, PLN 652.60 (€156) thereafter.	At least 365 calendar days of paid employment during the 18 months preceding the day of registration
Old-age benefit	Minimum pension: PLN 880.45 (€210) per month	Men 25 years, women 20 years of contributory and non-contributory periods.
Employment injury benefit	100% of reference wage	No qualifying conditions
Family benefit	The monthly amounts per child depend on the age: under 5 years: PLN 77 (€18) 5 - 18 years: PLN 106 (€25) 18 - 24 years: PLN 115 (€27) Child-raising allowance: PLN 400 (€95) per month	Income tested
Maternity benefit	100% of the reference wage	No qualifying conditions.
Invalidity benefit	Min pension: Total incapacity - PLN 880.45 (€210) per month. Partial incapacity - PLN 675.13 (€161) per month.	Age – Minimum insurance period * less than 20 years: 1 year * 20 - 22 years: 2 years * 22 - 25 years: 3 years * 25 - 30 years: 4 years * 30 years and more: 5 years included in the 10 years immediately preceding the occurrence of the insured risk.
Survivor's benefit	Survivors' Pension amount as a percentage of the old-age or invalidity pension to which the deceased was or would have been entitled: * one person: 85% * two persons: 90% * three or more persons: 95% - divided equally among all recipients. Minimum pension is PLN 880.45 (€210) per month.	

Table 4. ISSA (2014)

Base amount		3,191.93 zlotys	
Average monthly earnings		3,713 zlotys	
Social Security branch	Min amount of benefits	RR	Qualifying conditions
Sickness benefit		80% of the insured's average earnings (70% for hospitalization) in the 12 months before the incapacity began	Insured employment with at least 30 days of continuous coverage; 30 days of continuous coverage for the voluntarily insured
Unemployment benefit	The flat-rate base amount is 823.60 zlotys (first 3 months); thereafter, 646.70 zlotys a month	A flat-rate base amount is paid for those with five to 20 years of employment; 80% of the base amount with less than five years; and 120% of the base amount with more than 20 years	Earnings must have been at least equal to the minimum wage during at least 365 days in the 18-month period before unemployment
Old-age benefit	844.45 zlotys	Sum of 24% of the base amount, 1.3% of the insured's earnings multiplied by the number of contribution years, and 0.7% of the insured's earnings multiplied by the number of eligible noncontributory years	Age 65 (gradually rising by one month in January, May, and September each year until reaching age 67 in 2020) with at least 25 years of coverage (men) or age 60 (gradually rising by one month in January, May, and September each year until reaching age 67 in 2040) with at least 21 years of coverage (women, gradually rising to 25 years by 2022).
Family benefit	Family allowances (means tested): The amount paid depends on the child's age: up to 77 zlotys for a child up to age 5; up to 106 zlotys if aged 6 to 18; up to 115 zlotys if aged 19 to 24. Childbirth lump-sum aid (means tested): 1,000 zlotys is paid for each child. Nursing allowance (means tested): 153 zlotys a month is paid. Nursing benefit (means tested): 620 zlotys a month is paid.		Means tested
Maternity benefit		100% of the insured's average earnings in the last 12 months is paid for 20 weeks	no minimum qualifying period
Employment Injury benefit		100% of the insured's average earnings in the 12 months before the disability began	no minimum qualifying period
Invalidity benefit		Sum of 24% of the base amount, 1.3% of the insured's earnings multiplied by the number of contribution years, 0.7% of the insured's	At least five years of coverage (one to four years if younger than age 30) during the last 10 years, or a total of 25 years (men) or 21 years (women, gradually rising to 25 years by

	844.45 zlotys	earnings multiplied by the number of eligible noncontributory years (for example, for years spent raising children), and 0.7% of the insured's earnings multiplied by the number of projected years needed to give a maximum of 25 years of coverage from the day of the claim up to age 60	2022) of coverage
Survivor's benefit	844.45 zlotys	85% of the old-age or disability pension the deceased received or was entitled to receive is paid for one survivor; 90% is split equally between two survivors; and 95% for three or more	Widow(er) aged 50 or older at the time of the insured's death, incapable of work, raising a child younger than age 16 (age 18 if a student), or caring for a child with a disability that began before age 16 (age 25 if a student); a divorced spouse entitled to alimony who meets the requirements for a widow(er); dependent children younger than age 16 (age 25 if a student, no limit if disabled before age 16 or age 25 if a student); and dependent parents who meet the requirements for a widow(er)

Exchange rate: US\$1.00 = 3.01 zlotys

Table 5. Government report (2016)

<i>base amount (BA)</i>	PLN 3,191.93 (applicable in QIV 2014)
<i>Old-Age benefit</i>	Retirement age: 67 years
<i>Family benefit (care benefit)</i>	The benefit amount has risen from PLN 520 (applicable in 2011) to PLN 1,300.
<i>Maternity benefit</i>	Maternity leave is payable in 100% of the basic benefit amount, paternity leave is due in 60% of such basic benefit amount. Maximum – 26 weeks. Additional maternity leave: the monthly maternity benefit amounts to 80% of the basic benefit value paid for the whole period covering the maternity leave. Minimum maternity benefit: PLN 1,000 (equals to paternity benefit).
<i>Family benefit for the first and second child (FB)</i>	PLN 183 (in the family with two children one is below 5 years of age, and the second is in the age between 5 and 18): PLN 77 + PLN 106)
<i>Min retirement pension</i>	PLN 844.45 (from 1.03.2014 to 28.02.2015)
<i>Min invalidity pension (total disability)</i>	PLN 844.45 (from 1.03.2014 to 28.02.2015)
<i>Min survivors' pension</i>	PLN 844.45 (from 1.03.2014 to 28.02.2015)
<i>Min invalidity pension (partial disability)</i>	PLN 648.13 (from 1.03.2014 to 28.02.2015)
<i>Min invalidity pension (total disability to work) due to an accident and accident-induced survivors' pension</i>	PLN 1,013.34 (from 1.03.2014 to 28.02.2015)
<i>Min invalidity pension (partial disability) due to an accident</i>	PLN 777.76 (from 1.03.2014 to 28.02.2015)
<i>Old-age benefit (Standard Beneficiary)</i>	PLN 2,322.13 (30 years of contributions) The amount of the retirement pension under new rules, upon its granting (December 2014), equals PLN 2,459.47
<i>Invalidity benefit (total disability, SB)</i>	PLN 1,728.43
<i>Survivor's benefit (SB)</i>	PLN 1,655.27

Fig. 1. Article 65: Type of social security schemes and method of benefit calculation

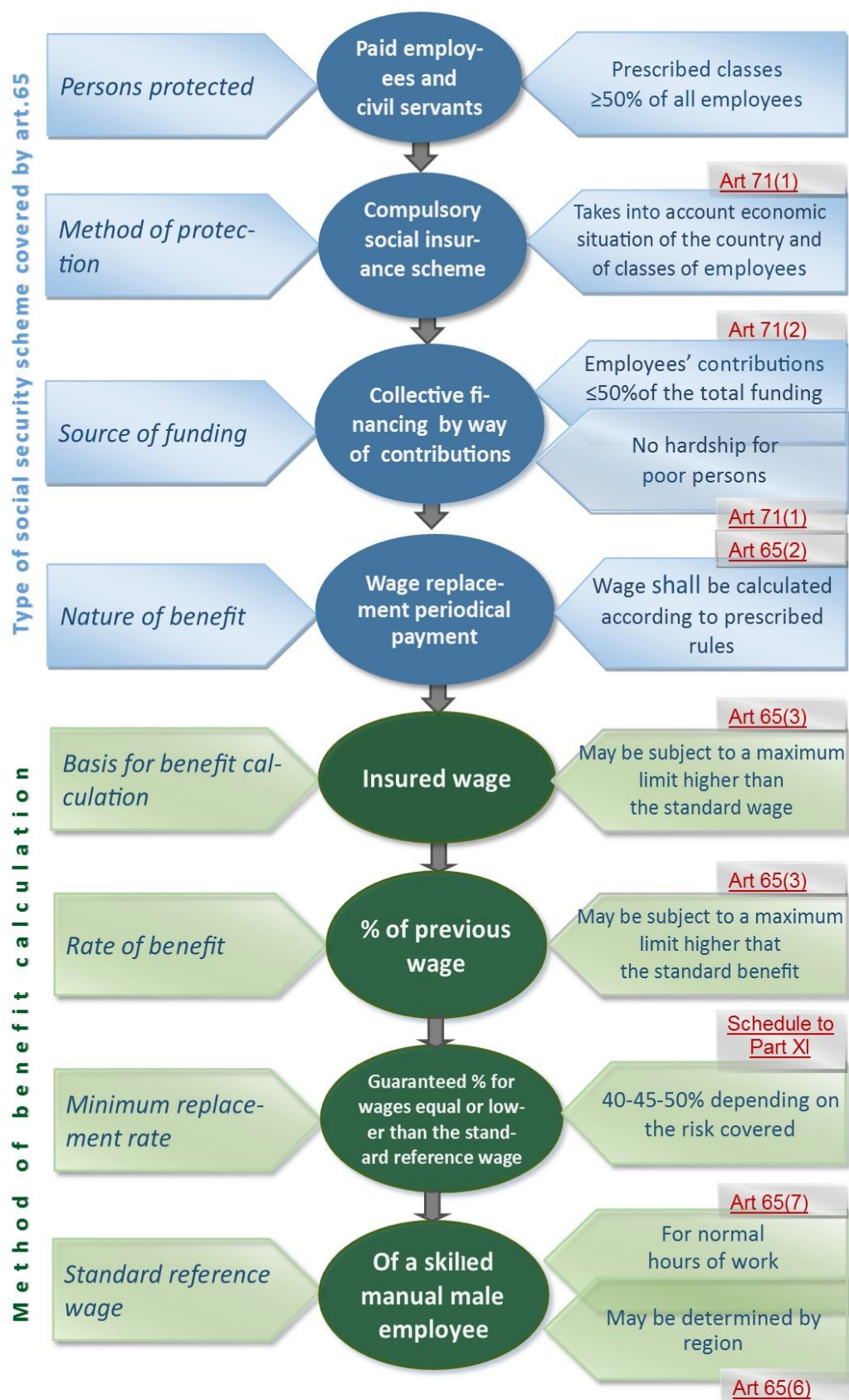


Fig. 2. Article 66: Type of social security schemes and method of benefit calculation

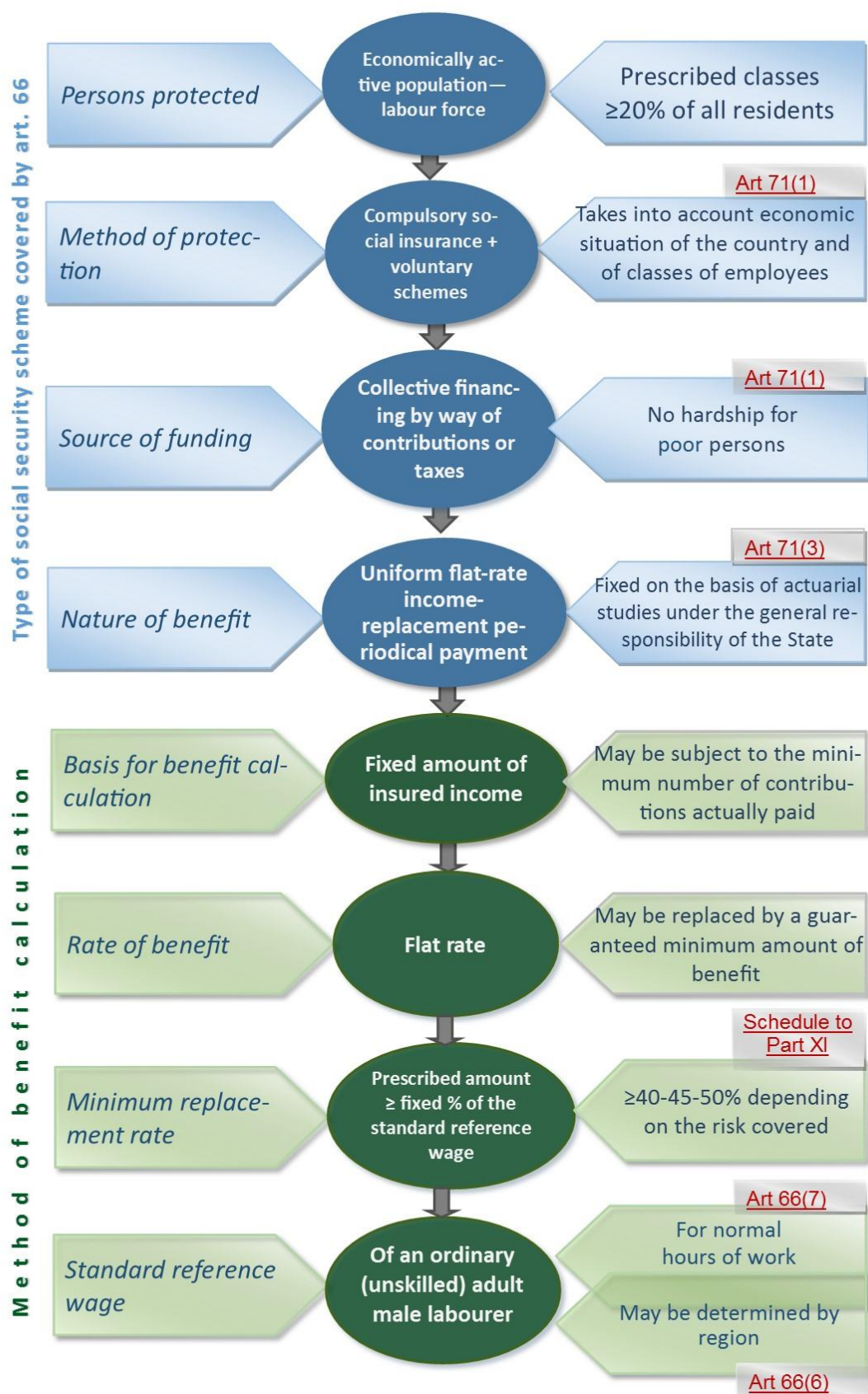


Fig. 3. Article 67: Type of social security schemes and method of benefit calculation

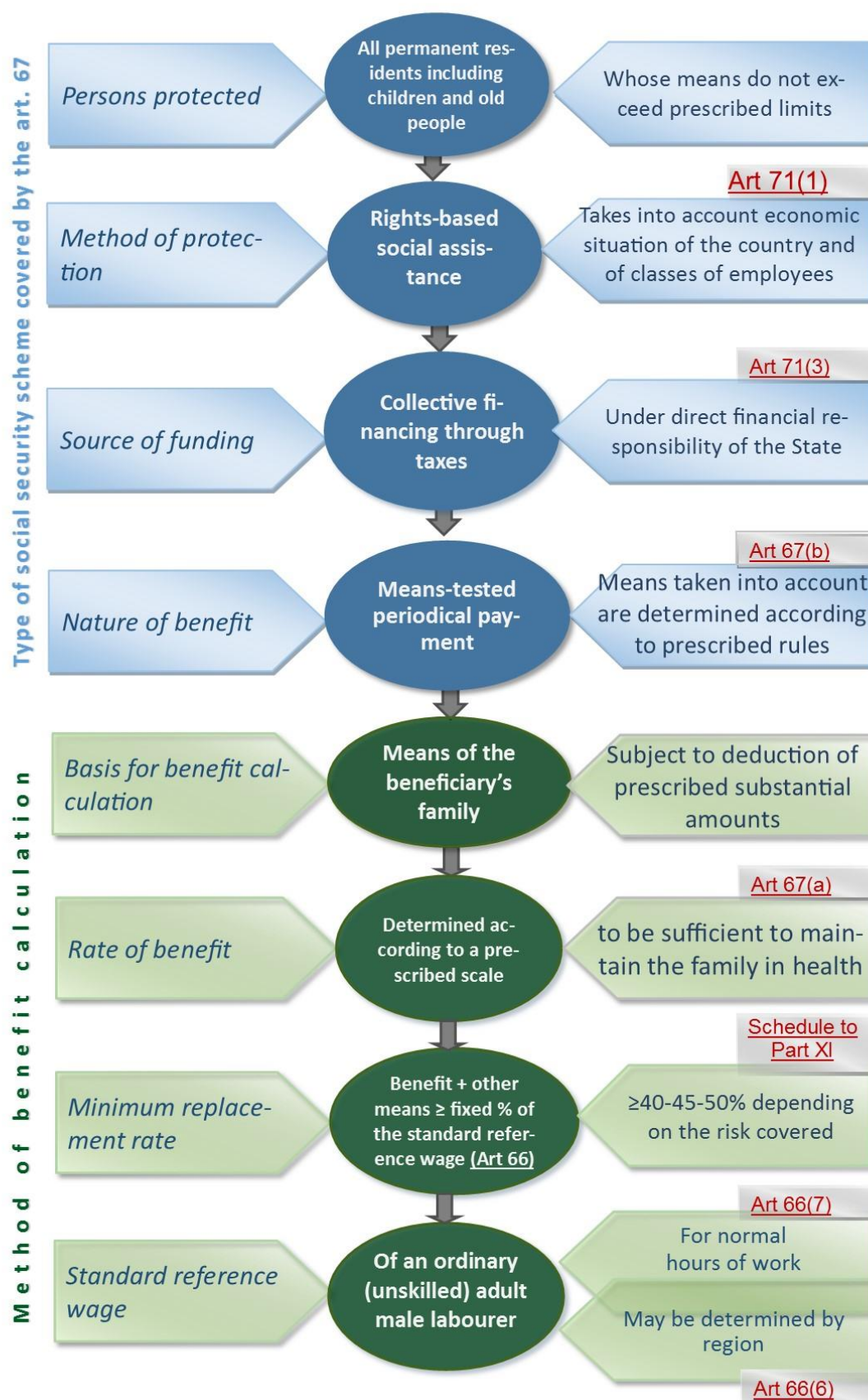


Table 6. Calculation of the reference wage under all options permitted by Articles 65-66 of the C102

Articles in the ECSS/C.102		Comments	Reference wage: amount	
			ILO calculations ¹ -2010	Government ²
Article 65 (para 6): a skilled manual male employee				
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	occupations of fitter and turner can be found among skilled employees of ISCO 08 ³ (group 7)	N/A	
Option 2	Art.65 (6)b: a person deemed typical of skilled labour	a skilled employee of the ISIC rev.4 ⁴ group with the highest number of male employees: typical skilled male worker in manufacturing	643 euros	
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	in countries where all employees are protected average wage is normally used	1005 euros	
Article 66 (para 4): an ordinary manual male labourer				
Option 4	Art.66 (4)a: a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	an employee of the ISIC rev.4 Manufacture of machinery (2-digit level of the classification: ISIC Rev.4 Section C. Manufacturing, code 28)	N/A	
Option 5	Art.66 (4)b: a person deemed typical of unskilled labour	an unskilled employee of the ISIC rev.4 group with the highest number of male employees: typical unskilled male worker in manufacturing	563 euros	

* Gross wages are used unless stated otherwise

¹ ILO calculations based on EUROSTAT data from Labour Force Survey - LFS-2013 and SES-2010 (see detailed information further)

² Reference wage reported by the Government on the application of ECSS and C.102

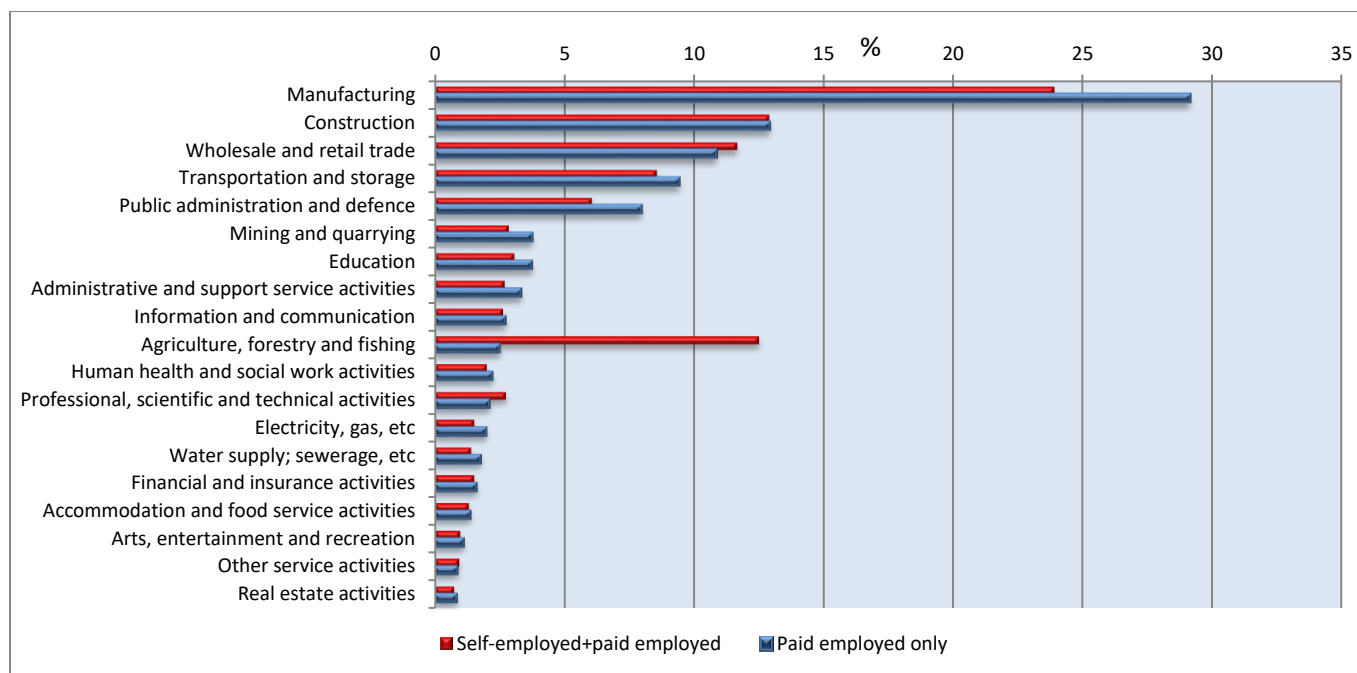
³ ISCO 08 – International Standard Classification of Occupations 2008 (detailed explanation to follow) <http://www.ilo.org/public/english/bureau/stat/isco/isco08/>

⁴ ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008
<http://unstats.un.org/unsd/cr/registry/isic-4.asp>

ILO assessment of the options offered by articles 65-66:

OPTION 2 - a typical manual male employee is found in the sector with the highest number of employed males = Manufacturing

Fig. 4. Share of employed males by economic activity in total male employment and share of males in paid employment by economic activity in total number of males in paid employment (ISIC rev.4, 2013, LFS)



Source: Eurostat LFS - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_egaps&lang=en

Fig. 5. The average wages of a typical skilled/unskilled manual male employee are determined by cross-tabulating of the two classifications:

- ISCO 08 – International Standard Classification of Occupations (group 7- skilled and 9 – ordinary)
- ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

		ISCO 08		
ISIC rev.4	ISCO 08	Total	7. Craft and related trades workers	9. Elementary occupations
	Total			
	...			
	C. Manufacturing		skilled	unskilled
	...			

ISCO 08:

ISCO 08: Major group 7

Craft and related trades workers apply their specific knowledge and skills to produce or process goods. The tasks call for an understanding of all stages of the production process, the materials and tools used and the nature and purpose of the final product. Most occupations in this group **require skills** at the second ISCO level.

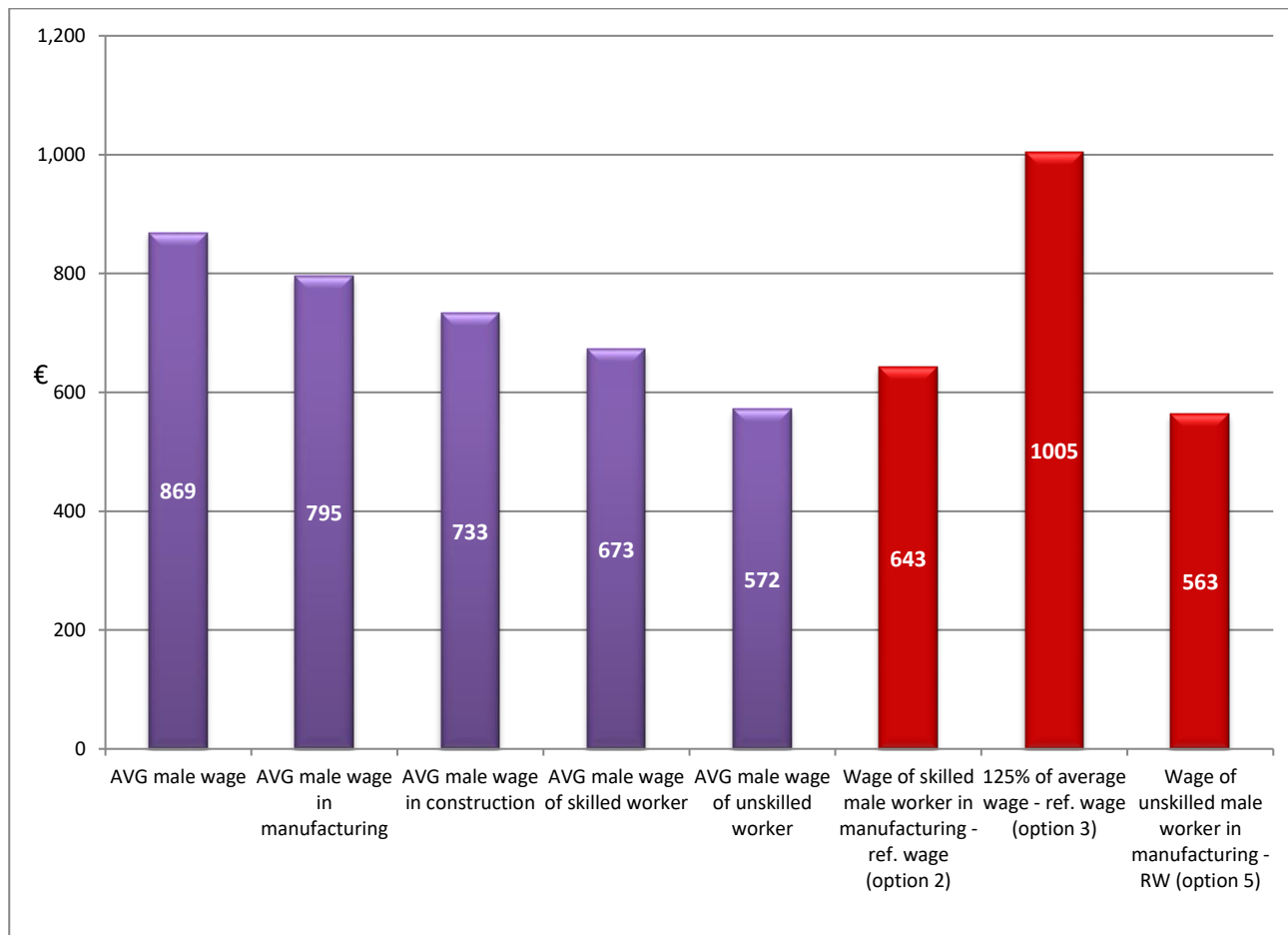
The work is carried out by hand and by hand-powered and other tools.

ISCO 08: Major group 9

Elementary occupations involve the performance of simple and routine tasks which may require the use of hand-held tools and considerable physical effort.

Most occupations in this major group require skills at first level of ISCO (involve physical and manual tasks, require only primary education at most)

Fig. 6. Comparison of the reported reference wage to other wage indicators in Poland, 2010, euros



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en for option 3 – 125% of average wage (include both full-time and part-time employees)

CHAPTER II. Integrated Management of compliance and reporting obligations of Poland under social security provisions of the ratified international treaties on social rights

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- [Table 2. Pending comments of the supervisory bodies](#)
- [Table 3. Up-to-date standards on which reports are due in 2016](#)
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- [Parts of Convention No.102 no longer applicable following ratification of more advanced standards](#)
- [Fig. 1. Example of time management of the 5 years reporting cycle on international and European social security standards](#)
- [Fig. 2. Example of time management for reporting on social security standards](#)

Table 1. Up-to-date social security standards in force

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC	Art.11, Art.13§1		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, Art.13§1 Art. 14§1, Art 13§2, §3	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121 Art.19-21,C128 Part V, C130 Part III, C168 Art.15,16	C121 Art.22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025 C056	C044	C035 C036	C012 C017 C018 C042		C003 C103	C037 C038	C039 C040		C24 Art.6-8, C25 Art.6-8, C35Art.8-11, C37Art.11-12, C39, Art.13-14 C44 Art.10



Social Security Standards in force for Poland



Social Security Standards not in force

Table 2. Pending comments of the supervisory bodies

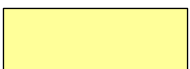
Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC	Art.11, Art.13§1		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, Art.13§1 Art. 14§1, Art 13§2, §3	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121 Art.19-21, C128 Part V, C130 Part III, C168 Art.15,16	C121 Art.22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025 C056	C044	C035 C036	C012 C017 C018 C042		C003 C103	C037 C038	C039 C040		C24 Art.6-8, C25 Art.6-8, C35 Art.8-11, C37 Art.11-12, C39, Art.13-14 C44 Art.10



Social Security Standards in force for Poland



Social Security Standards not in force



Pending comments of the supervisory bodies



Critical comments or non-compliance

Table 3. Up-to-date standards on which reports are due in 2016

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC	Art.11, Art.13§1		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, Art.13§1 Art. 14§1, Art 13§2, §3	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121 Art.19-21, C128 Part V, C130 Part III, C168 Art.15,16	C121 Art.22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025	C044	C035 C036	C012 C017 C042		C003	C037 C038	C039 C040		C35 Art.8-11, C37 Art.11-12, C39, Art.13-14 C24 Art.6-8, C25 Art.6-8, C44 Art.10
		C056			C018		C103				



Social Security Standards in force for Poland



Social Security Standards not in force



Report in 2016

Table 4. Up-to-date standards on which reports are due in 2018

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC	Art.11, Art.13§1		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, Art.13§1 Art. 14§1, Art 13§2, §3	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121 Art.19-21, C128 Part V, C130 Part III, C168 Art.15,16	C121 Art.22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025 C056	C044	C035 C036	C012 C017 C018 C042		C003 C103	C037 C038	C039 C040		C24 Art.6-8, C25 Art.6-8, C35 Art.8-11, C37 Art.11-12, C39, Art.13-14 C44 Art.10



Social Security Standards in force for Poland

Report in 2018



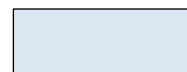
Social Security Standards not in force

Table 5. Up-to-date standards on which reports are due in 2021

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC	Art.11, Art.13§1		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, Art.13§1 Art. 14§1, Art 13§2, §3	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121 Art.19-21, C128 Part V, C130 Part III, C168 Art.15,16	C121 Art.22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025 C056	C044	C035 C036	C012 C017 C042 C018		C003 C103	C037 C038	C039 C040		C35 Art.8-11, C37 Art.11-12, C39, Art.13-14 C24 Art.6-8, C25 Art.6-8, C44 Art.10



Social Security Standards in force for Poland



Social Security Standards not in force



Report in 2021

Parts of Convention No.102 no longer applicable following ratification of more advanced standards

C102 - Social Security (Minimum Standards)

Article 75

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

C121 - Employment Injury Benefits → C102, Part IV

Article 29

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention

C128 - Invalidity, Old-Age and Survivors' Benefits → C102, Parts V, IX, X

Article 45

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

C130 - Medical Care and Sickness Benefits → C102, Part III

Article 36

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part III of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 3 is in force.
2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 3 is in force, be deemed to constitute acceptance of the obligations of Part III of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

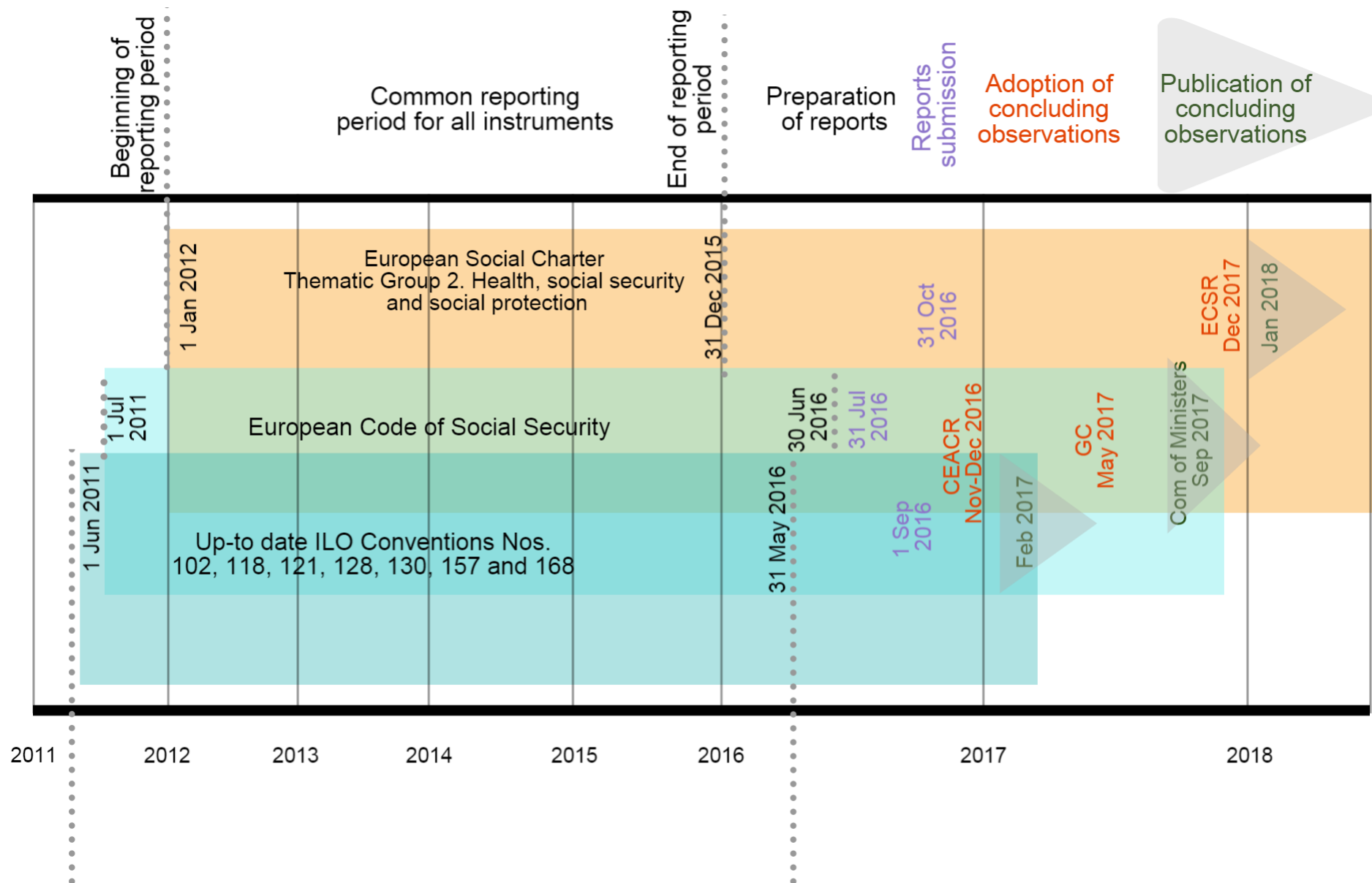
C130, Part II → C102, Part II

N.B! For information and reporting purposes, more advanced provisions on medical care contained in C130 include all those contained in Part II of C102.

C168 → C102, Part IV

N.B! For information and reporting purposes, more advanced provisions on unemployment benefit of C168 include those contained in Part IV of C102.

Fig. 1. Example of time management of the 5 years reporting cycle on international and European social security standards



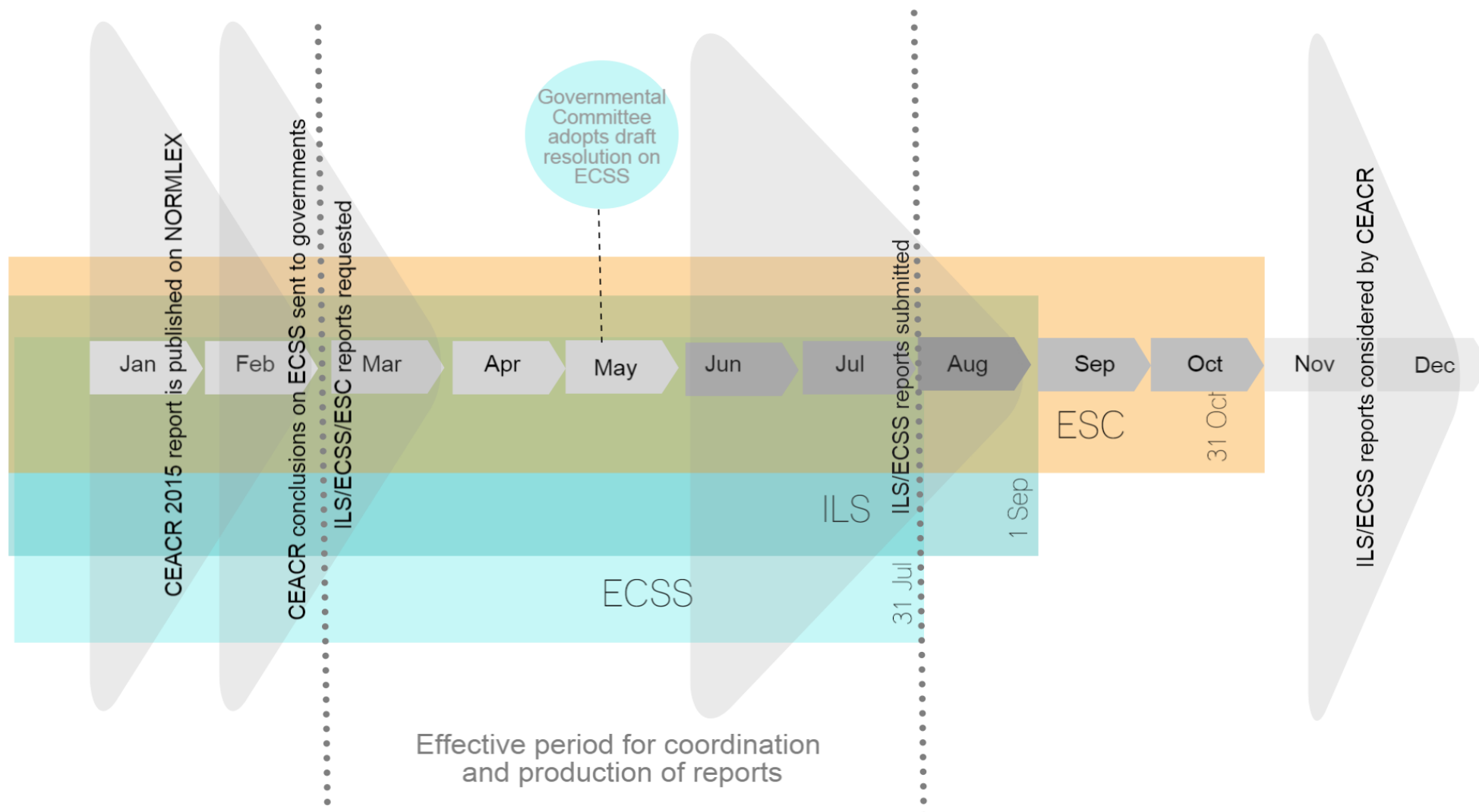


Fig. 2. Example of time management for reporting on social security standards

Chapter III. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

- [Table 1. International treaties on social rights ratified by Poland](#)
- [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)

1. [**United Nations**](#)

- [International Covenant on Economic, Social and Cultural Rights](#)
- [Convention on the Rights of the Child](#)
- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [Convention on the Right of Persons with Disabilities](#)

2. [**Council of Europe**](#)

- [European Social Charter](#)

3. [**International Labour Organization**](#)

- [Social Security \(Minimum Standards\) Convention, 1952 \(No.102\)](#)
- [Workmen's Compensation \(Occupational Diseases\) Convention \(Revised\), 1934 \(No. 42\)](#)

4. [**EU Country-Specific Recommendations**](#)

Table 1. In force international treaties on social rights ratified by Poland

Body	International Treaty	Entry into force for Poland	Next report due on
United Nations	International Covenant on Economic, Social and Cultural Rights	18 Mar 1977	31 Oct 2021
	Convention on the Rights of the Child	7 Jun 1991	06 Jan 2020
	Convention on the Elimination of All Forms of Discrimination against Women	30 Jul 1980	01 Nov 2018
	Convention on the Rights of People with Disabilities	25 Sep 2012	Submitted 24 Sep 2014
Council of Europe	European Code of Social Security		
	European Social Charter	25 Jun 1997	31 Oct 2016
International Labour Organization	Convention 102	03 Dec 2003	1 Jun - 1 Sep 2016
	Convention 103	10 Mar 1976	1 Jun - 1 Sep 2018
	Convention 121		
	Convention 128		
	Convention 130		
	Convention 168		
	Convention 183		
	Convention 012	21 Jun 1924	1 Jun - 1 Sep 2016
	Convention 017	03 Nov 1937	1 Jun - 1 Sep 2016
	Convention 018	03 Nov 1937	-
	Convention 024	29 Sep 1948	1 Jun - 1 Sep 2016
	Convention 025	29 Sep 1948	1 Jun - 1 Sep 2016
	Convention 035	29 Sep 1948	-
	Convention 036	29 Sep 1948	-
	Convention 037	29 Sep 1948	-
	Convention 038	29 Sep 1948	-
	Convention 039	29 Sep 1948	-
	Convention 040	29 Sep 1948	-
	Convention 042	29 Sep 1948	1 Jun - 1 Sep 2016
European Union	Country-Specific Recommendation of 14 July 2015		

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Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations

Instrument	Supervisory body	Type of a State party report/Reporting cycle	Comments of a supervisory body
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child (CRC)	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women (CEDAW)	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities (CRPD)	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security (ECSS)	ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; European Committee on Social Rights (ECSR) ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter (ESC)	European Committee on Social Rights (ECSR) ; Governmental Committee (GC) of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; Conference Committee on the Application of Standards (CAS) .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

1. United Nations

UN Covenant on Economic, Social and Cultural Rights – Concluding observations 2016

[*UN Office of the High Commissioner for Human Rights website link, Treaty bodies database*](#)

C. Principal subjects of concern and recommendations

12. While taking note of the measures adopted by the State party to combat discrimination, the Committee is concerned about persistent societal discrimination against Roma and about the obstacles faced by disadvantaged and marginalized individuals and groups in accessing basic social services and social assistance benefits in the State party (art. 2).

13. The Committee recommends that the State party step up its efforts to promote the full enjoyment of Covenant rights, including to housing, health, social security and education, by Roma and other disadvantaged and marginalized individuals and groups.

Unemployment

16. The Committee is concerned that, despite the decrease in the unemployment rate in the State party, some disadvantaged and marginalized individuals and groups, including young persons, the long-term unemployed and Roma, continue to be disproportionately affected by unemployment (art. 6).

17. The Committee recommends that the State party review its legislation and the various programmes in place for unemployed persons, such as the Act on promoting employment and labour market institutions, the Activation and Integration Programme and the programme for the integration of the Roma community in Poland for the period 2014-2020, in order to determine how access to employment could be improved for target groups. The Committee draws the State party's attention in this respect to its general comment No. 18 (2005) on the right to work.

Just and favourable conditions of work

18. The Committee is concerned about the high rate of temporary contracts, in particular civil law contracts, and the high proportion of low-paid jobs. It is also concerned that civil law contracts may negatively affect the right to just and favourable conditions of work for the workers subject to such contracts. The Committee is further concerned that such workers are not covered by health insurance or social security (arts. 7 and 9).

19. The Committee recommends that the State party:

(a) Take all appropriate measures to progressively reduce the use of temporary employment, including by generating work opportunities that offer job security and fair wages;

(b) Continue to increase the minimum wage to ensure that it provides a decent living for workers and their families;

(c) Ensure that the labour and social security rights of persons with civil law contracts are fully guaranteed in law and in practice.

20. The Committee draws the attention of the State party in this regard to its general comment No. 23 (2016) on the right to just and favourable conditions of work.

Informal economy

21. While noting the measures taken to address the informal economy, the Committee is concerned that it is still a phenomenon of significant scale, particularly in farming, construction and installation services. The Committee is also concerned about the lack of access to basic services and labour and social protection for those working in the informal economy. It is further concerned about the working conditions of migrant workers (art. 7).

22. The Committee urges the State party to take additional measures to:

- (a) Ensure access to basic services and labour and social protection for those working in the informal economy;**
- (b) Empower the National Labour Inspectorate to conduct inspections in all sectors of the economy and increase its resources and capacity;**
- (c) Protect migrant workers from all forms of exploitation and abuse.**

Social security

27. While welcoming the proposal to increase the amounts of disability and retirement pensions in 2017, the Committee is concerned about: (a) the lack of progress towards a unified pension system; (b) the fact that the income criterion for granting social assistance is lower than the minimum subsistence level for most types of families; (c) the number of persons living in extreme poverty who do not receive assistance; and (d) the practical difficulties faced by Roma migrants, including those from European Union countries, and by homeless persons in gaining access to assistance due to the fact that they do not have the required documents (art. 9).

28. The Committee recommends that the State party:

- (a) Adopt measures towards the unification of the pension system, and standardized rules and regulations;**
- (b) Guarantee coverage and appropriate benefits for all workers and non-contributory benefits for all disadvantaged and marginalized individuals and families so that they may enjoy an adequate standard of living;**
- (c) Calculate social assistance benefits on the basis of an accurate poverty assessment;**
- (d) Address the practical difficulties faced by disadvantaged and marginalized individuals and groups in seeking and receiving assistance.**

29. The Committee draws the attention of the State party to its general comment No. 19 (2007) on the right to social security.

Childcare

32. While welcoming the implementation of the “Family 500 plus” programme and the efforts to increase the number of childcare facilities, the Committee notes with concern that the number of such facilities, particularly for children under the age of 3, remains inadequate (art. 10).

33. The Committee recommends that the State party intensify its efforts to ensure the availability, accessibility and affordability of childcare services, in particular for children up to the age of 3.

Poverty

34. While taking note of the measures deployed by the State party to address poverty, the Committee remains concerned about the high incidence of poverty and extreme poverty, in

particular among children, families with three or more children and disadvantaged and marginalized individuals and groups (art. 11).

35. The Committee recommends that the State party step up its efforts to guarantee targeted support to all persons living in poverty or at risk of poverty, in particular children, families with three or more children, the unemployed, pensioners, farmers, migrants, Roma, including those from European Union countries, and other individuals and groups who are discriminated against and marginalized, including the homeless, who are not in receipt of social benefits. The Committee draws the State party's attention in this regard to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

Housing

36. The Committee is concerned about the significant housing shortage, including the lack of social housing, affordable housing and emergency shelters in the country. The Committee is also concerned about: (a) the shortage of vacant municipal premises and lack of funding for the construction of new houses; (b) the significant proportion of the population living in overcrowded apartments; (c) the waiting list for social housing, which can extend to seven years; and (d) evicted persons who are not offered alternative accommodation but are relocated to shelters for the homeless (art. 11).

37. The Committee recommends that the State party step up its efforts to:

(a) Prioritize housing policy, address the housing shortage, improve the quality of housing and take all measures necessary to provide affordable housing units and social housing units, especially for disadvantaged and marginalized individuals and groups;

(b) Facilitate access to social housing for Roma, encourage legal security of tenure for those living in informal settlements, and improve living conditions therein by ensuring access to basic services, in genuine consultation with the affected communities and individuals concerned;

(c) Take effective measures to end segregation of Roma communities and prevent acts of discrimination against those who wish to buy or rent housing outside their segregated settlements;

(d) Consult with affected communities and individuals throughout eviction procedures, afford due process guarantees and provide those affected with alternative accommodation or compensation enabling them to acquire adequate accommodation.

38. The Committee draws the attention of the State party to its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.

Malnutrition and the right to adequate food

39. While noting the programmes to reduce malnutrition in the State party, the Committee is concerned about food insecurity and the worrying malnutrition rates, particularly among disadvantaged or low-income families with children and in rural areas.

40. The Committee recommends that the State party:

(a) Step up its efforts to address food insecurity and malnutrition among disadvantaged and marginalized individuals and groups, particularly among persons living in poverty or at risk of poverty, and promote healthier diets;

(b) Refer to the Committee's general comment No. 12 (1999) on the right to adequate food and the Voluntary Guidelines to Support the Progressive Realization of the Right to

Adequate Food in the Context of National Food Security, adopted by the Food and Agriculture Organization of the United Nations.

Child nutrition and obesity

41. The Committee is concerned about the increase in child obesity rates and the low rates of breastfeeding, particularly among infants between 2 and 6 months of age (art. 11).

42. The Committee recommends that the State party:

(a) Introduce higher taxes on junk food and sugary drinks and consider adopting strict legislation on the marketing of such products, especially in schools and recreational areas, while ensuring improved access to healthy diets;

(b) Enhance measures to support breastfeeding, including breastfeeding breaks or breastfeeding facilities in workplaces and public places;

(c) Regularly collect disaggregated data on infant and young child feeding methods, including breastfeeding, and implement fully the International Code of Marketing of Breast-milk Substitutes.

Access to health services

43. While taking note of the efforts made by the State party to improve public health services, the Committee is concerned about: (a) the inadequate access to medical services, including lack of access to the basic medical services of the public health-care insurance system and the long waiting periods; (b) the low quality of certain medical services; (c) the lack of adequate geriatric health care; and (d) the uneven access to cardiology and diabetology services among regions.

44. The Committee recommends that the State party:

(a) Intensify its efforts to ensure that adequate health-care services are available and accessible for everyone, including by conducting a comprehensive public-health needs assessment, allocating adequate funding, securing a sufficient number of qualified medical professionals and expanding the coverage of its services;

(b) Ensure that disadvantaged and marginalized individuals and groups have access to all basic health-care services.

45. The Committee draws the State party's attention in this regard to its general comment No. 14 (2000) on the right to the highest attainable standard of health.

Sexual and reproductive health

46. The Committee is concerned about the high number of unsafe abortions performed in the State party and about the many obstacles to gaining access to safe and legal abortions. It is also concerned about the extremely restrictive legislation in the State party, as well as the "stop abortion" bill, under discussion in Parliament at the time of the dialogue, which contains a proposal to even further restrict conditions for obtaining an abortion. The Committee is further concerned that, as a result of the judgment delivered by the Constitutional Court on 7 October 2015 (case No. K 12/14), neither medical practitioners invoking conscientious objection grounds to refuse to perform an abortion, nor the institution concerned, are under a duty to refer the woman seeking an abortion to another service, thus further limiting access to safe and legal abortions (art. 12).

47. The Committee recommends that the State party:

- (a) Ensure that safe and legal abortion services can be accessed in practice, take effective measures to prevent unsafe abortions and provide post-abortion care and counselling for those who require it;**
- (b) Immediately establish and regulate an effective referral mechanism in cases where conscientious objection by medical practitioners is exercised;**
- (c) Reconsider the “stop abortion” bill, since it is not compatible with other fundamental rights, such as the woman ’ s right to health and life, and it is not consistent with the dignity of women.**

48.The Committee is concerned about the difficulties faced by women and adolescents in accessing sexual and reproductive health services and obtaining contraceptives, including the need for parental consent for adolescents under 18 years of age to access gynaecological services.

49. The Committee calls upon the State party to:

- (a) Ensure access to sexual and reproductive health services and information and to affordable, safe and effective contraceptives, for everyone;**
- (b) Promote comprehensive and age-appropriate sexual and reproductive education for both sexes in schools and informal settings;**
- (c) Take into account the recommendations made by Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health following his mission to Poland (see A/HRC/14/20/Add.3, para. 85).**

50. The Committee draws the State party ’ s attention in this regard to its general comment No. 22 (2016) on the right to sexual and reproductive health.

Mental health

51.While taking note of the measures adopted by the State party, the Committee is concerned about the lack of adequate funding for mental health institutions and services, the inadequacy of judicial supervision over admittance and stay in psychiatric institutions, and individuals with psychosocial disabilities who serve their sentences in prisons (art. 12).

52. The Committee calls on the State party to:

- (a) Increase the provision of financial and human resources for mental health services, in order to ensure their adequate functioning;**
- (b) Guarantee full respect for the human rights of patients in psychiatric institutions, including through independent and effective monitoring of treatment and through effective judicial review of orders for confinement to psychiatric institutions;**
- (c) Ensure that treatment is provided on the basis of free and informed consent;**
- (d) Promote alternative forms of mental health treatment, including outpatient treatment.**

Drug policy and the right to health

53.The Committee is concerned about the insufficiency of opioid substitution therapies for treatment of heroin users, especially in prisons, the high prevalence of AIDS and hepatitis C in drug injection users and the decrease in clean-syringe exchange programmes, and that the criminalization of possession of very small amounts of drugs makes it difficult for people to receive necessary substitution treatment or gain access to harm reduction programmes for fear of criminalization (art. 12).

54. The Committee recommends that the State party expand opioid substitution therapies for the population concerned, reinforce harm reduction programmes, especially the clean-syringe exchange programmes, and reconsider the criminalization of possession of small amounts of drugs.

D. Other recommendations

63. The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).

Convention on the Rights of the Child – Concluding observations 2015

[*UN OHCHR website link, Treaty bodies database*](#)

III. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44 (6))

Comprehensive policy and strategy

8. The Committee notes that the Human Capital Development Strategy 2020 addresses certain issues relevant to children. However, the Committee is concerned that:

(a) Measures adopted under the Strategy do not encompass all the areas covered by the Convention;

(b) Some measures are not fully in compliance with the Convention, including the development of child-care institutions for children under the age of 3.

9. The Committee recommends that the State party:

(a) Develop a comprehensive policy on children that encompasses all areas covered by the Convention and, on the basis of the policy, develop a strategy with the appropriate elements for its application and ensure that it is supported by sufficient human, technical and financial resources;

(b) Ensure that such policy and strategy are fully in line with the Convention;

(c) Ensure consultations with all stakeholders, including children, to develop such policy and strategy and to regularly assess the effectiveness of their implementation.

Coordination

10. The Committee notes that the Ministry of Labour and Social Policy was mandated in 2014 to oversee the consistency of national laws, policies and programmes relevant to the Convention. However, the Committee is concerned that there is no coordination mechanism across ministries and between the national and local levels to ensure effective implementation of the Convention.

11. The Committee recommends that the State party establish an appropriate institutional mechanism at a high interministerial level, with a clear mandate and sufficient authority to coordinate all activities relating to the implementation of the Convention at the cross-sectoral, national, regional and local levels. The State party should ensure that said coordinating mechanism is provided with the necessary human, technical and financial resources for its effective operation.

Allocation of resources

12. The Committee is concerned that there is no system to identify budget allocations and spending on children by specific ministries to enable the assessment of the adequacy and effectiveness of public expenditure for children.

13. The Committee recommends that the State party:

(a) Establish a budgeting process that includes a child rights perspective and specifies clear allocations for children in the relevant sectors and agencies, as well as specific indicators and a tracking system;

(b) Establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention;

(c) Ensure transparent and participatory budgeting through public dialogue, especially with children, and proper accountability of the authorities, including at the local level.

Data collection

14. While noting with appreciation the system of data collection in the State party, the Committee remains concerned that the national data collection system does not encompass all areas of the Convention, and that there is a scarcity of disaggregated data on children under the age of 5 years as well as on children in the justice system, including child victims and witnesses.

15. In the light of its general comment No. 5 (2003) on general measures of implementation, the Committee recommends that the State party:

(a) Improve its data collection system to cover all areas of the Convention and children of all ages and disaggregate the data in order to facilitate analysis on the situation of all children;

(b) Further facilitate the sharing of collected data and analyses thereof among the government institutions concerned as well as with the general public and promote their use for the effective implementation of the Convention.

B. General principles (arts. 2, 3, 6 and 12)

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.

E. Family environment and alternative care (arts. 5, 9-11, 18 (1) and (2), 20-21, 25 and 27 (4))

Children deprived of a family environment

32. The Committee notes that the 2011 Family Support and Foster Care System Act facilitates deinstitutionalization of children deprived of a family environment. However, the Committee is concerned that:

- (a) In 2014, a large number of children under 10 years of age were placed in residential care, including 800 children under the age of 3 years;
- (b) Children with disabilities represent almost half of the children in residential care institutions;
- (c) The Family Support and Foster Care System Act still provides for the development of pre-adoptive centres for children under 1 year of age and regional care and treatment facilities may accommodate up to 45 children deprived of a family environment and with special health needs;
- (d) The progress made to develop family-based foster care is relatively slow, owing to, inter alia, the district level not being sufficiently dedicated to this task;
- (e) In practice, family court judges tend to choose placement of the child in institutional care, rather than prioritize support to the family of origin so that they can keep their children or choose placement in family-based care;
- (f) Restriction of contact with the family of origin is used as a form of punishment for children placed in foster care;
- (g) After a child has been taken into care, his or her parents are not provided with proper support in order to improve their caring capacities;
- (h) Support for social reintegration of children and young people leaving care, including those with disabilities, is insufficient and the lack of adequate housing results in homelessness or permanent placement in residential institutions.

33. Drawing the State party's attention to the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex), the Committee recommends that the State party:

- (a) Urgently reduce placement of children under the age of 3 years in residential - care institutions, including those with disabilities, and expedite placement in family-based care;**
- (b) Seek to prevent the need for alternative care, including for children with disabilities, by further developing the system of support and assistance to families with children;**
- (c) Review and consider amending the Family Support and Foster Care System Act and the Human Capital Development Strategy to abolish pre-adoption centres for children under 1 year of age and avoid large residential - care institutions;**
- (d) Speed up the process of developing family-based care by involving the district level more effectively;**
- (e) Ensure adequate legal safeguards and clear criteria for determining whether a child should be placed in alternative care, taking into consideration the views and best interests of the child, and enforce such criteria by raising awareness among family court judges;**
- (f) Support and monitor regular and appropriate contact between the child and his or her family, provided that it is consistent with the child's best interests, and in particular, prohibit the restriction of such contact as a form of punishment;**
- (g) Provide support and assistance to families whose children have been taken into care so that the children may return to their families if it is in his or her best interests;**
- (h) Strengthen support to children and young people leaving care, including those with disabilities, so as to enable them to reintegrate into society, by providing access to**

adequate housing, legal, health and social services, as well as educational and vocational training opportunities.

F. Disability, basic health and welfare (arts. 6, 18 (3), 23-24, 26, 27 (1)-(3) and 33)

Children with disabilities

34. The Committee is concerned that:

- (a) There is little data, research and analysis on the effectiveness of the implementation of laws and policies on the rights of children with disabilities;
- (b) Despite the progress made in deinstitutionalization, many children with disabilities still live in institutions, owing to, inter alia, a fragmented system of social assistance, which does not sufficiently encourage and support families to keep their children at home, nor is it comprehensive enough to support children's autonomy and active participation in public life throughout the course of their life;
- (c) Parents may decide that a child with disabilities will not attend inclusive education, resulting in a large proportion of children with disabilities still attending to special schools;
- (d) In mainstream schools, funds designated for children with disabilities may be used for other purposes, which makes education less inclusive in those schools.

35. In the light of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:

- (a) Enhance data collection on children with disabilities and conduct studies and analyses on the effectiveness of the implementation of the Convention and existing laws and policies;**
- (b) Reform the system of social assistance for children with disabilities and their families in order to improve its coherence and coordination and avoid unnecessary institutionalization;**
- (c) Guarantee all children with disabilities the right to inclusive education in mainstream schools;**
- (d) Develop a system at the local level to monitor the management of education subsidies dedicated to children with disabilities in order to ensure the provision of reasonable accommodation and support for each child with a disability;**
- (e) Give priority to measures to facilitate full inclusion of children with disabilities, including those with intellectual and psychosocial disabilities, in all areas of public life, such as leisure activities, community-based care and provision of social housing with reasonable accommodation.**

Health and health services

36. The Committee commends the State party on its efforts in the area of children's health, but is concerned that:

- (a) The State party lacks a framework law on public health that ensures consistency and coordination of existing health-related legislations;
- (b) There is a growing number of children with depression and anxiety disorders, as well as a growing number of suicide attempts by children;
- (c) Dental problems is the most widespread health issue among children;
- (d) Both overweight and undernutrition among children appear to be increasing at the same time;

(e) Availability of quality primary and specialized health care, including paediatric care, dental and mental health care for children, is low overall in the State party and even lower in some provinces, and such care is not affordable to all children in the State party;

(f) Access to health and rehabilitation services by children with disabilities is particularly impeded, due to the physical barriers to health service facilities as well as a lack of available services, which results in long waiting times to receive treatments;

(g) The law of the State party provides for free medical care for Polish nationals, but this does not extend to Roma children living in poverty, who have difficulty accessing timely and quality medical care.

37. The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health and recommends that the State party:

(a) Consider developing a framework law and a comprehensive policy on public health, taking into consideration the right of the child to health;

(b) Further raise the awareness of children, parents and teachers on children's mental health issues, continue and strengthen preventive work in schools and care centres, improve the availability of easily accessible services, such as school nurses and counsellors, and further increase the number of child psychologists and psychiatrists;

(c) Continue and strengthen the prophylactic work in the area of dental care and introduce a system of inviting children to go for a dental checkup regularly without the need for parental initiative;

(d) Collect data on child nutrition, covering both under nutrition and over weight, and further develop measures for improved child nutrition, which should include regulations to restrict advertising and marketing of junk, salty, sugary and fatty foods and their availability to children;

(e) Ensure availability of and equal access to quality primary and specialized health care for all children in the State party, including those living in rural areas and those from socially and economically disadvantaged groups;

(f) Integrate the rights of children with disabilities in national laws, policies and other measures aimed at strengthening the national health system in order to ensure their equal access to health-care and rehabilitation services;

(g) Ensure that all children within its jurisdiction, including Roma children, have equal access to free health - care services.

Adolescent health

38. The Committee is concerned that:

(a) The compulsory Family Life Education course in schools (CRC/C/POL/3-4, para 570) does not provide comprehensive, age-appropriate education on sexual and reproductive health;

(b) Adolescent boys and girls face difficulties in accessing sexual and reproductive health services, including modern contraceptives;

(c) Official data and research on the prevalence of illegal and unsafe abortions is lacking;

(d) The strict legal requirements for abortion and the lack of a clear procedure for conducting legal abortions under current legislation, together with social stigma, hinder girls' access to legal abortion.

39. In the light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention, the Committee recommends that the State party:

- (a) Expand the scope of the compulsory Family Life Education course to provide comprehensive, age-appropriate education on sexual and reproductive health, including information on family planning and contraceptives, the dangers of early pregnancy and the prevention and treatment of sexually transmitted diseases;**
- (b) Ensure unimpeded access to sexual and reproductive health services, including confidential counselling and modern contraception for adolescent girls and boys and amend the 1993 Act on family planning, protection of the human foetus and conditions for legal abortion to make the conditions for abortion less restrictive and, in relation to adolescent girls, to reflect the right of the child to express her views and have her best interests taken into consideration ;**
- (c) Establish clear standards for a uniform and non-restrictive interpretation of the conditions for legal abortion and the relevant procedures, including strict implementation of confidentiality of personal information.**

Standard of living

40. The Committee welcomes the measures taken to support families, but is concerned that:

- (a) The number of children facing the risk of poverty has increased in recent years and that the poverty rate for children is highest in all age groups (0-18 years) compared to the rest of the population, with 10 per cent of children facing extreme poverty;**
- (b) Single-parent families, multi-children families (with more than three children) and families with children with disabilities are at a higher risk of experiencing multidimensional poverty;**
- (c) The number of homeless children has increased.**

41. The Committee recommends that the State party set concrete targets to reduce child poverty, in particular to eliminate extreme poverty and child deprivation, with a clear timeline and indicators in relevant policies and programmes, and in doing so:

- (a) Consider holding targeted consultations with families and children, including those in vulnerable situations, and civil society organizations dealing with children's rights on the issue of child poverty, with a view to strengthening the strategies and measures for reducing child poverty;**
- (b) Strengthen the support to children living below the poverty line, in particular single-parent families, families with three or more children and families with children with disabilities, and ensure that social protection measures provide for the real costs of decent living of the children, including expenses relevant to their right to health, a nutritious diet, education, adequate housing, and water and sanitation;**
- (c) Review its legislation, policies and programmes on housing in order to prevent and eliminate homelessness, taking into account the special needs of children, including children with disabilities, their families and children leaving alternative care. Such measures can include the improvement of availability and adequacy of social housing at the municipal level and the provision of temporary emergency shelter for those at risk of homelessness.**

K. Cooperation with regional bodies

64. The Committee recommends that the State party cooperate with the Council of Europe for the implementation of the Convention on the Rights of the Child and other human rights instruments, both in the State party and in other Council of Europe member States.

Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2014

[*UN OHCHR website link, Treaty bodies database*](#)

C. Principal areas of concern and recommendations

18. The Committee is concerned that the National Action Plan for Equal Treatment 2013-2016, which has replaced previous national action plans for women, does not sufficiently address women's rights and their protection from discrimination. The Committee regrets the insufficient information provided regarding the monitoring and impact assessment of the National Action Plan. The Committee notes the inadequate funding of non-governmental organizations for women's rights and their limited involvement in the development and evaluation of the National Action Plan.

19. The Committee recommends that the State party:

(a) Evaluate the extent to which the gender neutrality of the National Action Plan for Equal Treatment fails to address pre-existing gender inequalities (see para. 16 of general recommendation No. 28 on the core obligations of States parties under article 2 of the Convention) and correct this as needed;

(b) Effectively monitor and assess the impact and results achieved in the implementation of the National Action Plan in all parts of the State party, based on time-bound targets and indicators, adjust its priorities, as necessary, in close consultation with non-governmental organizations for women's rights, and on this basis develop the instruments that will be used beyond 2016;

(c) Adequately fund non-governmental organizations for women's rights and increase their involvement in the implementation of the National Action Plan and all other measures, programmes or projects that may be adopted.

Health

36. The Committee reiterates its concern about the high prevalence of abortions, most of which are illegal as a result of the strict legal requirements contained in the 1993 Act on family planning, human foetus protection and preconditions for the admissibility of abortion. The Committee is also concerned about the restrictive application of this law and the extensive use, or abuse, by medical personnel of the conscientious objection clause. It is further concerned about the lack of official data and research on the prevalence of illegal and unsafe abortions in Poland. The Committee notes the efforts to improve the Act on Patient Rights, including a new time limit for acting on complaints, but considers that this will not solve the obstacles that women face when confronted with an unwanted pregnancy. The Committee is also concerned about the limited access to modern contraceptives, including the barriers adolescent girls that may face in accessing information and reproductive health services, including contraception.

37. The Committee recommends that the State party:

(a) Enhance women's access to health care, in particular to sexual and reproductive health services, including by amending the 1993 Act on family planning, human foetus protection and preconditions for the admissibility of abortion, to make the conditions for abortion less restrictive;

(b) Establish clear standards for a uniform and non-restrictive interpretation of the conditions for legal abortion so that women may access it without limitations owing to the excessive use of the so-called conscientious objection clause by doctors and health

institutions and ensure effective remedies for contesting refusals of abortion, within the revision of the Act on Patient Rights;

(c) Mandate, support and finance research, study and data collection, as previously recommended (CEDAW/C/POL/CO/6 , para. 25), on the scope, causes and consequences of unsafe illegal abortion and its impact on women's health and life, in order to obtain evidence-based elements for a revision of the law;

(d) Ensure the accessibility and affordability of modern contraception for women and girls, including women in rural areas, through the reimbursement of modern and efficient methods of contraception by the public health system;

(e) Ensure unimpeded access to reproductive health services and contraception for adolescent girls.

Rural women

38.The Committee takes note of the State party's Rural Development Programme 2007-2013. However, it is concerned that rural women continue to suffer from limited access to health care, education, employment and social services and participation in decision-making processes at the local level.

39. The Committee recommends that the State party develop comprehensive policies and programmes aimed at the economic and political empowerment of rural women and ensure their access to health care, education, employment and social services, as well as facilitate their participation in decision-making processes at the local level, in particular in the boards of voivodeship agricultural chambers, so as to address the high risk of female poverty in rural areas.

Statistical data

44.The Committee regrets the limited availability of statistical data disaggregated by sex, age and by urban and rural areas, which makes it more difficult for the Committee to assess progress and trends over time in the actual situation of women and the enjoyment of their rights in all areas covered by the Convention.

45. The Committee calls upon the State party to enhance its data collection and analysis of such data in all areas covered by the Convention, so as to be able to assess more accurately the actual situation of women and their enjoyment of their human rights, with data disaggregated by sex, age and by urban and rural areas, as applicable, and identify trends over time, including cases of multiple and intersecting forms of discrimination, in order to design and implement targeted policies and programmes for the promotion of gender equality. It also calls upon the State party to monitor, through measurable indicators, the impact of laws, policies and action plans and to evaluate progress achieved towards the realization of women's de facto equality. The Committee requests the State party to include such statistical data and analysis in its next report.

Convention on the Right of Persons with Disabilities

No Concluding Observations yet. Initial State party report was submitted 24 Sep 2014, not yet considered.

2. Council of Europe

European Social Charter

[*Official website of the European Social Charter. link to conclusions*](#)

Article 1 - Right to work – Conclusions 2012

Paragraph 1 - Policy of full employment

Employment situation

The Committee notes from Eurostat that GDP growth rate in Poland decreased from 6.8% in 2007 to 3.9% in 2010, above the EU-27 average (2.0% in 2010). The global financial crisis led to a slowdown in economic activity in Poland, with the rate of real GDP growth dropping to 1,6% in 2009, but stopping short of a recession. In 2010, real GDP growth bounced back to 3.9%.

Despite the crisis, the employment rate increased to 59.3% in 2010 (from 57.0% in 2007). The employment level nevertheless remained below the EU-27 average of 64.1%.

The unemployment rate was quite stable throughout the reference period, standing at 9,6%, both at the beginning and the end, with some decreases in 2008-2009. The rate in 2010 was below the EU-27 average of 9.7%.

Youth unemployment rose from 21.7% in 2007 to 23.7% in 2010. On the contrary, a significant decrease of the long-term unemployment rate (as a percentage of all unemployed persons), was noted, falling from 51.4% in 2007 to 31.1% in 2010 (whereas the EU-27 average was 39.9% in 2010).

The Committee notes that despite a slowdown of the Polish economy during the reference period, GDP growth was still comparatively higher than in other States Party. This was reflected in an increase of the employment level and the keeping of the overall unemployment rate without major increases between 2007-2010.

Employment policy

The Committee notes from another source¹ that the Act on employment promotion and labour market institutions, as well as some other acts, were amended during the reference period with the aim of: focusing the public employment services on professional activation of people at risk of unemployment and social exclusion, supporting employment of people aged over 50 years, improving the situation of young people returning to and for the first time entering the labour market, and giving equal opportunities on the labour market to women and men with a view to reconciling career and family life.

The report states that the Law of 1 July 2009 on the mitigation of the economic crisis for employees and employers was adopted to cope with the global economic crisis. The solutions proposed by this law were developed in consultation with trade unions and employers. The law allowed employers to implement more flexible arrangements regarding working hours better adapted to the economic situation of the company.

The Committee takes note of the labour market programs undertaken at the initiative of the Ministry of Labour and Social Policy addressed to people whose situation on the labour market was particularly difficult (young persons, workers over 50 years, persons becoming redundant as a result of the economic crisis). It also wishes to be kept informed of any policies or measures implemented to increase the employment rate of long-term unemployed persons and women.

More generally, it asks that future reports provide a more specific description of the labour market programmes available to jobseekers, the number of beneficiaries for each type of measure, and their outcome in terms of labour market integration of participants.

The Committee notes from Eurostat that the activation rate in Poland (measured as participants in active measures per 100 persons wanting to work) was 24% in 2009. This was close to the EU-27 average that year, which stood at 28.9%. The Committee thus notes that a considerable number of unemployed persons receive active support in Poland.

According to Eurostat, public expenditure on active labour market policies in Poland amounted to 1.26% of GDP in 2009, which was one of the highest levels among EU-27 countries, where the average public spending on active labour market measures that year was 0.78%.

Finally, the Committee recalls that labour market measures should be targeted, effective and regularly monitored. It asks in this respect whether the employment policies in place are monitored and how their effectiveness is evaluated.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Poland is in conformity with Article 1§1 of the 1961 Charter.

Paragraph 3 - Free placement services

The report recalls that public employment services are free of charge and available to the unemployed, persons seeking for a job, employers as well to persons that are not registered with the employment offices.

It also indicates that between 2008 and 2010 steps were taken to increase the extent of assistance offered by public employment offices. An amendment to the Act on employment promotion and labour market institutions was introduced on 19 December 2008, enabling that: (i) persons not registered in the powiats (district) employment offices have access to placement services, vocational guidance and other career information services, (ii) persons over 18 years not registered in the powiats (district) employment offices have access the labour market services offered by the Regional employment office, and (iii) active job search assistance through electronic databases.

The Committee notes that the improvement of labour market institutions by applying identical standards to the unemployed and employers, as well as the upgrading of public employment offices for the provision of individualised services, was included as a target in the National Reform Programme 2008-2011.

In its previous conclusion the Committee, based on the number of vacancies registered as well as the placement rate, concluded that the situation was not in conformity with Article 1§3 on the ground that public employment services were not efficient. The representative of Poland in the Governmental Committee subsequently considered that the conclusion of non conformity had not been based on relevant statistics.

The current report includes updated performance data of the public employment services. The number of vacancies registered with the employment offices decreased from 1,225,463 in 2007 to 1,006,460 in 2010. Nevertheless, the placement rate (measured as a percentage of the total vacancies notified) increased from 15.1% in 2007 to 25.5% in 2010. For example, in 2010, there were 256,343 persons who found subsidised employment through the employment offices, and another 67,631 found regular employment. The average time in finding a job decreased from 11,2 months in 2008 to 10,2 months in 2010. On the basis of these statistics the Committee now finds that the situation is in conformity with Article 1§3.

In reply to a question by the Committee, the report describes how public employment offices and private agencies coordinate their work. In 2009, new provisions were introduced into the

Act on employment promotion and labour market institutions to make the cooperation between powiats (district) employment offices and private employment agencies more effective. The District President (starosta) is authorised to sign a contract with a private agency which commits itself in finding a job for an unemployed person for at least one year. This has the aim of providing an additional activation opportunity for unemployed whose the situation on the labour market is difficult, namely long-term unemployed. The Committee asks to be kept informed on the implementation and outcome of these new provisions.

As regards total staff of all public employment offices, the report indicates there were 23,841 persons in 2010, out of which 3,555 were involved in placement activities. The Committee asks the next report to indicate the exact ratio of placement staff to registered jobseekers.

Conclusion

The Committee concludes that the situation in Poland is in conformity with Article 1§3 of the 1961 Charter.

Article 3 - Right to safe and healthy working conditions – Conclusions 2013

Paragraph 1 - Safety and health regulations

Content of the regulations on health and safety at work

The report gives a list of the health and safety legislation adopted during the reference period. This includes the new legislation in the field of occupational safety and health, amendments to the existing legislation as a result of the implementation of European Union (EU) Directives, and adaptation of legislation to technical progress. In this connection, reference is made, amongst other things, to changes to the Labour Code (Chapter 10: “Occupational health and safety”) introduced by the Act of 21 November 2008 – which, according to the report – made it possible to transpose in full, amongst others, Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work – the Act of 7 May 2009, the Act of 22 May 2009, the Act of 22 July 2010, the Act of 5 January 2011 and the Act of 16 September 2011. These changes relate primarily to employers’ responsibilities and obligations towards employees; safety requirements regarding machines and other technical equipment; the obligations of doctors concerning occupational diseases; certain employment conditions; the obligations of citizens; economic activities regarding the manufacture and trade of explosives, arms, munitions and military items or technologies.

The report also states that the provisions on occupational diseases were amended following the judgment of the Constitutional Court of 19 June 2008 and that, on this basis, in June 2009, the Council of Ministers adopted a new regulation to which was appended a revised list of occupational diseases, compatible with the European schedule of occupational diseases (cf. European Commission Recommendation 2003/670/EC). The Act on the National Labour Inspectorate entered into force on 13 April 2007; several regulations in the field of occupational health and safety were also adopted during the reference period. With regard to the education sector, the report mentions a series of regulations from the competent Minister, adopted in 2007 and 2008, regarding the teaching curricula in nursery, primary, secondary and vocational schools, which now cover issues relating to health and safety at work. The report also provides detailed information on the results of the first stage of the “Improving Safety and Working Conditions 2008-2010” programme (with the second stage being implemented in 2011-2013).

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Poland is in conformity with Article 3§1 of the 1961 Charter.

Paragraph 2 - Enforcement of safety and health regulations

Occupational accidents and diseases

The report states that the number of accidents at work fell during the reference period: 103 723 in 2008 compared with 96 574 in 2011. Falls were also observed in: the total number of victims, which fell from 104 402 in 2008 to 97 223 in 2011; the number of victims of fatal accidents, falling from 520 in 2008 to 404 in 2011; the number of victims of serious accidents, which fell from 900 in 2008 to 683 in 2011; and the number of minor accidents, which fell from 102 982 in 2008 to 96 136 in 2011 (NB: for 2011, the figures provided are still provisional).

In 2009, in its previous conclusion (Conclusions XIX-2), the Committee had asked for the next report to include standardised incidence rates of serious accidents (at least three days absence) and fatal accidents per 100 000 workers, as provided to Eurostat. The report states that Poland provides Eurostat with information concerning occupational accidents resulting in inability to work for longer than 4 days and fatal accidents. In this connection, the following information was forwarded to Eurostat: in 2008, the number of victims of occupational accidents (with an absence of longer than 4 days and not including fatal accidents) was 96 318 (the rate per 100 000 workers equates to 826.48) and the number of victims of fatal accidents was 520 (rate = 4.46); in 2009, the number of victims of occupational accidents was 76 546 (rate = 682.67) and the number of victims of fatal accidents was 406 (rate = 3.48); in 2010, the number of victims of occupational accidents was 85 825 (rate = 742.45) and the number of victims of fatal accidents was 446 (rate = 3.86). The report states that the figures for 2011 would be forwarded to Eurostat in June 2013 since, in accordance with the rules laid down by the EU, member states provide data on accidents within 18 months of the end of the reference period.

In its 2009 conclusion, the Committee had also asked for information on the steps taken to reduce the number of accidents, including minor accidents (the latter had increased significantly in the course of the previous reference period). The report refers to various initiatives in this connection, including: the multi-annual programme “Improving safety and working conditions”, the first part of which was carried out in 2008-2010 and the second part concerns the period 2011-2013; measures to prevent and eliminate dangers at work carried out by the Labour Inspectorate and examination by the latter of the circumstances and causes of accidents, and verification of the application of measures to prevent new accidents; an increased number of checks to address the large number of violations of the applicable regulations in specific economic sectors, such as the building sector, and the high number of occupational accidents and diseases; measures introduced by the Social Security Institute (ZUS) to improve safety at work, in order to reduce the number of accidents (in particular, the organisation of training, information seminars, technical talks, specific analyses and research) and to promote good practice. The report also states that in the agricultural sector, specific measures have been taken by the Ministry of Agriculture and the Farmers’ Insurance Fund (KRUS) in the field of accident prevention. Reference was also made, in this regard, to action plans, national competitions and training and information activities for farmers.

In its previous conclusion, the Committee had asked to be informed about the trend regarding the number of accidents in the agricultural sector. The report states that in the reference period, the number of accidents reported fell (27 722 in 2008 – 25 772 in 2011), as too did the number of fatal accidents (95 in 2008 – 81 in 2011).

The report states that the number of occupational diseases at work fell in the course of the reference period: 3 546 in 2008; 3 146 in 2009; 2 933 in 2010 and 2 562 in 2011. These figures correspond, respectively, to 34.7 occupational diseases per 100 000 employees in 2008, 29.9 in 2009, 28.3 in 2010 and 24.6 in 2011. The most significant decreases are to be seen in chronic diseases of the vocal organs, asbestosis and contagious or parasitic diseases.

Conclusion

The Committee concludes that the situation in Poland is in conformity with Article 3§2 of the 1961 Charter.

Paragraph 3 - Consultation with employers' and workers' organisations on safety and health issues

The report confirms that the Minister of Labour and Social Policy, in drawing up draft legislation on health and safety at work, in accordance with the applicable legal provisions, consults trade unions and employers' organisations, the associations of industrial employers, the Association of Employees of Health and Safety at Work Departments, the Office for the Protection of Competition and Consumers, the Labour Inspectorate, the Technical Control Office, the Energy Regulation Office, the Building and Construction Sector Inspectorate, the National Fire Service, the Central Labour Protection Institute, the National Research Institute, the Energy Institute, the Biological Industry Institute and the Chemical Industry Institute.

Conclusion

The Committee concludes that the situation in Poland is in conformity with Article 3§3 of the 1961 Charter.

Article 8 - Right of employed women to protection – Conclusions 2015

Paragraph 1 - Maternity leave

Right to maternity leave

The report refers to the Law of 28 May 2013, which amended the provisions on maternity leave, in particular by introducing parental leave. Under the Labour Code, as amended by this law, all employees are entitled to 20 weeks maternity leave and 6 weeks of "additional maternity leave". The length of maternity and additional maternity leave can be increased in case of multiple births (up to 37 and 8 weeks respectively). The leave can be taken up to 6 weeks before the expected date of birth. After the first 14 weeks of leave, which are reserved to the mother, the remaining 12 weeks can be taken by either parent. The maternity and additional maternity leave can be followed by a parental leave of up to 26 weeks, which can be taken by the parents by periods of at least 8 consecutive weeks. The Committee asks whether the law provides for a minimum length of postnatal leave, which is compulsory for the mother to take and can not be relinquished, not even at her request.

In response to the Committee's question, the report clarifies that the Labour Code provisions on maternity leave also applies to employees in the public sector, as the relevant legislation applying to them, that is the Act of 21 November 2008 on civil service, the Act of 16 September 1982 on Employees in State Offices and Act of 21 November 2008 on Employees in Regional Offices, does not contain any specific provision in this respect.

Right to maternity benefits

The Committee previously noted that, under the Act on Social Insurance Benefits in Illness and Maternity, all insured women are entitled, for the whole length of their maternity leave (26 weeks), to a benefit corresponding to 100% of their average gross monthly salary paid over the 12 calendar months preceding the leave. A benefit corresponding to 80% of the salary can alternatively be paid for 52 weeks if the employee chooses to cumulate maternity and parental benefit. The Committee asks the next report to clarify whether, as indicated by another source (European Network of Legal Experts in the field of Gender Equality, Fighting Discrimination on

the Grounds of Pregnancy, Maternity and Parenthood – The application of EU and national law in practice in 33 European countries, 2012), a minimum period of insurance for 30 uninterrupted days is required in order to receive maternity benefits. In particular, with reference to its Statement of Interpretation on Article 8§1 in the General Introduction, the Committee asks whether interruptions in the employment record are taken into account in the determination of maternity benefits and whether the minimum rate of such benefits corresponds at least to the poverty threshold, defined as 50% of the median equivalised income, calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

The report confirms that the same regime applies to women employed in the private as in the public sector.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Poland is in conformity with Article 8§1 of the 1961 Charter.

Article 11 - Right to protection of health – Conclusions 2013

Paragraph 1 - Removal of the causes of ill-health

Right to the highest possible standard of health

The Committee notes from WHO data that overall life expectancy at birth was 76.5 years in 2009 (as against an average of 79 years for EU member states). Life expectancy therefore remains lower than in some other European countries, but has increased since the previous reference period (75.3 years in 2004).

The Committee notes from another source (Index mundi) that the mortality rate (number of deaths per 1 000 inhabitants) was 9.99 in 2008, 10.05 in 2009, 10.1 in 2010 and 10.17 in 2011. According to the report, the infant mortality rate (per 1 000 live births) fell from 5.6 in 2008 to 4.7 in 2011. Again according to the report, the maternal mortality rate (number of deaths per 100 000 live births) was 4.6 in 2008 (19 women) and 2.2 in 2010 (9 women)

The Committee noted in its previous conclusion (Conclusions XIX-2) that cardiovascular diseases were the main cause of mortality, followed by cancer, and asked to be kept informed about further progress made in reducing mortality resulting from these diseases. The report states that the relevant mortality rates have remained practically the same as during the previous period, at 45.6 for cardiovascular diseases and 24.3 for cancer in 2010. The Committee notes that, in order to reduce deaths resulting from cardiovascular diseases, a national programme (POLKARD (2010-2012)) was launched to expand the use of modern diagnosis and treatment methods and improve access to highly specialised cardiology, paediatric cardiology, heart surgery and neurology services. The programme involved specialised equipment purchases and also educational measures designed to raise public awareness about healthy lifestyles. In particular, a national campaign was carried out in 2010 to promote healthy living. The Committee also notes that implementation of the national anticancer campaign (2006-2015) continued, resulting, for instance, in an increase in the number of women undergoing cytological screening (24.4% of women in 2011, as against 12.7% in 2006), mammographic screening (43.48% of women in 2011, as against 23.37% in 2006) and a marked increase in the five-year survival rate in cases of colorectal cancer. In addition, there are programmes to improve the quality of cancer diagnosis and treatment for children. The Committee requests that the next report indicate whether the measures taken have decreased the mortality rate resulting from cardiovascular diseases and cancer.

The Committee notes from the report that 1.6 million people are receiving treatment for mental health problems and that it is estimated that the actual number of people with mental health

problems is up to 30% of the population. It asks what are the criteria for defining a mental health problem. It also notes that a national mental health protection programme (2011-2015) and related strategy have been launched and requests that the next report indicate the effects of these measures.

Right of access to health care

The Committee notes from the report that the health protection system is governed by the Law of 27 August 2004 on health care financed by public funds and that the law was amended around 40 times during the reference period. The institution responsible for providing medical care is the National Health Fund (NFZ), which funds health care and refunds medicine costs within the limit of the financial resources available to it. Poland spends approximately 7.4% of its GDP on health care.

The Committee notes from another source (OECD 2012 “Improving the health-care system”, in OECD Economic Surveys: Poland 2012, OECD Publishing) that the high user charges and long waiting lists cause inequalities in access to health care.

According to the same source, overall, public spending accounts for 72% of health care financing, which is similar to the OECD average. The mandatory public health insurance contribution is the main source of public funding (about 85% of the cost of public purchase of health care services). Almost everybody (about 98% of the population) is covered by public insurance. Central and local governments are responsible for reimbursing the costs of health services for certain groups of uninsured, financing specific health programmes, emergency and lifesaving services and specialised medical procedures such as organ transplants and heart surgery. Local governments fund the operational costs of hospital facilities (electricity, gas and water), the maintenance of buildings, repairs and renovations and investments in medical equipment. However, the survey states that Poland is one of the OECD countries where out-of-pocket expenditure as a share of total health care expenditure is the largest. Most of the user charges involve direct payments: purchases of medicines, which account for more than half of private expenditure (about 75% in the case of those with long-term illnesses and of pensioners), and specialist medical services paid directly to providers (mostly consultations in private medical facilities). The Committee requests that the next report provide information on developments in this area.

In its previous conclusion (Conclusions XIX-2), the Committee reserved its position on access to health care pending receipt of information about real waiting times for medical treatment. It notes in this connection from the report that waiting times are still long for some specialist medical treatment involving cardiovascular diseases (in 2011 – 52 days for outpatient cardiology care and 61 days for outpatient vascular care, 40 days for inpatient heart surgery and 94 days (27 days if the case is deemed urgent) for the fitting of a pacemaker, 54 days for vascular surgery), orthopaedics (in 2011 – 281 days for a knee replacement operation if the case is deemed urgent and 450 days if it is stable; 215 days for a hip joint replacement operation if the case is deemed urgent and 388 days if it is stable, 14 days for hand surgery if the case is deemed urgent and 1 065 days if it is stable), ophthalmology (in 2011 – 152 days for a cataract operation if the case is deemed urgent and 395 days if it is stable), dental care (in 2009 – 195 days for treatment with an orthodontic appliance and 104 days for dental prosthesis), ENT treatment (107 days for inpatient care for children in 2011) and hearing and speech disorders (153 days for inpatient care for children in 2011). Waiting times are also long for medical rehabilitation (in 2011 – 232 days in the case of paraplegia and tetraplegia, 217 days for rehabilitation of the locomotor system).

The Committee notes from the report that, under the Ministry of Health Regulation of 26 September 2005 on medical criteria, waiting lists must be kept in such a way that the principle

of just, fair, non-discriminatory and transparent access to health care is respected and in accordance with medical criteria, and that the Ministry of Health Regulation of 20 June 2008, amended on 13 September 2011, governs the scope of the data collected by providers, the methods for recording such data and the transmission thereof to the relevant officials for the public funding of the care. Having taken note of these adjustments designed to improve the management of waiting lists and reduce waiting times, it finds that the situation has not changed significantly since the previous assessment and that efforts to improve efficiency and increase capacity so as to reduce waiting times should be continued. The Committee therefore finds that the situation in Poland is not in conformity with Article 11§1 of the 1961 Charter.

In the previous supervision cycle, the Committee addressed to all States a general question on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. In its reply concerning this point, the report states that a national anti-drug addiction programme for the periods 2006-2010 and 2011-2016 is designed, in particular, to strengthen public opposition to drug taking, discourage the use of drugs and psychotropic substances among young people and improve the quality of the preventive action. Under the programme, national campaigns have been conducted, publications (including online publications) have been produced and prevention programmes have been carried out by bodies operating at local level. An online drug addiction clinic (www.narkomania.org.pl) offers assistance and provides the necessary information to help drug users to contact specialised institutions. A drug addiction helpline has been set up. It operates every day from 4 to 9 pm and provides advice for drug users and their friends and relatives.

As regards the right to protection of health of transgender persons the Committee received submissions from the International Lesbian and Gay Association (European Region) (ILGA) stating that "in Poland there is a requirement that transgender people undergo medical interventions as a condition of legal gender recognition". In this respect, the Committee refers to its question on this matter in the General Introduction.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 11§1 of the 1961 Charter on the ground that equal access to health care is not ensured because of long waiting lists.

Paragraph 2 - Advisory and educational facilities

Education and awareness raising

The Committee notes from the report that, in accordance with the Law of 27 August 2004 on health care financed by public funds, the Ministry of Health Regulation of 30 August 2009 on the services provided by health care programmes and the decisions of the President of the National Health Fund (NFZ), the promotion of health forms part of the NFZ's field of action. The Committee notes the aims of various health programmes which were introduced over the period from 2008 to 2011. It also notes that, on 12 November 2007, the Ministry of Health set up a Council for Diet, Physical Activity and Health, which is an advisory body on preventing obesity, the task of which is to promote balanced diets.

With regard to health education in schools, the report states that the Inspector General of Health and the Polish Agri-Food Industry Federation in 2006 launched a programme ("Keep in shape!") designed to educate young people and their families about health by promoting the rules for an active lifestyle and balanced diets. The programme is run at both national and local level. Over a five-year period, 3 780 000 pupils took part in it. During the 2010/2011 school year, 6 795 schools (32% of all primary and junior secondary schools) were involved in activities relating to diets and physical activity. A 2009 study of the results of the programme

showed that the young people who took part in it often adopted healthy attitudes and the schools introduced a wider range of food products and meals in their shops and canteens. Since 1991, a network of schools promoting health has organised activities aimed at promoting healthy diets and physical activity in schools; more than 2 000 schools are members of the network. Since 2010, a school health promotion team has been implementing the EU HEPS (Healthy Eating and Physical Activity in Schools) programme. Moreover, the Ministries of Sport and Tourism, Education and Health have an advisory body responsible for drawing up a programme to promote health and prevent health problems among children and teenagers. The first document by this body concerning measures to promote healthy eating in schools was published on the ministries' websites in October 2011.

The Committee also notes from the report that education campaigns focusing on healthy and active lifestyles for people aged over 50 have been carried out at national level, by local authorities and by NGOs.

Counselling and screening

The Committee noted in its previous conclusion (Conclusions XIX-2) that the list of screening tests had been established by the Regulation of the National Health Foundation of 25 September 2007 and asked for more detailed information on the types of screening covered by the Regulation. It takes note of the table in the report providing data on screening tests conducted between 2008 and 2010.

In reply to the question asked by the Committee in the previous conclusions (Conclusions IX-2) about the impact of screening arrangements for pregnant women on the maternal mortality rate, the report states that, under the Ministry of Health Regulation of 23 September 2010 on health care and medical procedures during pregnancy, health care for pregnant women is classified as specialist care. In particular, the Regulation takes account of the WHO guidelines on health care for mothers and children. It is aimed at more effective management of pregnancy and childbirth, while limiting medical intervention. It increased the number of medical procedures recommended for pregnant women such as ultrasound scans. In general, at least seven consultation sessions are recommended during pregnancy, with this figure being adapted to individual needs in the case of high-risk pregnancies. The average number of consultations per pregnant woman was as follows: in 2008, 5.5; in 2009, 5.7; and in 2010, 5.2. At the same time, the number of preventive consultation sessions for pregnant women fell during the reference period: (per thousand) 324.8 in 2008, 111.1 in 2009 and 66.3 in 2010.

The report underlines that pregnant women consult doctors at a late stage: at the end of the 10th week of pregnancy, 56% of woman had consulted a doctor in 2008, 58% in 2009 and 61% in 2010. The Ministry of Health Regulation of 14 September 2010 on medical care for pregnant women should encourage women to consult doctors at an earlier stage because it makes the payment of a birth grant dependent on the date of the first consultation, which should take place from the 10th week of pregnancy at the latest. The Committee asks what steps have been taken to publicise this Regulation.

The Committee notes from the report that there is a lack of publicly funded long-term assistance and care for dependent persons. The Committee notes that there are plans to draw up a national long-term care programme and requests that the next report provide detailed information on the matter, including the medical procedures applied to dependent persons and the management of care, transport and meals for such persons.

Conclusion

The Committee concludes that the situation in Poland is in conformity with Article 11§2 of the 1961 Charter.

Paragraph 3 - Prevention of diseases

Healthy environment

The Committee notes from the report that, despite the prevention activities conducted during the reference period, pollution emission limits are still being exceeded in many Polish regions (for example, admissible levels of PM10 particles are exceeded in 42 out of 46 locations and benzopyrene limits are exceeded in 38 out of 46). Under the legislation in force, local authorities are required to take action to protect the air, particularly where it comes to reducing emissions of disseminated pollution and emissions by fixed energy and technological plant, or to organise environmental education. The Committee also notes that amendments to the Law of 27 April 2001 on environmental protection are being drawn up and that the new legislation will serve as the basis for a national air protection programme. It repeats its request (see Conclusions XIX-2) to be informed about any development on this issue.

As to water quality, the Committee notes from the report that the Ministry of Health Regulation of 29 March 2007 on drinking water quality was amended by the Regulation of 20 April 2010 intended to bring this regulation into line with EU law. The Committee notes that in 2008, 87% of the population, and in 2010, 89% had access to drinking water of a quality that complied with the requirements of the Regulation. According to the report, small-bore water pipes are one of the main sources of below-standard water. Consequently, campaigns to reinforce water supply pipes were organised and the number of small pipes was reduced from 12 415 in 2008 to 9 025 in 2010. The national health inspectorate posts information on its website on the quality of drinking water throughout the country.

Immunisation and epidemiological monitoring

The Committee notes from the report that during the reference period, the State Health Inspectorate continued its work to broaden the categories of children subject to compulsory immunisation and recommended immunisation against new contagious diseases, along with preventive immunisation. Over 90% of children and adolescents between 0 and 19 years of age were given preventive vaccinations during this period.

As to epidemiological monitoring, the report states that the State Health Inspectorate gave priority to public health protection against contagious infections and diseases and set up campaigns to combat epidemics. In particular, a screening programme was implemented for hospital acquired infections.

The Committee notes the information provided, particularly on the pilot programme against hepatitis C, and asks to be informed on measures taken to control transmissible diseases.

Conclusion

The Committee concludes that the situation in Poland is in conformity with Article 11§3 of the 1961 Charter.

Article 12 - Right to social security – Conclusions 2013

Paragraph 1 - Existence of a social security system

Risks covered, financing of benefits and personal coverage

In its previous conclusion (Conclusions 2009) the Committee held that the personal coverage of social security risks was satisfactory and requested updated information in the next report. The Committee notes that in 2011 there were 15.8 million persons insured under compulsory health insurance and 14.6 million for old-age and invalidity pensions. 1.5 million persons were affiliated with the agricultural insurance fund (KRUS) during the reference period.

As regards healthcare, the Committee notes from MISSOC that compulsory social insurance scheme provides benefits in kind to all active population (employees and self-employed) and assimilated groups (pensioners, students, farmers, members of insured persons' families), recipients of unemployment benefits, persons participating in occupational rehabilitation measures, farmers and farm workers, recipients of social welfare allowances.

As regards sickness benefit, according to MISSOC compulsory insurance covers all employees. There is a possibility of a voluntary membership for the self-employed.

As regards old-age and invalidity benefits, according to MISSOC all active population (employees, self-employed, farmers) are covered as well as recipients of unemployment allowance.

As regards unemployment benefit, there is a compulsory solidarity insurance scheme (entitlement linked to economic activity) financed by contributions of employers that provide a flat-rate benefit. Persons are insured with the social security system on the basis of employment, non-agricultural economic activities, and other paid activities, provided the monthly earnings are equal to or greater than the national minimum wage. There is no possibility for voluntary insurance.

In order to be able to assess the effective coverage, the Committee asks the next report to provide figures, for the reference period, for every branch of social security. For medical care, the report should provide the information on the percentage of persons insured out of the entire population. For pension, sickness, maternity and unemployment benefits, information should be provided on the percentage of persons insured out of the total active population.

Adequacy of the benefits

The Committee notes that 50% of the Eurostat median equivalised income stood at €209 in 2011.

In its previous conclusion the Committee held that the minimum level of unemployment benefit was inadequate. In this connection, the Committee notes from MISSOC that Unemployment Allowance (Zasiłek dla bezrobotnych) is paid monthly as a percentage of the Basic Unemployment Allowance, depending upon the length of economic activity. In 2012, unemployment allowance stood at PLN 794.20 (€195) per month for a period of three months and PLN 623.60 (€153) thereafter.

The Committee notes from the report that as of January 2010 the unemployment benefit amounted to PLN 717 (€179) for the first three months and PLN 563 (€140) afterwards (12 months maximum in total). The Committee holds that the minimum level of unemployment benefit is inadequate as it falls below 40% of the median equivalised income.

As regards sickness benefit, according to MISSOC for the first 33 calendar days of illness in any calendar year the employer continues to pay 80% of the reference wage per month. In case of illness caused by an accident at work, occupational disease or an illness occurring during pregnancy, 100% of the reference wage is paid by the Social Insurance Institute (Zakład Ubezpieczeń Społecznych, ZUS). The Committee asks what is the minimum level of sickness benefit.

As regards old age, it notes from MISSOC that the minimum pension amounted to PLN 799.18 (€196) per month. In its previous conclusion the Committee noted that persons living on such income were entitled to a one-off benefit, a special benefit or assistance in kind. The Committee holds that the minimum pension lies between 40% and 50% of the Eurostat median equivalised income. Therefore, it asks what supplementary benefits are available for persons receiving the minimum pension.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 12§1 of the 1961 Charter on the ground that the minimum level of unemployment benefit is inadequate.

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the International Labour Convention No. 102

The Committee recalls that Article 12§2 obliges States to establish and maintain a social security system which is at least equal to that required for ratification of the ILO Convention No. 102.

The Committee notes that Poland accepted Parts II, V, VII, VIII and X of the ILO Convention No. 102.

The Committee notes that the ILO Committee of experts on the application of conventions and recommendations (CEACR) raised several direct requests published in 2013 (102nd ILC session). The Government had previously been asked to explain taxation rules applied to wages and social security benefits. The ILO Committee of experts invited the Government in its future report to calculate the replacement level of old-age, invalidity and survivors' pensions in relation to the net amount of the reference wage, as well as in relation to the gross amount of the reference wage reduced by the amount of the corresponding compulsory social insurance contributions. The Committee wishes to be informed of the replies to the questions raised by the ILO.

The report provides information regarding those Parts of the ILO Convention 102 which Poland has not ratified. As regards unemployment benefit, according to the report, a person earning 125% of the national average wage would have 24% replacement rate for unemployment benefit while a non-qualified worker would earn 42% of his/her previous wage in unemployment benefit. The replacement rate of sickness benefit would amount to 100% in case of work accidents and professional diseases while old-age pension benefit would stand at 73% of the wage. The replacement rate of invalidity benefit amounts to 41%.

The Committee refers to its conclusion under Article 12§1 where it asks for information regarding personal coverage of each branch of social security, holds that the minimum level of unemployment benefit is inadequate and that the minimum old-age pension stands between 40% and 50% of the median equivalised income.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Poland is in conformity with Article 12§2 of the 1961 Charter.

Paragraph 3 - Development of the social security system

The Committee takes note of legislative developments during the reference period. It notes the entry into force of Law of December 2009 modifying the social security system which permits to loosen up the rules of financing of the Social Security Fund. Apart from subsidies from the state budget the Fund can now have interest-free loans. This law also establishes guidelines containing the rules on the utilisation of resources of the state budget whether subsidies or loans.

Law of 28 March 2008 introduced the possibility of early retirement at the age of 60 if the person concerned has accumulated 35 contributive and non-contributive years. This law followed the ruling of the Constitutional Court which held that a refusal of the pension benefit at the age of 60 to a person having accumulated at least 35 contributive and non-contributive years was unconstitutional.

Law of 6 December 2008 modifying the Labour Code reduces the waiting period for sickness benefit from 180 to 90 days and the duration of maternity benefit is prolonged from 182 to 270 days.

As regards the level of pensions, the Committee notes that the monthly average amount of old-age pension, invalidity pension and survivor's pension have been increasing during the reference period. The average old-age pension benefit stood at PLN 1 471 in 2008 and at PLN 1 783 in 2011.

Unemployment Benefit

Unemployment benefit is indexed on inflation which also allows for the increase in the benefit level in line with the minimum wage.

In reply to the Committee's question concerning the reforms of the unemployment branch, it notes from the report that the Law on the promotion of employment and labour market institutions has modified the structure of unemployment benefit. The duration of this benefit has been shortened and the possibility of receiving this benefit for 18 months has been abolished. The duration of unemployment benefit is 6 months. However, the duration is extended to 12 months in areas where the unemployment rate amounts to 150% of the national average. Besides, some categories of persons keep the right to the benefit for 12 months, (with a child of less than 15 years and if the spouse is also unemployed or has lost the entitlement to the benefit).

The report explains that the good situation of the employment Fund and a small number of people receiving unemployment benefits have made it possible to increase the amount of unemployment benefit and to narrow the gap between unemployment benefit and the minimum wage. Moreover, according to the report, the introduction of the principle of diminishing payments should rationalise the spending of the Fund and encourage the unemployed to find work and be active.

The Committee further notes from the report that the first signs of the economic crisis appeared in 2008. In 2009, there was an increase in unemployment for the first time in several years. At the end of 2009 the unemployment rate stood at 12.1%. The economic downturn has reduced the number of jobs, including subsidised work but the benefit duration has not been further reduced.

The Committee recalls that in its Conclusion XVII-1 it wished to receive an explanation of the relation between unemployment benefits and social assistance and it also wished to know what happens upon expiry of the unemployment benefit. In its Conclusion XVIII-1 it noted that once the claim for unemployed benefits is exhausted, the unemployed person on low-income may be granted social assistance according to the 2004 Act on Social Assistance. This may consist of a temporary or occasional allowance or in benefits in kind. A temporary allowance is provided for a certain period on the basis of need.

The Committee considers that even if the amount of the benefit in question has been rising with consumer price index and in proportion to the minimum wage and without prejudice to its conclusion under Article 12§1 where it considers that the duration of unemployment benefit of 6 months does not pose a problem of conformity with Article 12§1, the Committee holds that the fact of reducing the duration from 18 to 6 months (12 months only in special cases) still represents a restrictive evolution of the unemployment branch. Therefore, the situation is not in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 12§3 of the 1961 Charter because of the restrictive evolution of unemployment branch of social security.

Article 14 - The right to benefit from social services – Conclusions 2014

[Paragraph 1 - Promotion or provision of social services](#)

Organisation of the social services

The Committee refers to its earlier conclusions (Conclusions XV-2 and XVI-2) for a description of the organisation and functioning of Poland's social services. Given the time that has passed since the first description, the Committee asks that the next report provide a new description updating or confirming the information as necessary.

Effective and equal access

With regard to the fees charged for social services, the Committee refers to its previous conclusion.

When it examined equal access to social services in its last two conclusions (Conclusions XVI-2 and XIX-2), the Committee considered that the situation was not in conformity due to the existence of an excessive length-of-residence requirement (five years without interruption). This report indicates that no amendments were made to the Social Assistance Act during the reference period. The Committee therefore reiterates its finding of non-conformity.

The Committee moreover recalls that users must have means of making complaints and referring urgent cases of discrimination and infringements of human dignity to an independent body. Since this report says nothing about the available remedies, the Committee asks that this information be included in the next report.

Quality of services

The report describes the amendments made in 2011 to the Social Assistance Act of 12 March 2004 with the aim of improving the quality of services:

- the state grant to local authorities can amount to 80%, or even 100%, of costs;
- the number of social workers that a social assistance centre is required to employ will increase as from 1 January 2015, so that, as required by law, there is one full-time social worker per 2 000 inhabitants or per 50 families at most;
- the rules governing the professional qualifications required for social workers have been changed so as to standardise and enhance these workers' level of qualification.

Following these amendments, the Committee wishes that the next report provides updated information.

Regarding the progress of measures aimed at balancing the availability of social services at regional level, the report mentions the following projects:

- the Operational Programme Human Capital 2007-2013, financed by the European Social Fund, aimed at enhancing the skills and professional qualifications of social services' employees, which allowed 4 000 people to improve their qualifications in 2012;

- the project "Creation and Improvement of Standards of Social Welfare and Integration Services", which has permitted an improvement in the standards applied in social assistance and integration centres.

The Committee asks to receive statistical data concerning the total expenditure on social services and social assistance.

In its last conclusion the Committee asked how the right to privacy was guaranteed, particularly with regard to data protection. The report states that this matter is governed by the Personal Data Protection Act of 29 August 1997, which lays down rules of conduct for the processing of personal data and establishes the rights of individuals whose data are or may be processed in databases.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 14§1 of the 1961 Charter on the ground that access to social services by nationals of other States Parties is subject to an excessive length-of-residence requirement.

Article 16 - Right of the family to social, legal and economic protection – Conclusions 2015

The Committee takes note of the information contained in the report submitted by Poland. It also takes note of the information contained in the comments by the trade union Ogólnopolskie Porozumienie Związków Zawodowych (OPZZ) of 18 May 2015 and the addendum to the report of 26 June 2015.

Economic protection of families

Family benefits

According to Eurostat data, the monthly median equivalised income in 2014 was €445. According to MISSOC, child benefit for children under the age was €18, amounting to 4% of that income, while for children between 5 and 18, it was €25 amounting to 5.6% of that income, and for those between 18 and 24 it was €27 amounting to 6% of that income.

The Committee considers that, in order to comply with Article 16, family benefit must constitute an adequate income supplement, which is the case when it represents a significant percentage of the median equivalised income. It considers that child benefit for children under the age of 5 are inadequate.

The Committee also notes from the comments by the OPZZ submitted on 5 June 2015 that in 2012, child benefit were not paid if a family's per capita income exceeded €127 per month. In the OPZZ's view, the effect of this means testing was to deny child benefits to a large number of families in need. In its reply of 29 June 2015, the Government stated that the income criteria on which entitlement to benefit was based were reviewed every three years and that in 2014 the upper limit on per capita income per month was €133. It also refers to future changes but fails to indicate what percentage of families are paid child benefit. In the light of these figures, the Committee considers that the situation is not in conformity with the 1961 Charter because it has not been established that a significant number of families are entitled to child benefits.

Vulnerable families

In its previous conclusion (Conclusions XIX-4 (2011)) the Committee asked for information on the implementation of means to secure the economic protection of Roma families. The report

does not provide any information on this subject so the Committee repeats its request. Should the next report not provide the information requested, there will be nothing to show that the situation is in conformity with the 1961 Charter.

Equal treatment of foreign nationals and stateless persons with regard to family benefits

In its previous conclusion (Conclusions XIX-4 (2011)) the Committee considered that the situation in Poland was not in conformity with Article 16 on the ground that there was no guarantee that family benefits would be paid to the nationals of certain States Parties to the 1961 Charter and the Charter.

The Committee notes that a new law on foreign nationals was adopted on 13 December 2013 and came into force on 1 May 2014 (outside the reference period). This law changes the personal scope of the law on family benefits. The right to family benefits is now granted to foreign nationals in the following circumstances:

- if the provisions on the co-ordination of social security systems are applied;
- if there are bilateral social security agreements;
- if the person is residing in Poland on the basis of a permanent residence permit, an EU long-term residence permit, a short-term permit issued because of the circumstances described in Articles 127 or 186, paragraph 1.3, of the Law of 12 December 2013 on Foreign Nationals or because the person concerned has been granted refugee status in Poland or subsidiary protection status if they are living in Poland with other family members;
- if they hold a residence permit marked “Access to the labour market”, unless they are nationals of third parties who are authorised to work in an EU member state for no more than six months, have been admitted to pursue studies or are authorised to work under a visa arrangement;
- if they are residing in Poland on the basis of a temporary residence permit (of 3 months to 3 year) including the right to work.

The Committee also notes from the report of the Governmental Committee (Report concerning Conclusions XIX-4 (2011)) that family allowances are non-contributory benefits and they are not subject to a work requirement.

The Committee recalls that States parties may apply a length of residence requirement with regard to non-contributory benefits provided that the length is not excessive (Conclusions XIV-1 (1998), Sweden). The proportionality of such length of residence requirements is examined on a case-by-case basis having regard to the nature and purpose of the benefit. The Committee has held that lengths of 6 to 12 months are reasonable and hence in conformity with Article 16 (Conclusions XIV-1 (1998), Sweden). On the other hand, it has held that lengths of 3 to 5 years are clearly excessive and therefore in breach of the Charter (Conclusions XVIII-1 (2006), Denmark).

The Committee asks for it to be clarified in the next report whether entitlement to a permanent residence permit is subject to a length of residence requirement. If this is the case, it asks what the length of residence is. Pending receipt of this information, the Committee reserves its position.

The Committee asks the next report to indicate whether stateless persons and refugees are treated equally with regard to family benefits.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 16 of the 1961 Charter on the grounds that:

- it has not been established that families have access to adequate housing;

- family benefits are inadequate for children under the age of five;
- it has not been established that a significant number of families are entitled to family benefits.

3. ILO Conventions

Social Security (Minimum Standards) Convention, 1952 (No. 102) - Poland (Ratification: 2003)

Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013) -

[Link to pending comments by the ILO supervisory bodies, NORMELX](#)

The Committee took note of the Government's report and reply to its previous direct request of 2006 and would like to receive additional information on the following points.

Part VII (Family benefit). Article 44 of the Convention. In its direct request of 2006, the Committee asked the Government to calculate the total value of the family benefits on the basis of the gross amount of average monthly earnings of a male labourer in manufacturing, which was taken in the Government's report as the reference wage under Article 66 of the Convention. In reply, the Government has based these calculations on the minimum remuneration for work in 2010 (1,317 Polish zlotys (PLN) per month). Taking into account that, according to the report, the gross average monthly remuneration in the national economy in 2010 amounted to PLN3,488, the Committee considers that the above minimum remuneration is too low to be used as the reference wage of an ordinary adult male labourer which should be taken for the purpose of assessing compliance with Article 44 of the Convention. ***The Committee therefore, once again, asks the Government to recalculate the total value of family benefits in Poland on the basis of the gross monthly wage of an ordinary adult male labourer determined under Article 66(4) of the Convention.***

Part XI. Standards to be complied with by periodical payments. In its previous direct request, the Committee asked the Government to explain taxation rules applied to wages and social security benefits in order to decide whether the replacement level of old-age and survivors' benefits should be done on the basis of gross or net income, i.e. the amount of wages and benefits before and after deduction of taxes and social security contributions. The Committee understands from the reply of the Government that, in comparison with wages, old-age and disability pensions are exempted from social insurance contributions. ***The Committee therefore invites the Government in its future report to calculate the replacement level of old-age, invalidity and survivors' pensions in relation to the net amount of the reference wage, as well as in relation to the gross amount of the reference wage reduced by the amount of the corresponding compulsory social insurance contributions.***

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) - Poland (Ratification: 1948)

Direct Request (CEACR) - adopted 2011, published 101st ILC session (2012) -

[Link to pending comments by the ILO supervisory bodies, NORMELX](#)

The report indicates that provisions governing the issue of occupational diseases in Poland were amended in 2009 pursuant to the judgment of the Constitutional Tribunal of 19 June 2008, which ruled that the previously binding provisions, i.e. Council of Ministers Ordinance No. 1115 of 30 July 2002 concerning the list of occupational diseases, detailed principles of conduct in cases of suspicion, recognition and diagnosis of occupational diseases and relevant entities in such cases, do not comply with article 92(1) of the Constitution. As a result of the amendment, an updated list of occupational diseases has been included in Council of Ministers Ordinance No. 105 of 3 June 2009 concerning occupational diseases, which entered into force on 3 July 2009. The Polish legal system on occupational diseases is now based upon a closed catalogue of occupational diseases since, as indicated by the Supreme Court in a judgment of 5 April 2005, when “determining occupational diseases, only the influence of substances listed in binding executive laws issued on behalf of the provisions of the Labour Code may be taken into consideration; the list of occupational diseases may not be extended by interference from other binding provisions”.

The Committee would like the Government to clarify, in the light of these decisions of the highest judicial authorities, the legal status of Convention No. 42 in national legislation, and to demonstrate, by means of a detailed comparative analysis, that the new closed national list of occupational diseases covers all pathological manifestations produced by the substances set forth in the Schedule included in Article 2 of the Convention.

4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

COUNCIL RECOMMENDATION of 14 July 2015 on the 2015 National Reform Programme of Poland and delivering a Council opinion on the 2015 Convergence Programme of Poland (2015/C 272/24), (18.08.2015, C 272/91, Official Journal of the European Union).

[*Official Website of the European Commission*](#)

(10) Poland reversed the systemic pension reform of 1999 at the end of 2013. While producing some budgetary relief in the short term, the reversal of the systemic pension reform of 1999 does not improve the long-term sustainability of public finances, as the short-term benefits from higher social contributions and lower interest payments will be offset by higher future pension payments from the public pension pillar. Overall the reversal of the systemic pension reform of 1999 carries some risks for Polish public finance in the long run.

(11) The social security privileges granted to farmers and miners continue to hamper professional mobility and impose significant costs on public finances. These preferential schemes deter people from moving to more productive sectors, create hidden unemployment and, due to low contributions, are heavily subsidised by taxpayers. In 2014 Poland's agricultural sector employs 11,5 % of the workforce, more than double the EU average, while generating only 3,3 % of national gross value added. State subsidies to the social security scheme for farmers are worth almost 1 % of GDP, and those to miners' pensions 0,5 % of GDP. The link between contributions and benefits is weak and contributions are mostly based on a flat rate. Farmers on high incomes cannot be systematically excluded from the scheme, and the system is therefore open to abuse. Introducing a system for recording and assessing farmers' incomes would constitute an indispensable first step towards a reform of the social security scheme for farmers.

HEREBY RECOMMENDS that Poland take action in 2015 and 2016 to:

2. Start the process of aligning the pension arrangements for farmers and miners with those for other workers, and adopt a timetable for progressive full alignment; put in place a system for assessing and recording farmers' incomes.