

## **“Protection of the rights of the child in the implementation of the 2030 Agenda for Sustainable Development”: contribution by Poland**

1. What key lessons learned from the experience of implementing the Millennium Development Goals should be taken into account to ensure that the rights of the child are protected in the implementation of the 2030 Agenda for Sustainable Development?

Poland considers that the approach to implementing the 2030 Agenda which would ensure the protection of the rights of all children and that no child is left behind should be based on the linkages between the rights of the child protected by the existing legal instruments and the Sustainable Development Goals. While the 2030 Agenda can contribute substantially to the realisation of the rights of the child, the rights of the child can also offer guidance for the implementation of the Agenda. The substantive linkages between the goals and the rights of the child should therefore not only be analysed and explored but should also be supplemented with institutional and procedural framework allowing for the full realization of this potential for mutual reinforcement. Relevant existing recommendations from the international human rights monitoring bodies (such as the Committee on the Rights of the Child) and of the national human rights institutions and independent children’s rights institutions (such as the Ombudsman for Children in Poland) should constitute the starting point of the process of planning of implementation of the Agenda in national contexts. Building on the work and experience of those bodies should help analyse the situation of different groups of society, including the data relating to the prohibited grounds of discrimination, the situation of those who are particularly vulnerable or marginalised (e.g. children with disabilities, migrant children) and finally to identify the specific issues and contexts posing particular challenges for the realization of the Social Development Goals. According to the Polish Ombudsman for Children the national human rights institutions and independent children’s rights institutions are well placed not only to look into systemic and structural problems with regard to inequality and discrimination, but also – due to their mandate to investigate and take measures in individual cases, to bring to light specific disadvantages faced by particular groups in certain situations (eg. the Ombudsman for Children in Poland in the past raised the issue of access to education of children in hospices). For the same reasons the participation of those bodies in national review processes of the progress of realization of the goals of the 2030 Agenda would help ensure the protection of the rights of all children.

Another issue that Poland would like to raise is the participation of children in the planning and the review of the implementation of the 2030 Agenda. In accordance with Article 12 (1) of the CRC the States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child. Moreover, the views of the child shall be given due weight in accordance with the age and maturity of the child. Securing to children the right to meaningful participation in the process of implementation of the 2030 Agenda entails the right to receive information about the Social Development Goals, their implications for the protection of the rights of the child and human rights and on the challenges faced at national and international levels. Educating children on those issues would thus be essential to secure their rights in the process of implementation of the 2030 Agenda.

Both the participation of children and the involvement of national human rights institutions and independent children rights institutions should have positive impact on the accountability and monitoring of the implementation of the Agenda. Moreover, exploring and highlighting the linkages between the Sustainable Development Goals of the 2030 Agenda and the rights of the child as specified by legally-binding instruments (in particular in the CRC and national constitutions) could add a dimension of accountability to the Agenda: the possibility to institute court proceedings and to claim redress for the victims of alleged

violations, the possibility to lodge complaints with the national human rights institutions. Crucial in this regard are the international human rights monitoring mechanisms, in particular treaty bodies such as the Committee on the Rights of the Child and the existing state reporting procedures, for guiding the approach to the implementation of the 2030 Agenda so that the rights of all children be ensured.

It should be underlined that Polish government is conducting a family policy aimed at introducing the *Convention on the Rights of the Child towards Polish children*. The crucial aim of the Polish family policy is to improve living conditions and reduce poverty of the families bringing up children in order to encourage them to have as many children as they desire. It is necessary to enumerate such instruments of the family policy as financial support (*Family 500 Plus Programme*), introduction of the rule *złoty per złoty* to the family benefits system, extension of the maternity leave up to 52 weeks, large families support (*Family 500 Plus Programme, Large Families Concession Card*), support for the disabled (the rise of the benefit for the carers). It is also essential to improve of the support for the families in crisis in order to prevent taking children from their biological family to substitute parents. At the same time the deinstitutionalization of the foster care system is being continued. (*Ustawa z dnia 9 czerwca 2011 r. o wspieraniu rodziny i pieczy zastępczej*).

2. What approaches to implementing the 2030 Agenda would ensure the protection of the rights of all children, and that no child is left behind? Please define your response in relation to the following areas:
  - a. Equality and non-discrimination

The education system in Poland provides girls and boys with equal access to education at all its stages, including equal access to all mandatory classes provided for in the state school curricula (Millennium Development Goal no. 2 is fully implemented in Poland; goals no 4.1 and 4.2 of the 2030 Agenda are effectively implemented).

Gender equality (Millennium Development Goal no. 3 and goals no. 4.3, 4.5, 4a of the 2030 Agenda) is also promoted by ensuring that issues of gender equality, equal rights and anti-discrimination are covered in the core curriculum of general education in specific types of schools; the core curriculum sets schools a compulsory scope of education objectives and teaching content which schools have to include in their set of curricula. In the Polish education system, the school shapes attitudes of openness and tolerance in students. The personal development programme and the curricula of various subjects are consistent and include aspects related to open and tolerant attitudes among students.

In the implementation of the personal development programme and the curriculum, the teacher can freely decide which teaching methods and teaching aids to choose. This is guaranteed under art. 12(2) of the Teachers' Charter Act of 26 January 1982 (Dz. U. of 2014, item 191, as amended), which specifies that in the implementation of the curriculum, the teacher is free to use the teaching and educational methods that he deems most appropriate, choosing from among those recognised by contemporary pedagogy.

The core curriculum of general education is the school's main programme instrument. The school's educational activity is determined by:

1. its set of curricula,
2. the personal development programme,
3. the prevention programme adapted to the students' developmental needs and the needs of a given environment,

which form a coherent whole and have to take into account all the requirements described in the core curriculum. Their preparation and implementation is the task of both the whole school and every teacher. In addition to educational and preventive tasks, teachers also take care of students according to existing needs. The purpose of general education is, among others, to shape students' attitudes required for efficient and responsible functioning in the modern world. Selected topics from the core curriculum of general education concern teaching and education in the field of protection of human rights and freedoms, equality and tolerance.

Openness and tolerance are primarily taught and developed as part of the educational process and in the framework of the following subjects: civics, education for family life, history and society, nature, Polish language, and ethics.

- b. Investing in children
- c. Partnerships for implementation

On 8 July 2014, the Council of Ministers' resolution no. 130/2014 on the adoption of the government programme for the years 2014-2016 titled "Safe and friendly school" entered into force. The programme is a continuation of the previous one, implemented in 2008-2013. Implementation of the tasks indicated in the Programme will contribute, among others, to:

1. schools and educational facilities taking more actions to create a safe and friendly educational environment, making students and pupils feel more accepted in their school community, reducing social exclusion, and increasing educational competencies of parents, teachers and educators;
2. stabilising or reducing problems and problematic behaviours among children and teenagers, including reducing the level of aggression, violence and cyberbullying, improving students' ability to navigate in the digital environment, in particular in the so-called new media, stabilising or reducing the use of psychoactive substances, and providing more effective solutions to developmental and life crises of children and teenagers.

The programme included a competition which selected a non-governmental organisation to run a free nationwide hotline. The hotline consists of a helpline for children and adolescents (phone no. 116111), available daily from 12:00 noon to 10:00 pm along with online assistance, and a hotline for parents and teachers on child safety, available from Monday to Friday from 12:00 noon to 6:00 pm, along with online assistance.

As part of the task, the NGO made available [www.800100100.pl](http://www.800100100.pl), an online service for parents, teachers and representatives of institutions working for the safety of children and young people, and [www.116111.pl](http://www.116111.pl), an online service for children and youth. It also developed educational leaflets addressed to children and young people, their parents, teachers and representatives of institutions working for the safety of children and youth.

The execution of the task included:

1. educational interventions, including counselling for people asking via telephone or internet for advice on how to identify and avoid risks, make rational choices, prevent problems and risky behaviours among children and youth, teachers and parents, making schools and educational facilities more aware of the possibilities to cooperate with other institutions or entities that can support the school's activities in the local community;
2. local interventions, which included the reporting of cases to local institutions and services if required by the situation described by the person who had contacted the NGO via telephone or internet. Local interventions were undertaken subject to obtaining data necessary to initiate actions;

3. crisis intervention, launched in situations of imminent threat to the life or health of persons who contacted the 116 111 number.

As part of the "Safe and friendly school" programme, the non-governmental organization also implemented (from 2014 to 2016) a public task titled "Safe and friendly school – evaluation of the schools and education system facilities that implement policies to protect children against aggression and violence." The task includes setting up a system that will evaluate whether educational facilities implement measures to protect children from abuse. Facilities will be mainly evaluated according to the following Standards of Child Protection, adapted from a document titled "Setting the Standard: a common approach to child protection", which was developed in 2003 by an international coalition of NGOs working to protect children's safety:

S1 - The facility has established and implemented a policy to protect children from harm, which contains procedures for intervention in case of suspected child abuse by strangers, family members, personnel of the facility, or peers, as well as the protection of personal data and the image of the child, rules for the safe use of the internet by children and for safe relations between the facility personnel and the child.

S2 - The facility monitors all employees in order to prevent child abuse and verifies their criminal record (on the basis of certificates from the National Criminal Register or statements made by the employee).

S3 - The facility provides its employees with training on how to protect children from abuse and help children who are at risk.

S4 - The facility offers parents training on how to raise children without using violence and protect them from violence and abuse.

S5 - The facility teaches children about their rights and protection against the threats of violence and abuse.

S6 - The facility monitors and periodically verifies whether its measures are compatible with the adopted principles of child protection.

In 2014-2016, the Programme covered nearly 3,000 schools and educational facilities.

#### Ad.2 e.(Other relevant considerations): domestic violence

Together with the amendment of the 2005 Act on counteracting domestic violence, adopted in 2010, modifications have been introduced to the Family and Guardianship Code pertaining to the ban on use of corporal punishment, in the following wording: "Persons executing parental powers or exercising guardianship or custody over a minor shall not apply corporal punishment."

Further amendments introduced to the Act mentioned above, in the area of counteracting harming children consisted of introduction to the provisions of the Code of the restraining order for perpetrators and the order for perpetrators to leave a place of common residence, irrespective of the fact if they own it or not. Legal provisions in this area make it possible for a parent/guardian to stay with a child in a place of residence (in most cases these were mothers with children) without the need to leave the place of residence and seek shelter in a 24 hour facility. The provisions are an important factor of protection of children, who are victims or witness of violence, as the child is not taken out of their family, school environment or circle of friend, thus providing for an opportunity of handling the trauma of violence with the assistance of experts in a local community. What is more, the provisions of the Act on counteracting domestic violence stipulate that persons, who in connection with exercising their official or professional duties have arrived at a suspicion of crime persecuted ex officio and related to domestic violence, shall immediately notify police or a prosecutor. Moreover, persons witness to violence should notify police, a prosecutor or another institution acting against domestic violence. Another amendment introduced in 2010 consisted in providing an opportunity to a victim of domestic violence, including children, to get a free of charge medical certificate identifying reasons for and the type of bodily harm related to domestic violence.

Also, amendments regulating issues related to cooperation within interdisciplinary teams on the basis of the 'Blue Cards' procedure were introduced. In a situation, where a case related to a child, who is a victim of domestic violence is considered in the course of efforts of the interdisciplinary team, an individual assistance plan is developed, which is adapted to child's capacities and needs. The assistance plan is delivered in line with the "Blue Card" procedure. It should be pointed out that the child shall not participate in a meeting of the interdisciplinary team, but instead there shall be a parent, a legal guardian or a close relative present. The National Programme for Domestic Violence Prevention 2014–2020 is another document, which regulates system solutions in Poland counteracting domestic violence. The programme covers the following areas:

- prevention and social education;
- protection of and assistance to those affected by domestic violence;
- influencing people using domestic violence;
- enhancing the quality of social services.

The solutions aiming at counteracting domestic violence against children contained in the above mentioned document include:

1. increasing the level of knowledge and social awareness of reasons for and impacts of domestic violence and change of public perception of the problem of domestic violence through nationwide and local social campaigns promoting education methods not involving violence and inform about the ban on using corporal punishment by persons exercising parental powers or care or custody;
2. promotion of programmes in the mass media, intended for children and youth, not containing violence related contents;
3. development of protection and educational programmes and undertaking of activities related to prevention of domestic violence, particularly against children, women, the elderly and the disabled;
4. development of programmes facilitating preventive measures aiming at provision of expert assistance, particularly in the area of promotion and implementation of appropriate educational methods for children from families under risk of domestic violence;
5. provision of advisory services, particularly through educational activities facilitating strengthening care and educational skills of parents, alternative to using violence, in families under risk of domestic violence and in risk groups, e.g. pregnant minors;
6. keeping statistical data concerning children;
7. diagnosing of the domestic violence phenomenon, including harming children;
8. dissemination of information and education in the area of possibilities and form of providing assistance to those affected by domestic violence.

Ad.2 e. (Other relevant considerations): regulation on child labor

Children are subject to special protection in the Labour Code. This is expressed, *inter alia*, by the fact that the code regulation refers to employment of children on a basis of civil law contracts. Employment of children on a basis of an employment relationship is possible only in exceptional cases, according to the rules set out in the Ordinance of the Minister of Labour and Social Policy of 5 December 2002 on the cases in which, exceptionally, it is permitted to employ juveniles who did not graduate from lower secondary school, persons under 16 who graduated from lower secondary school and persons under 16 who did not graduate from lower secondary school (Dz. U. [Journal of Laws] No 214, item 1808, as amended). Pursuant to Article 190(2) of the Labour Code, it is prohibited to employ a person under 16.

Pursuant to Article 304<sup>5</sup> of the Labour Code, performance of work or other paid activities by a child under 16 is allowed only for an entity pursuing cultural, artistic, sports or advertising activity and requires the prior consent of a legal representative or guardian of this child as well as a permit of the competent labour inspector. The competent labour inspector issues this permit upon request of the entity pursuing activity in question. The inspector shall refuse to issue the permit if performance of work or other paid activities:

1. results in threats to life, health and physical and mental development of the child,
2. threatens fulfilling the obligation to attend school by the child.

The applicant attaches to the application for issuing the permit:

1. written consent of the legal representative or guardian of the child for performance of work or other paid activities by the child,
2. opinion of a psychological and pedagogical counselling centre as regards the absence of contraindications to perform work or other paid activities by the child,
3. decision of a physician stating the absence of contraindications to perform work or other paid activities by the child,
4. if the child must attend school – opinion of a headmaster of the school which the child attends, regarding the possibility of fulfilling the obligation to attend school by the child while he/she it performs work or other paid activities.

The permit should include:

personal data of the child and his/her legal representative or guardian,

- designation of the entity pursuing cultural, artistic, sports or advertising activity,
- determination of the type of work or other paid activities which may be performed by the child,
- determination of the accepted period of performance of work or other paid activities by the child,
- determination of the accepted daily time of work other paid activities,
- other necessary determination, required due to the interest of the child or to the type, nature or conditions of performance of work or other paid activities by the child.

The inspector shall cancel the issued permit:

- upon request of the legal representative or guardian of the child,
- *ex officio*, should he/she conclude that the working conditions of the child do not correspond to the conditions set out in the issued permit.

It should also be noted that the Labour Code covers work performed by juveniles with the special protection. Within the meaning of the Labour Code, a juvenile is a person over 16 years and under 18 (Article 190(1) of the Labour Code