



Status of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in National Law

POLAND

Applicability of the Convention and its Optional Protocols

Convention on the Rights of the Child (CRC)	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC)	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)
<p>Signature: January 26, 1990</p> <p>Ratification: June 7, 1991</p>	<p>Signature: February 13, 2002</p> <p>Ratification: April 7, 2005</p>	<p>Signature: February 13, 2002</p> <p>Ratification: February 4, 2005</p>
<p>Reservations:</p> <p><i>- With respect to article 7 of the Convention, the Republic of Poland stipulates that the right of an adopted child to know its natural parents shall be subject to the limitations imposed by binding legal arrangements that enable adoptive parents</i></p>	<p>Declarations:</p> <p><i>The Government of the Republic of Poland, with the regard to article 3, paragraph 2 of the Protocol, declares that:</i></p> <p><i>1. under the Polish law the minimum age in the case of obligatory recruitment of the Polish</i></p>	<p>Declarations:</p> <p>None</p>

<p><i>to maintain the confidentiality of the child's origin;</i></p> <p><i>- The law of the Republic of Poland shall determine the age from which call-up to military or similar service and participation in military operations are permissible. That age limit may not be lower than the age limit set out in article 38 of the Convention.</i></p> <p><i>Declarations:</i></p> <p><i>- The Republic of Poland considers that a child's rights as defined in the Convention, in particular the rights defined in articles 12 to 16, shall be exercised with respect for parental authority, in accordance with Polish customs and traditions regarding the place of the child within and outside the family;</i></p> <p><i>- With respect to article 24, paragraph 2 (f), of the Convention, the Republic of Poland considers that family planning and education services for parents should be in keeping with the principles of morality.</i></p>	<p><i>citizens into the national Armed Forces is eighteen (18) years. 2. under the Polish law the minimum age for the voluntary recruitment of the Polish citizens into the national Armed Forces is seventeen (17) years. Joining the Polish Armed Forces is really voluntary and a candidate is obliged to show a special document certifying the date of his/her birth. Moreover the consent of the person's parents or legal guardians is required before the admission to the service.</i></p>	
---	---	--

OPSC Status in National Law

Under the Polish Constitution, international agreements ratified by the Government and published in the Journal of Laws, such as the OPSC, are in general considered directly applicable as part of the national legal order, and hence prevail over any provisions of domestic law found to be incompatible with international obligations.¹

¹ Constitution of Poland, Article 91, available at <http://www.sejm.gov.pl/prawo/konst/konst.htm>; CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 8., available at <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.OPSC.POL.1.doc>.

Sale of Children (“any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”)

MEASURE REQUIRED (PROHIBITION)	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Selling children (Art. 3.1. (a))	<p>The Polish Penal Code does not specifically prohibit the sale of children; rather, these matters fall under a general prohibition on trafficking in persons, which is punishable by a minimum 3 years' imprisonment. Notably, making preparations to traffic persons is also a criminal offence, punishable by between 3 months' and 5 years' imprisonment (Penal Code, Article 189a).²</p> <p>With reference to children, the term “trafficking” as it appears in the Code is defined as recruiting, transporting, harbouring or receiving children for the purposes of exploitation, either in general or for any number of listed unlawful activities (Penal Code, Article 115 § 22).</p>	<p>Article 115 of the Polish Penal Code was revised in 2010 to provide for a definition of human trafficking in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime.³</p> <p>In addition, Article 189a of the Penal Code replaced a previous prohibition on trafficking in persons and introduced criminal liability for preparations to engage in human trafficking.</p>	<p>On the confusion between trafficking and sale of children: “[T]he Committee is concerned that the separate issues of trafficking and the sale of children are nevertheless used interchangeably...”⁴</p> <p>On amending the Penal Code to define trafficking: “The Committee notes with appreciation the amendments to relevant legislation which significantly strengthen the protection of children against the offences covered by the Optional Protocol, including the 2008 amendment to the Penal Code to include the definition of trafficking...”⁵</p> <p>On the failure to define and criminalise all acts relating to the sale of children: “The Committee remains concerned</p>

2 The current Penal Code was introduced by the Law of 6 June 1997, Journal of Laws No. 88, Item 553, available as amended at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19970880553>.

3 Act of 20 May 2010 amending the Penal Code, Law on Police, and Regulations introducing the Criminal Code and Code of Criminal Procedure, Journal of Laws 2010 No. 98, Item 626, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20100980626>.

4 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 6, available at <http://www.crin.org/resources/infoDetail.asp?ID=21012&flag=legal>.

5 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.

that the legislation of the State party does not criminalize all the acts constituting offences as per articles 2 and 3 of the Optional Protocol. Specifically, the Committee regrets the lack of legislation specific to the sale of children and is concerned at the absence of a definition...of 'sale of children' in the Penal Code..."⁶
 "The Committee urges the State party to provide a definition...of "sale of children" under Polish penal legislation..."⁷

On difficulties in implementing legislation:
 "The Committee also expresses concern that implementation of legislation in practice remains a problem."⁸
 "The Committee also encourages the State party to make every effort to ensure that legislation providing protection for...sale of children is effectively and efficiently implemented."⁹

Offering, delivering or accepting, by whatever means, a child for the purpose of:

6 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.
 7 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 29.
 8 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.
 9 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 29.

<p>Sexual exploitation of the child (Art. 3.1 (a) (i) a.)</p>	<p>The trafficking of children for the purposes of sexual exploitation, including prostitution and pornography, is specifically prohibited (Penal Code, Articles 115 § 22, 189a; see “selling children” above).</p> <p>Performing sexual acts with, presenting sexual acts to, or encouraging the performance of sexual acts by a child under the age of 15 is punishable by 2 to 12 years' imprisonment (Penal Code, Article 200).</p> <p>Abusing a relationship of dependence or taking advantage of a situation of crisis in order to perform sexual acts with a child under the age of 18, or enabling others to do so, is punishable by 3 months' to 5 years' imprisonment (Penal Code, Article 199).</p> <p>The so-called “grooming” of children</p>	<p>Article 115 of the Polish Penal Code was revised in 2010 to provide for a definition of human trafficking that explicitly prohibits, among other things, trafficking children for the purposes of sexual exploitation.¹⁰</p> <p>Article 200 of the Penal Code was revised in 2005 to increase punishments from their previous level of 1 to 10 years' imprisonment and to criminalise the presentation of sexual activities to a child under 15 for the purposes of sexual satisfaction.¹¹</p> <p>Article 200a of the Penal Code on “grooming” of children for sexual exploitation was introduced in 2009.¹²</p>	<p>On increased levels of punishment for offences related to sexual exploitation: “The Committee notes with appreciation the adoption of the following legislative and other measures... (b) Other amendments to legislation, the Penal Code, the Code of Penal Proceedings and the Executive Penal Code, introducing new regulations concerning paedophilia and raising the penalties for such offences.”¹³</p> <p>On the criminalisation of “grooming”: “The Committee notes with appreciation the amendments to relevant legislation which significantly strengthen the protection of children against the offences covered by the Optional Protocol, including the 2008 amendment to the Penal Code to...penalize so-called 'grooming'...”¹⁴</p> <p>On the need to bring laws relating to</p>
---	--	--	---

10 Act of 20 May 2010 amending the Penal Code, Law on Police, and Regulations introducing the Criminal Code and Code of Criminal Procedure.

11 Act of 27 July 2005 amending the Penal Code, the Code of Criminal Procedure and the Executive Penal Code, Journal of Laws 2005 No. 163, Item 1363, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20051631363>.

12 Act of 5 November 2009 amending the Penal Code, Code of Criminal Procedure, Executive Penal Code and certain other laws, Journal of Laws 2009 No. 206, Item 1589, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20092061589>.

13 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 4.

14 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.

	<p>under 15 by using communications technology to commit sexual acts or to produce pornographic materials is punishable by up to 2 years' imprisonment if the individual intends to follow through with these acts or up to 3 years' imprisonment if deceit or threats are used (Penal Code, Article 200a).</p>		<p>the sexual exploitation of children into compliance with the Convention on the Rights of the Child: “The Committee encourages the State party to take all necessary measures to ensure that its domestic legislation conforms fully with the principles and provisions of the Convention [on the Rights of the Child], in particular in the area of...sexual exploitation of children.”¹⁵</p> <p>On the prevalence of child trafficking for the purposes of sexual exploitation: “While noting the increased efforts of the State party to cooperate in regional programmes to prevent trafficking and repatriate victims, the Committee is nevertheless concerned that Poland continues to be a country of origin, destination and transit for children trafficked for sexual exploitation.”¹⁶</p>
<p>Transfer of organs of the child for profit (Art. 3.1 (a) (i) b.)</p>	<p>The trafficking of children for the purposes of acquiring cells, tissues or organs is specifically prohibited (Penal Code, Articles 115 § 22, 189a; see “selling children” above).</p>	<p>Article 115 of the Polish Penal Code was revised in 2010 to provide for a definition of human trafficking that explicitly prohibits, among other things, trafficking children for the purposes of acquiring cells, tissues or</p>	

15 CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 12.

16 CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 48.

	<p>Trading in organs is also generally prohibited, and the purchase or sale of human cells, tissue or organs, or the transplantation thereof, is punishable by from 6 months' to 5 years' imprisonment (Act of 1 July 2005, Article 44). The facilitation of such a sale or purchase is punishable by up to 1 year's imprisonment, while engaging in organ trading as a primary source of income is punishable by imprisonment for up to 10 years (Act of 1 July 2005, Articles 43, 44). Taking cells, tissue or organs for transplantation without authorisation is punishable by up to 3 years' imprisonment (Act of 1 July 2005, Article 46).¹⁷</p>	<p>organs.¹⁸</p> <p>In 2005, the Act on the collection, storage and transplantation of cells, tissues and organs increased punishments for the purchase or sale of human cells, tissue or organs from their previous level of up to 3 years' imprisonment or, if this activity was a primary source of income, up to 5 years' imprisonment.¹⁹</p>	
<p>Engagement of the child in forced labour (Art. 3.1 (a) (i) c.)</p>	<p>The trafficking of children for the purposes of slavery or involuntary labour is specifically prohibited (Penal Code, Articles 115 § 22, 189a; see “selling children” above).</p> <p>The Labour Code also generally prohibits the employment of children under 16 for purposes other than</p>	<p>Article 115 of the Polish Penal Code was revised in 2010 to provide for a definition of human trafficking that explicitly prohibits, among other things, trafficking children for the purposes of forced labour.²⁰</p>	

17 Act of 1 July 2005 on the collection, storage and transplantation of cells, tissues and organs.

18 Act of 20 May 2010 amending the Penal Code, Law on Police, and Regulations introducing the Criminal Code and Code of Criminal Procedure.

19 Act of 1 July 2005 on the collection, storage and transplantation of cells, tissues and organs, Journal of Laws 2005 No. 169, Item 1411, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20051691411>.

20 Act of 20 May 2010 amending the Penal Code, Law on Police, and Regulations introducing the Criminal Code and Code of Criminal Procedure.

	professional education and limits the employment of children between 16 and 18 to work that does not pose risks to their health or development. (Labour Code, Articles 190 - 206)		
Adoption:			
Improperly inducing consent for adoption in violation of international instruments (Art. 3.1 (a) (ii))	<p>Polish law does not specifically criminalise inducing consent for adoption in violation of international instruments.</p> <p>However, organising the illicit adoption of a child for the purposes of material gain falls under laws against trafficking in persons and is punishable by from 3 months' to 5 years' imprisonment (Penal Code, Article 211a).</p>	Article 211a of the Penal Code was introduced in 2010 to replace a similar provision in a separate section of the Code. ²¹	<p>On the failure to criminalise improperly inducing consent for adoption:</p> <p>“While the Committee notes the legislation on adoption in force in Poland, it regrets that improperly inducing consent in cases of adoption, as provided for in article 3, paragraph 1 (a)(ii) of the Optional Protocol, is not covered by the criminal legislation of the State party.”²²</p> <p>“The Committee recommends that the State party take all necessary measures to ensure that the definition of improperly inducing consent in cases of adoption is incorporated into the penal legislation, as stipulated in article 3, paragraph 1 (a) (ii) of the Optional Protocol.”²³</p>

21 The prohibition on adoption for financial gain previously appeared as Article 253 § 2 of the Penal Code and was not associated with laws against trafficking in persons. Act of 20 May 2010 amending the Penal Code, Law on Police, and Regulations introducing the Criminal Code and Code of Criminal Procedure.

22 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 32.

23 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 33.

Child Prostitution (“the use of a child in sexual activities for remuneration or any other form of consideration”)

MEASURE REQUIRED (PROHIBITION)	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Offering, obtaining, procuring or providing a child for child prostitution (Art. 3.1 (b))	<p>The trafficking of children for the purposes of child prostitution is specifically prohibited (Penal Code, Article 115 § 22; see “selling children” above).²⁴ Notably, however, prostitution is not a criminal offence in Poland, and child prostitution itself is neither specifically defined nor specifically criminalised. Nevertheless, several activities relating to prostitution are prohibited in the Penal Code,</p> <p>Compelling another person to work as a prostitute by use of force, threats or deceit, or by abusing a relationship of dependence or taking advantage of a situation of crisis is punishable by 1 to 10 years' imprisonment (Penal Code, Article 203). Compelling another person work as a prostitute in general, or obtaining material benefit from</p>	<p>A previous section of the Penal Code that prohibited enticing or abducting another person for the purposes of compelling that person to engage in prostitution abroad, punishable by 1 to 10 years' imprisonment, was subsumed into the new prohibition on human trafficking in 2010 (see “selling children” above).²⁵</p> <p>In 2005, Article 199 of the Penal Code was amended to prohibit encouraging a child to engage in sexual acts for personal or financial gain.²⁶</p>	<p>On the failure to define and criminalise all acts relating to child prostitution: “[T]he Committee remains concerned that the legislation of the State party does not criminalize all the acts constituting offences as per articles 2 and 3 of the Optional Protocol.”²⁷</p> <p>On the lack of a definition for child prostitution and the lack of legal protection for children aged 15 to 17: “Specifically, the Committee regrets the lack of legislation specific to the sale of children and is concerned at the absence of a definition of 'child prostitution'...as well as at the lack of explicit protection in the Penal Code for children between the ages of 15 and 18 from child pornography or child prostitution.”²⁸</p> <p>“The Committee urges the State party to provide a definition of 'child</p>

24 See also CRC/C/OPSC/POL/1, Replies to the list of issues to be taken up in connection with the consideration of the initial report of Poland, Question 3, available at <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.OPSC.POL.Q1-Add1.doc>.

25 This prohibition previously appeared as Article 204 § 4 of the Penal Code.

26 Act of 27 July 2005 amending the Penal Code, the Code of Criminal Procedure and the Executive Penal Code.

27 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.

28 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.

	<p>someone else's work as a prostitute, is punishable by between 1 and 10 years' imprisonment if the victim is under 18 (Penal Code, Article 204).</p> <p>Encouraging a child to engage in sexual acts for personal or financial gain is punishable by between 3 months' and 5 years' imprisonment (Penal Code, Article 199).</p>		<p>prostitution' and of 'sale of children' under Polish penal legislation and to ensure that children between the ages of 15 and 18 years of age are explicitly protected from child pornography and child prostitution.”²⁹</p> <p>“The Committee recommends that the State party...(b) Ensure that all persons under 18 involved in prostitution...are not criminalized and enjoy full protection....”³⁰</p> <p>On difficulties in implementing legislation:</p> <p>“The Committee also expresses concern that implementation of legislation in practice remains a problem.”³¹</p> <p>“The Committee also encourages the State party to make every effort to ensure that legislation providing protection for children against...child prostitution... is effectively and efficiently implemented.”³²</p>
--	---	--	--

29 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 29.

30 CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 49.

31 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, paras. 28.

32 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, paras. 29.

Child Pornography (“any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”)

MEASURE REQUIRED (PROHIBITION)	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography (Art. 3.1 (c))	<p>Producing pornographic materials with children under 18 for the purposes of dissemination, distribution, or circulation is punishable by between 6 months' and 8 years' imprisonment (Penal Code, Article 202 § 3).</p> <p>Recording pornographic materials with children under 15 is punishable by between 1 and 10 years' imprisonment, while storing, possessing or distributing pornographic materials with children under 15 is punishable by between 3 months' and 5 years' imprisonment (Penal Code, Article 202 §§ 4, 4a). Producing, distributing, storing, possessing or presenting pornography that involves a computer-generated or processed image of a child under 18 is punishable by a fine, a restriction on liberty or up to 2 years' imprisonment, as is presenting or making pornographic material available to a child under 15 (Penal Code, Article 202 §§ 2, 4b).</p> <p>In addition, courts may also order the forfeiture of any equipment or</p>	<p>In 2004, Article 202 § 5 was added to the Penal Code to provide for the forfeiture of equipment or materials used or designed to be used in child pornography offences.³⁴</p> <p>In 2005, Article 202 § 3 of the Penal Code was amended to prohibit the production of child pornography involving children under the age of 18, raising the age limit of the prior prohibition which only applied to children under 15. The same amending legislation also raised the penalty for recording pornographic materials involving children under 15 from previous levels of between 3 months' and 5 years' imprisonment.³⁵</p> <p>In 2008, Article 202 § 4b was inserted into the Penal Code to cover “generated or processed” images of child pornography.³⁶</p> <p>In 2009, Article 200a of the Penal Code was introduced in part to address the “grooming” of children for child</p>	<p>On the failure to define and criminalise all acts relating to child pornography: “[T]he Committee remains concerned that the legislation of the State party does not criminalize all the acts constituting offences as per articles 2 and 3 of the Optional Protocol.”³⁸</p> <p>On the lack of legal protection for children aged 15 to 17 from child pornography: “[T]he Committee regrets...the lack of explicit protection in the Penal Code for children between the ages of 15 and 18 from child pornography or child prostitution.”³⁹</p> <p>“The Committee urges the State party...to ensure that children between the ages of 15 and 18 years of age are explicitly protected from child pornography...”⁴⁰</p> <p>“The Committee recommends that the State party...(b) Ensure that all persons under 18 involved in...the production of pornographic materials are not criminalized and enjoy full protection.... ”⁴¹</p>

	<p>materials used or designed to be used for presenting, distributing, producing, recording, ordering, storing or possessing child pornography (Penal Code, Article 202 § 5).</p> <p>As discussed in greater detail above, “grooming” children to appear in pornography is punishable by up to 2 years' imprisonment if there is an intention to follow through with the acts anticipated, or up to 3 years' imprisonment if deceit or threats are used (Penal Code, Article 200a).</p> <p><i>Definition:</i> Polish Penal Law does not specifically define child pornography, but does cover “generated or processed” images.³³</p>	<p>pornography.³⁷</p>	<p>On difficulties in implementing legislation: “The Committee also expresses concern that implementation of legislation in practice remains a problem.”⁴² “The Committee also encourages the State party to make every effort to ensure that legislation providing protection for children against child pornography... is effectively and efficiently implemented.”⁴³</p>
--	---	----------------------------------	---

33 Act of 24 October 2008 amending the Penal Code and certain other laws, Journal of Laws 2008 No. 214, Item 1344, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20082141344>.

34 Act of 18 March 2004 amending the Penal Code and the Code of Criminal Procedure, Journal of Laws 2004 No. 69, Item 626, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20040690626>.

35 Act of 27 July 2005 amending the Penal Code, the Code of Criminal Procedure and the Executive Penal Code.

36 Act of 24 October 2008 amending the Penal Code and certain other laws, Journal of Laws 2008 No. 214, Item 1344, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20082141344>.

37 Act of 5 November 2009 amending the Penal Code, Code of Criminal Procedure, Executive Penal Code and certain other laws.

38 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.

39 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.

40 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 29.

41 CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 49.

42 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 28.

43 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 29.

Liability for Prosecution

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
<p>Attempt, complicity and participation in cited activities prohibited (Art. 3.2)</p>	<p>Attempt is generally punishable to the same degree as though the offence had been committed (Penal Code, Article 14). Preparation to commit certain offences, including some which involve the sale of children, child prostitution or child pornography, is punishable where and to the extent explicitly stated by law (See, e.g., Penal Code, Article 200a).</p> <p>Complicity and participation in the commission of an offence are punishable in the same way as perpetration, with each accomplice charged and sentenced individually (Penal Code, Articles 18 § 1, 20). Similarly, facilitation and instigation are also punishable within the range of penalties for the perpetration or attempt at perpetration of a given offence (Penal Code, Article 18 §§ 2, 3; Article 19).</p>		
<p>Legal persons liable to be prosecuted (Art 3.4)</p>	<p>Under the Act on the responsibility of collective entities for penalised offences, legal persons are liable to be prosecuted for certain criminal actions</p>	<p>The Act on the responsibility of collective entities for penalised offences was introduced in October 2002 to provide for the criminal</p>	<p>On the necessity of providing for the liability of legal persons: “The Committee recommends that the State party include provisions for the</p>

	<p>of individuals that benefit or potentially benefit the legal person where these individuals act on behalf of the legal person or its interest in a manner within, exceeding or failing to fulfill their powers or duties, or as a part of an internal policy or activity (Act on the responsibility of collective entities for penalised offences, Article 3).⁴⁴ For this liability to attach, the individual or individuals involved must have been found guilty of committing a criminal offence, and the legal person must at minimum bear responsibility for having failed to adequately screen or supervise any employees implicated (Act on the responsibility of collective entities for penalised offences, Articles 4, 5). Legal persons may be found liable for many offences related to the sale of children, child prostitution or child pornography, although the Act on the responsibility of collective entities notably does not apply to the Penal Code's provisions on human</p>	<p>liability of legal persons.</p> <p>Initially, Article 7 of the Act provided for fines between 5,000 zloty and up to 10% of the collective entity's annual revenue from the year preceding the conviction. However, this provision was declared unconstitutional⁴⁵ and in 2005 was revised to amounts from 1,000 to 20,000,000 zloty, but not greater than 10% of annual revenue in the year in which the crime was committed.⁴⁶ In 2011, these levels were decreased to between 1,000 and 5,000,000 zloty and not greater than 3% of annual revenue.⁴⁷</p>	<p>liability of legal persons in the Penal Code in conformity with article 3, paragraph 4 of the Optional Protocol.⁴⁸</p>
--	--	--	--

44 Act of 28 October 2002 on liability of collective entities for penalised offences, Journal of Laws 2002 No. 197, Item 1661, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20021971661>.

45 Information obtained by Nobody's Children Foundation.

46 Act of 28 July 2005 amending the Law on liability of collective entities for penalised offences, Journal of Laws 2005 No. 180, Item 1492, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20051801492>.

47 Information obtained by Nobody's Children Foundation.

48 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 31.

	<p>trafficking (Act on responsibility of collective entities for penalised offences, Article 16; Penal Code, Articles 199, 200, 202 – 204).</p> <p>Where a legal person is prosecuted in this manner, it may ultimately be sentenced to pay a fine of between 1,000 and 5,000,000 zloty not greater than 3% of the entity's annual income and to forfeit all direct and indirect profits resulting from the offence and any goods used in the commission of the offence or their cash equivalent (Act on responsibility of collective entities for penalised offences, Article 7). Other potential penalties include publishing the sentence and a ban on</p> <ul style="list-style-type: none">• any promotion of the entity's activities, products, and services• receiving public funds or financing from international organisations• competing for government contracts• any particular activity of the entity <p>(Act on responsibility of collective entities for penalised offences, Articles 8, 9).</p>		
--	---	--	--

Additional Considerations

MEASURE	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Definition of child	<p>There is some amount of inconsistency in the Polish Penal Code around the definition of a child. As concerns sexual exploitation, persons under 18 are considered children for offences related to the abuse of a relationship of dependence and for the recording of pornographic material (Penal Code, Articles 199 § 2, 202 § 3). For all other offences related to child pornography and sexual abuse, children are defined as persons under 15 (Penal Code, Articles 200, 202 §§ 2 – 4, 204 § 3).</p>		
Removal of parental authority	<p>Where a parent or guardian involves a child in the commission of an offence or commits an offence that is harmful to that child, the criminal court responsible for trying the parent or guardian must inform the family and guardianship court of the case with a view toward the deprivation or restriction of parental rights (Penal Code, Article 51). Similarly, where a child is a victim of or participates in the commission of an offence, or where circumstances suggest that a</p>		

	<p>child has been “corrupted”, the court or prosecutor must inform the family and guardianship court of the potential need to provide for rehabilitative, educational, restrictive or other measures (Code of Criminal Procedure, Article 23).</p> <p>In addition, any person with knowledge as to why guardianship or parental authority over a particular child should be examined is obliged to report this to the family and guardianship court (Code of Civil Procedure, Article 572). This obligation applies specifically to police officers, social services authorities, and court personnel, among others (Code of Civil Procedure, Article 572 § 2).</p>		
Statute of limitations	<p>The statute of limitations for sex offences committed against children runs at minimum 5 years beyond the child victim attaining 18 years of age (Penal Code, Articles 101 para. 4; 197; 199 §§ 2, 3; 200; 201; 202 § 2 – 4; 203; 204 §§ 3, 4).</p>	<p>In 2008, Article 101 of the Penal Code was amended to extend the statute of limitations for sex offences committed against children.⁴⁹</p>	<p>On the extension of the statute of limitations for sex offences committed against children: “The Committee notes with appreciation the adoption of the following legislative and other measures: (a) The amendment of the Penal Code of article 101, paragraph 4 (December</p>

⁴⁹ Act of 24 October 2008 amending the Penal Code and certain other laws.

			2008)'' ⁵⁰ “The Committee notes that an amendment to the Penal Code has been drafted that allows for the possibility to begin penal proceedings within five years of the moment the victim turns 18.’’ ⁵¹ “The Committee recommends that the State party adopt the above-mentioned amendment without delay but that it consider extending the period within which a person can begin penal proceedings after he turns 18 to longer than five years.’’ ⁵²
Confiscation of proceeds	Under the Penal Code, Courts may order the forfeiture of personal or corporate property obtained through or intended to be used in committing a criminal offence or, where this is impossible, a suitable equivalent thereof (Penal Code, Articles 44, 52, 100). This also applies to any direct or indirect financial or personal gains resulting from criminal activity (Penal Code, Article 45).		
Closure of premises	There are no provisions in Polish law	As of July 2011, draft provisions to	

50 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 4.

51 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 34.

52 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 35.

	for the closure of business premises used in the commercial sexual exploitation of children.	provide for the closure of business premises used in the commercial sexual exploitation of children were included in a planned amendment to the Penal and Criminal Procedure Codes designed to implement the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. ⁵³ However, this amendment had yet to be formally proposed. ⁵⁴	
Protection from Deportation	Persons who are victims of trafficking may be granted residence visas or settlement permits for a set period of time if they are willing to cooperate with law enforcement bodies (Law on Foreigners of 13 June 2003, as amended, Articles 33, 53), but there are no specific provisions on child victims of commercial sexual exploitation. ⁵⁵ In general, however, children may only be deported from Polish territory where it can be ensured that they will receive appropriate guardianship from parents, other adults, or care institutions (Law on	In 2005, the Law on Foreigners and Law on Granting Protection on Polish Territory were amended to specify the conditions in which temporary residence permits could be granted to victims of trafficking. ⁵⁸ In 2007, the Law of 12 March 2004 on Social Welfare was amended to enable unaccompanied foreign children vulnerable to trafficking to lawfully remain in Poland. ⁵⁹ In 2008, Article 97 of the Law on Granting Protection on Polish Territory was amended to reflect that residence permits should be granted to any children in Polish	

53 The text of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse is available at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=201&CL=ENG>.

54 Information obtained by the Nobody's Children Foundation.

55 The Law on Foreigners is contained in the Announcement of the Speaker of the Polish Sejm on 22 November 2006 on the text of the Act on Foreigners, as amended, Journal of Laws 2006 No. 234, Item 1694, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20062341694>.

	<p>Foreigners of 13 June 2003, as amended, Article 94) and cannot be removed where this would violate any of the provisions of the Convention on the Rights of the Child (Law on Granting Protection on Polish Territory, Article 97).⁵⁶ Child victims of trafficking are also entitled to participate in the national “Program of assistance and protection for victims/witnesses of human trafficking”, which offers material, medical and psychological support and also ensures a safe return to the child's country of origin.⁵⁷</p>	<p>territory where deportation could violate any of provisions of the Convention on the Rights of the Child.⁶⁰</p>	
--	---	---	--

Jurisdiction

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Offences committed in territory or aboard registered	Crimes committed on Polish territory by Polish or foreign nationals may be		

56 The Law on Granting Protection on Polish Territory is contained in the Act of 18 March 2008 amending the Act on granting protection to foreigners on Polish territory and certain other laws, Journal of Laws 2008 No. 70, Item 416, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20080700416>.

57 CRC/C/OPSC/POL/1, Replies to the list of issues to be taken up in connection with the consideration of the initial report of Poland, Question 8.

58 Act of 22 April 2005 amending the Aliens Act and the Act on granting protection to foreigners on Polish territory and certain other laws, Journal of Laws 2005 No. 94, Item 788, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20050940788>.

59 Law of 12 March on social assistance, Journal of Laws 2004 No. 64, Item 593, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20040640593>; Law of 16 February 2007 amending Law on Social Assistance, Journal of Laws 2007 No. 48, Item 320, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20070480320>.

60 Nobody's Children Foundation, February 2009, Alternative report to the Polish government's report to the Committee on the Rights of the Child, p. 6, available at http://www.crin.org/docs/Poland_CoalitionCRC_NGO_Report_%20final.pdf.

ship or aircraft (Art. 4.1)	prosecuted in Polish courts unless an international agreement states otherwise (Penal Code, Article 113).		
Offender is a national or resident (Art. 4.2 (a))	Polish citizens and residents may in general be prosecuted for criminal offences committed abroad, provided that the acts in question would constitute an offence in the jurisdiction in which they are committed, an offence listed in the Rome Statute of the International Criminal Court, or an offence which Poland has agreed to pursue under an international agreement (Penal Code, Articles 109, 111, 113).		
Victim is a national (Art. 4.2 (b))	Crimes committed against Polish nationals abroad may be prosecuted in Polish courts (Penal Code, Article 110).		
Offender is in territory and no provisions for extradition (Art. 4.3)	There do not appear to be provisions in Polish law for trying Polish national offenders who have committed acts abroad that do not amount to an offence under Polish law, are present in Polish territory, and are not extradited to the requesting jurisdiction.		

Extradition (Art. 5)	<p>The Polish Government “accepts requests for extradition on the basis of bilateral international treaties, multilateral agreements and the provisions of the Code of Criminal Procedure [where such agreements are lacking].”⁶¹</p> <p>However, the extradition of Polish citizens is generally prohibited under the Constitution unless provided otherwise in a bilateral international agreement and the acts in question would amount to an offence under Polish law, constitute a crime against humanity, or fall under the jurisdiction of international judicial bodies (Constitution, Article 55).</p>		
----------------------	--	--	--

Child-Friendly Justice

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Procedures adapted to children's special needs as witnesses (Art. 8.1 (a))	<p><i>Investigation</i></p> <p>Police who work with child victims are supposed to be trained to handle these kinds of investigations.⁶² In some districts, there are specially trained</p>	The provisions of the Code of Criminal Procedure aimed at reducing repeated interviews for child victims of sexual offences were introduced in July 2003 and amended for clarity in	On the use of audiovisual technology, specially trained police officers, and child-friendly interview rooms to facilitate interviews with child victims: “The Committee welcomes the

61 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 29.

62 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 39.

	<p>prosecutors appointed to handle cases that involve children.⁶³ The Ministry of Justice and national NGO Nobody's Children Foundation have recently organised a campaign - "The Child: A Vulnerable Witness" - which seeks to make judges, prosecutors, law enforcement officers and psychologists more sensitive to the special situation of children in the criminal justice system.⁶⁴ According to the international organisation End Child Prostitution Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT), these kinds of programs are especially necessary as existing provisions on child-friendly procedures are not always followed.⁶⁵</p> <p>As regards child trafficking, the National Prosecutor's Office has prepared and distributed instructions for any prosecutor involved in cases of this nature, in particular those that involve unaccompanied child victims who remain in Poland.⁶⁶ Children working as prostitutes also receive</p>	<p>2005.⁷⁴</p>	<p>possibility of using audio and video interviews of children in cases concerning the sale of children, child prostitution and child pornography and that these interviews must be conducted by specially trained police officers in child-friendly interview rooms. The Committee notes with concern, however, that the numbers of properly equipped child friendly interview rooms and of personnel trained to carry out child interviews are not available in all areas of the State party's territory. The Committee is also concerned that child-friendly interview rooms are not always used even where they do exist. The Committee is further concerned that judicial proceedings relating to trafficking cases are unduly long, lasting two years on average."⁷⁵</p> <p>"The Committee recommends that the State party invest adequate resources to ensure that child-friendly interview rooms are properly equipped and that the personnel interviewing children are properly trained in this regard so as to</p>
--	---	---------------------------	---

63 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 45.

64 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 55.

65 ECPAT, Global Monitoring Report on the status of action against commercial sexual exploitation of children: Poland, 2006, p. 19, available at http://www.ecpat.net/A4A_2005/PDF/Europe/Global_Monitoring_Report-POLAND.pdf.

66 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 39.

	<p>special attention from police units and systematic supervision from community support officers; investigators are expected to examine the reasons behind the activity and the social and financial circumstances of the child's family before referring cases to the family court.⁶⁷</p> <p><i>Testifying</i> Judges are empowered to close courtroom proceedings involving child witnesses under 15 years of age, and may order a defendant to leave the courtroom while a particular witness is testifying if the presence of that defendant could make the witness uneasy (Code of Criminal Procedure, Article 390 §§ 2, 3).⁶⁸ Courts may also close proceedings to the public on the request of the prosecution, and are obliged to close proceedings where they determine that the presence of the</p>		<p>ensure the protection of child victims. The Committee urges the State party to take the necessary measures to reduce the trauma suffered by victims of offences under the Optional Protocol, including by shortening the length of judicial proceedings in cases related to offences under the Optional Protocol, while redirecting the focus to the full recovery and reintegration of child victims.”⁷⁶</p> <p>On the need to prosecute complaints in a child-sensitive manner: “The Committee recommends that the State party...(c) Train law enforcement officials, social workers and prosecutors in how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner...”⁷⁷</p>
--	--	--	--

67 OPSC Report (exact language: In the case of minors working as prostitutes and those suspected of prostitution the Police uses preventive measures, by covering them with so-called minor cards and systematic supervision by community support officers and specialists for minors. During individual conversations with young people and their supervisors, policemen investigate the reasons for the activity, the social and financial circumstances of the family and inform them about the possible consequences of prostitution. Moreover, according to the regulations on proceedings in cases of minors, the Police always informs the family Court about the cases of child prostitution.)

68 The current Code of Criminal Procedure was introduced by the Law of 6 June 1997, Journal of Laws No. 89, Item 555, available as amended at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19970890555>.

75 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 36.

74 Act of 10 January 2003 amending the Code of Criminal Procedure, Regulations introducing the Criminal Procedure Code, Law on Witnesses, and Law on Protection of Classified Information, Journal of Laws 2003 No. 17, Item 155, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20030170155>; Act of 3 June 2005 amending the Code of Criminal Procedure, Journal of Laws 2005 No. 141, Item 1181, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20051411181>.

	<p>general public would offend decency or “infringe on private interests” (Code of Criminal Procedure, Article 360 §§ 1, 2).</p> <p>Prosecutors typically elicit the testimony of child victims and witnesses in the presence of a psychologist and, where advisable, the child's parents.⁶⁹ By law, victims of crimes involving sexual abuse, violence or threats who are under 15 years of age at the time of testimony must be questioned in the presence of a psychologist and can only be examined once, unless previously unknown information requiring further interrogation becomes available at a later date (Code of Criminal Procedure, Articles 185a, 185b). The police also aim to provide special rooms to younger children for these purposes, including facilities for video recording.⁷⁰ Ideally, interviews in these rooms are conducted solely by a judge in the presence of a psychologist, with prosecutors, defense attorneys and other involved parties watching from a separate room via a two-way mirror or closed-circuit</p>		
--	---	--	--

69 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 37.

70 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 37.

	<p>television.⁷¹</p> <p>Standards envisioned for child-friendly interview rooms include measures to ensure the child's privacy, safety, and comfort, and those rooms meeting specific criteria can apply to be officially certified as child-friendly.⁷² As of February 2009, there were 300 of these rooms in existence across the country, although the large majority were not certified and reports indicate that the numbers of properly equipped interview rooms and professionally trained interviewers are still insufficient, particularly outside large urban areas.⁷³</p>		
Children informed of rights/role and scope/timing/progress/disposition of cases (Art. 8.1 (b))	Prosecutors conducting or supervising cases that involve child victims aim “to inform [] children through their parents or guardians about their rights[,] in particular the right[s] to privacy, safety and indemnity.” ⁷⁸		

71 Compendium of good practice in the field of friendly justice for children: Poland, available at <http://www.coe.int/t/dghl/standardsetting/childjustice/Poland%20good%20practices.pdf>.

72 Compendium of good practice in the field of friendly justice for children: Poland.

73 Nobody's Children Foundation, February 2009, Alternative report to the Polish government's report to the Committee on the Rights of the Child, p. 17.

77 CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 49.

76 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 37.

78 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 41.

	The Ministry of Justice has also launched a victims' rights website ⁷⁹ , which includes information and a guidebook about children's rights in criminal proceedings. ⁸⁰		
Children's views/needs/concerns presented (Art. 8.1 (c))	<p>In general, the rights of a child victim are exercised by that child's legal representative or caretaker (Code of Criminal Procedure, Article 51 § 2). Parents typically function as legal representatives of their children, but cannot do so where proceedings are filed against another parent or parent's spouse, or by one of their children against another (Family and Guardianship Code, Article 98).⁸¹ In these cases, a guardian is appointed by the family court to represent the child's interests (Family and Guardianship Code, Article 99).⁸²</p> <p>Under Polish law, there are no set minimum age limits in either civil or criminal cases for serving as a witness</p>		<p>On the lack of consideration given to children's views: “The Committee is particularly concerned that children’s views are not given due consideration in all matters affecting them, including the creation of policies and programmes, and that this may be a consequence of the inadequate application of the principle of the right of the child to express his/her views and to have those views given due weight.”⁸⁴ “The Committee recommends that the general principles of the Convention on the Rights of the Child, in particular the principle[] of...respect of the views of the child, be included in all measures taken by the State party to implement the provisions of the</p>

79 The Ministry of Justice's victims' rights website is available at www.pokrzywdzeni.gov.pl.

80 Compendium of good practice in the field of friendly justice for Children: Poland.

81 The current Family and Guardianship Code was introduced by the Law of 25 February 1964, Journal of Laws No. 9, Item 59, available as amended at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19640090059>.

82 According to the Supreme Court of Poland, appointing a legal guardian in these circumstances is mandatory in all actions before a court or public authority, and applies to both civil and criminal proceedings. See Supreme Court resolutions I KPZ 10/2010, III KK 315/2009.

	<p>before the court, although persons without the ability to accurately observe events around them or to convey their observations to others cannot be called as witnesses in civil cases (Code of Civil Procedure, Article 259).⁸³</p> <p>In civil cases that concern a child's interests, courts are required to give children of a sufficient understanding an opportunity to express their views and to take these views and reasonable wishes into account in accordance with the maturity of the child (Code of Civil Procedure, Article 216). There are no analogous provisions in criminal proceedings, although child victims and witnesses may still be asked to provide testimony before the court.</p>		<p>Optional Protocol, including judicial or administrative proceedings.”⁸⁵</p> <p>“The Committee notes the State party’s efforts to require administrative and judicial proceedings to take into account the views of the child, but is concerned that in practice this principle is not always implemented...”⁸⁶</p> <p>“The Committee recommends that the State party: (a) Take effective measures, including legislation, to promote and facilitate respect for the views of children, by courts and all administrative bodies and the participation of children in all matters affecting them, in accordance with article 12 of the Convention [on the Rights of the Child]...”⁸⁷</p>
--	---	--	--

83 The current Code of Civil Procedure was introduced by the Law of 17 November 1964, Journal of Laws No. 43, Item 296, available as amended at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19640430296>.

84 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 8.

85 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 9.

86 CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 30.

87 CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 31.

<p>Support services provided throughout legal process (Art. 8.1 (d))</p>	<p>Child victims and their family members receive information from criminal justice authorities on ways to obtain psychological, financial, legal or other assistance tailored to individual children's needs.⁸⁸ Child victims of trafficking in particular are eligible for social welfare services.⁸⁹</p> <p>Children have the right to safety throughout criminal proceedings, and trainings for prosecutors who handle cases involving child victims include units on psychology and social assistance.⁹⁰ The Child Advocacy Centre (“Mazowiecka”), established by national NGO Nobody's Children Foundation and operated in cooperation with the Ministry of Justice and the Ministry of Internal Affairs and Administration, also offers children and their family members legal and psychological assistance free of charge.⁹¹</p> <p>According to Nobody's Children Foundation, several programs were developed to provide children with support during legal proceedings as</p>	<p>In 2007, amendments to the Law on Social Assistance to ensure support for victims of trafficking entered into force.⁹⁴</p>	<p>On assistance provided to victims of trafficking: “‘The Committee notes with interest the programme of assistance and protection for victims/witnesses of human trafficking which provides material, medical and psychological support to trafficking victims or witnesses.’”⁹⁵</p> <p>On the need for improved data collection with regard to assistance for victims of sexual exploitation: “‘The current system of data collection should be expanded, with the assistance of relevant ministries and authorities, to include all areas covered by the Convention, including... assistance provided to child victims of sexual exploitation or abuse.’”⁹⁶</p>
--	--	--	---

88 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 67.

89 Law of 16 February 2007 amending the Law on Social Assistance, Journal of Laws 2007 No. 48, Item 320, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20070480320>; see also CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, paras. 67, 70.

90 CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 41.

91 ECPAT, Global Monitoring Report on the status of action against commercial sexual exploitation of children: Poland, 2006, p. 20.

<p>Privacy/identity protected (Art. 8.1 (e))</p>	<p>As above, criminal proceedings involving children are not usually open to the public. In addition, all identifying information about children involved in these proceedings, including name, age and sex, is kept strictly private and modified to ensure anonymity before release to any media outlet (Press Law, Article 13 § 2).⁹⁷</p>		
<p>Providing for safety of victims/families involved (Art. 8.1 (f)/ Art. 8.5)</p>	<p>In cases where the child victim lives in the same residence with the alleged offender, the prosecutor may on application of the police or of his or her own initiative order the alleged offender to vacate the shared residence for up to 3 months' time, at which point a court may on application of the prosecutor prolong the order for successive 3 month periods (Code of Criminal Procedure, Article 275a).</p> <p>Where the child victim does not reside with the alleged offender, the prosecutor and Court may opt to keep that child or any other witness's</p>		

92 Nobody's Children Foundation, Activity Report 2004, available at <http://www.fdn.pl>.

93 Compendium of good practice in the field of friendly justice for Children: Poland.

94 Law of 16 February 2007 amending the Law on Social Assistance.

95 CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 34.

96 CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 20.

97 Press Law available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU19840050024>.

	address private (Code of Criminal Procedure, Article 191 § 3). Additional measures including temporary restraining orders are also available under Polish law. ⁹⁸		
Avoid delay in disposition/compensation (Art. 8.1 (g))	There do not appear to be provisions in Polish law to ensure that children do not face delays in the court reaching a disposition or ordering that an offender provide compensation, although there is a general right to have cases examined without unnecessary delay (Act of June 17, 2004 on the right to court proceedings without undue delay). ⁹⁹		
Best interests a primary consideration (Art. 8.3)	There is no specific provision in Polish law that requires courts to consider children's welfare and best interests in all proceedings that concern them. There are, however, certain provisions in the Family and Guardianship Code and Code of Civil Procedure that list children's well-being as a factor to be taken into account (See, e.g., Code of Criminal Procedure, Articles 107, 109, 113). There are no analogous provisions in criminal proceedings,		

⁹⁸ Information provided by Nobody's Children Foundation.

⁹⁹ Journal of Laws 2004 No. 179, Item 1843, available at <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20041791843>.

	although in practice, certain relevant European laws and other standards, including those issued by the Ministry of Justice and civil society, may apply. ¹⁰⁰		
--	--	--	--

Remedial Measures

MEASURE REQUIRED	CURRENT LAW	LEGAL REFORM	COMPLIANCE
Assistance given to facilitate victims' recovery (Art. 9.3)	As described above, the Polish government partners with NGOs who work on children's issues to facilitate child victims' recovery. ¹⁰¹ The national "Programme for the Prevention of Social Maladjustment and Criminality among Children and Youth" has been rolled out across the country, and most provinces now offer some form of family, legal and psychological counseling. Among other things, the aims of the programme include providing relevant information, running hotlines, conducting therapy sessions, and offering mediation and crisis assistance services. ¹⁰² Some areas also offer special programmes		On the inadequacy of assistance provided to victims of trafficking: "While noting with appreciation that space and funding has been provided to allow NGOs to operate shelters for victims of trafficking, the Committee remains concerned that the number of shelters remains inadequate and that temporary arrangements are frequently resorted to in order to provide medical, psychological, and legal assistance to victims. The Committee also notes with regret the lack of recovery and reintegration programmes for child victims of sexual exploitation and the absence of a comprehensive and systematic approach to addressing the

¹⁰⁰Information provided by Nobody's Children Foundation.

¹⁰¹CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 73.

¹⁰²CRC/C/OPSC/POL/CO/1, 22 October 2009, Report of state party to the Committee on the Rights of the Child, para. 81.

	<p>for child victims of sexual abuse.¹⁰³</p> <p>However, there are reports that there is no systematic specialised assistance for child victims, that there are not enough competent professionals engaged, and that institutions and organisations providing psychological and legal help are still scarce, especially outside large urban areas.¹⁰⁴</p>		<p>full scope of this problem.”¹⁰⁵</p> <p>“The Committee recommends that the State party create programmes and provide services for child victims of offences under the Optional Protocol to assist recovery and reintegration. In this regard, the Committee urges the State party to ensure that adequate financial resources and trained human resources are allocated for these programmes and services. The Committee also recommends that the State party speed up the adoption of the guidelines on assisting victims of trafficking, developed under the inter-ministerial team’s plan of action, which will serve as a pilot programme in police units, and that the State party ensure that the pilot programme is provided with adequate financial and human resources for implementation.”¹⁰⁶</p> <p>“The Committee recommends that the State party...(d) Ensure that all victims of trafficking and forced prostitution have access to appropriate recovery and reintegration programmes and</p>
--	---	--	---

103CRC/C/70/Add.12, 2 December 1999, Periodic report of the state party to the Committee on the Rights of the Child, para. 353, available at <http://tb.ohchr.org/default.aspx?Symbol=CRC/C/70/Add.12>.

104Nobody's Children Foundation, February 2009, Alternative report to the Polish government's report to the Committee on the Rights of the Child, p. 19.

105CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 38.

106CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 39.

services.”¹⁰⁷

On the creation of a national hotline for children:

“The Committee welcomes the launch in November 2008 of a free national hotline for children and youth.”¹⁰⁸

“The Committee recommends that the State party continue its efforts to ensure that the helpline provides adequate assistance to child victims. In this regard, the Committee also recommends that the State party ensure that children are aware of the existence of the helpline and are able to access it easily. The Committee further recommends that the State party encourage and facilitate collaboration between the helpline with child-focused non-governmental organizations and the police, as well as with health and social workers.”¹⁰⁹

On the limited support for victims' recovery and reintegration:

“The Committee...is concerned that victims of abuse and their families receive limited support for recovery and reintegration.”¹¹⁰

107CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 49.

108CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 40.

109CRC/C/OPSC/POL/CO/1, 22 October 2009, Concluding observations of the Committee on the Rights of the Child, para. 41.

			<p>“The Committee recommends that the State party...(b) Set up a comprehensive and nationwide response system designed to provide, where appropriate, support and assistance to both victims and perpetrators of family violence, rather than only intervention or punishment, and which ensures that all victims of violence have access to counselling and assistance with recovery and reintegration, particularly in communities where the local administration does not have sufficient resources to set up a family crisis centre....”¹¹¹</p>
<p>Child victims have access to procedures to seek compensation from offenders (Art. 9.4)</p>	<p>While children can be party to or participate in civil court proceedings, they cannot do so independently and must typically be represented by their legal guardians (Family and Guardianship Code, Articles 98, 99).</p>		

Further Resources

ECPAT, Global Monitoring Report on the status of action against commercial sexual exploitation of children: Poland, 2006, available at

¹¹⁰CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 34.

¹¹¹CRC/C/15/Add.194, 30 October 2002, Concluding observations of the Committee on the Rights of the Child, para. 35.

http://www.ecpat.net/A4A_2005/PDF/Europe/Global_Monitoring_Report-POLAND.pdf.

Nobody's Children Foundation, ECPAT, The Body Shop, Country Progress Card [on Sex Trafficking of Children & Young People], 2010, available at http://www.ecpat.net/TBS/PDF/2010_Poland_Progress_Card.pdf.

Nobody's Children Foundation, The Problem of Child Trafficking in Poland and the World, 2011, available at http://fdn.pl/sites/default/files/file/Broszura_Problem_2012.pdf.