

**UNIVERSAL PERIODIC REVIEW OF POLAND
JOINT SUBMISSION BY SOS CHILDREN'S VILLAGES POLAND
AND COALITION FOR FAMILY FOSTER CARE**

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This is a stakeholder submission to the UPR of Poland and covers issues related to right to :

- **privacy, marriage and family life,**
- **social security and to adequate standard of living.**

This submission presents violations of rights of children in alternative care and young people leaving alternative care.

This submission was written by SOS Children's Villages Poland and Coalition for Family Foster Care.

-SOS Children's Villages Association Poland is a member of Children's Villages International, which operates in 132 countries. Since 1984 SOS Children's Villages Poland has been working with children who lost parental care or who are endangered of losing parental care. SOS Children's Villages Association Poland also conducts advocacy activities whose goal is to respect, promote and stand up for children's rights.

This is the first submission of SOS Children's Villages Association Poland to the UPR. SOS Children's Villages International has status of consultant with ECOSOC.

-Coalition for Family Foster Care is an umbrella organization of 14 civil organizations working for developing family based alternative care in Poland. Coalition was formed in 2004. Mission of the Coalition is to safeguard the child's legal right to be brought up in a family environment. Children who cannot stay with their biological family have a far greater chance of normal successful development and future happiness when living in a family environment, giving them experience of a normal home life; foster care provides this environment. This is the first submission of Coalition for Family Foster Care.

General overview:

Legal framework:

UN Conventions related to Child Rights in alternative care and ratified by Poland:

In 1991 Poland ratified the United Nation Convention for Child Rights. As a result of the ratification Polish state should also take into account regulations of the United Nations "Guidelines for the Alternative Care of Children".

In 2007 Poland ratified the Convention on the Rights of Persons with Disabilities.

National legislation related to Child Rights in alternative care:

The Constitution of the Republic of Poland that safeguards child right and family rights in Articles 18, 48, 71 and 72.

The Social Assistance Act of 2004 that is followed by regulations of the Act provided by the Polish Minister of Labor and Social Policy.

The Family and Guardianship Code that provides the basis for court intervention in parental authority and specifies types of possible interventions in Articles 109, 110, 111, 112 and 113.

The Bill on Family Support and System of Alternative Care that was passed by the Polish Parliament on 9th of June, 2011 and which will be binding on 1st of Jan., 2012.

Children in alternative care:

Violations of rights to privacy, marriage and family life

Main concerns:

1. The Bill on Family Support and System of Alternative Care passed by the Parliament on 9th of June, 2011 which will be binding on 1st of Jan., 2012 stipulates that family based care is the first option of placement of children who lost parental care, especially of children younger than 10-year old¹. At the same time, despite of the provision mentioned above, the Bill creates an institution of so-called “pre-adoptive centers” that may host up to 20 newborns and infants with special needs. Only children not older than 1-year old may be placed in “pre-adoptive centers”. Thus, the regulation of the United Nations “Guidelines for the Alternative Care of Children”, which stipulates that “in accordance of predominant opinion of experts, alternative care for young children, especially those under the age of 3 years, should be provided in family based settings”, is violated.

2. The Social Assistance Act of 2004, as well as the Bill of 9th Jun, 2011 establishes a “specialized professional foster family” form of foster care. Such families deal with children with special needs, including health issues. These families make up for 0.6% of total number of foster families in Poland².

Recommendation:

1. Instead of opening “pre-adoptive centers” for children with special needs who are younger than 1-year old, the government should focus on development of specialized professional foster families.

¹ The Bill stipulates that since 1 Jan 2020 there will be no placement of children younger than 10-year old in institutions of alternative care and that since 1 Jan 2016 there will be no placement of children younger than 7-year old in institution of alternative care.

² Data provided by the Ministry of Labor and Social Policy, www.mpips.gov.pl - report on Jan.-Dec. 2010 [Sprawozdanie MPiPS-03-R za I-XII 2010 r.]

Young people leaving alternative care:

Violations of rights to social security and to an adequate standard of leaving

General overview:

3. The Social Assistance Act of 2004 defines the following types of alternative care: foster family type of care and institutional type of care. The Social Assistance Act of 2004 (Articles 88-90), along with the Regulation of the Ministry of Labor and Social Policy of 23rd December, 2004 (Polish Journal of Law No. 6/2005), defines the legal framework of support dedicated to persons who leave alternative care. The support is defined as assistance in education, assistance in finding employment, housing assistance, financial assistance dedicated to purchasing of essential household supplies and other forms of financial assistance.

Main concerns:

4. In 2010 almost 95,000 children lived in all types of alternative care in Poland. Of these, almost 66,000 children lived in foster families, and out of these 66,000 almost 48,000 children lived in kinship foster families. Over 28,000 children lived in child-care institutions³. According to the “2007-2013 National Strategy of Social Policy” young people leaving institutional types of care are particularly endangered by social exclusion.

5. Every year approximately 2,400 young people leave alternative care⁴.

6. Right to adequate housing is guaranteed by the Social Assistant Act of 2004 and the Bill of 9th June, 2011. The right to adequate housing consists of:

- enabling care leavers to live in “supervised housing” for a limited time with obligation to pay part of the rent;
- full or partial financing of room rental by local authorities;
- helping the beneficiary to receive social housing from commune authorities;
- enabling the beneficiary who is pursuing education to live in a boarding school or securing full or partial payment of housing.

7. In practice, there is not enough housing, including supervised housing, available for care leavers. Supply of housing provided by authorities of communes does not meet local communities’ demand.

³ Data provided by the Ministry of Labor and Social Policy, www.mpips.gov.pl - report on Jan.-Dec. 2010 [Sprawozdanie MPiPS-03-R za I-XII 2010 r.]

⁴ “Poland” in “Ageing out of care. From care to adulthood in the European and Central Asian societies”, SOS Children’s Villages International, Innsbruck, 2010.

8. Many young people from institutional type of alternative care who do not continue their education return to their families of origin or have to rent a flat by themselves. Then they wait for housing to be provided by authorities of communes and it may take 3 up to 10 years to obtain communal housing. Housing provided by communal authorities is usually situated in districts where disadvantaged families are concentrated. Also, quality of housing provided by communal authorities is very low⁵.

9. According to Polish Central Statistical Office (GUS) 56 per cent of young people who leave institutional alternative care return to their families of origin. During a child's stay in alternative care, social worker should cooperate with the family of the child in order to reunify the family and to protect child's right to the family (as the UN CRC stipulates). In practice, there is no social work provided to child's family. As there is a shortage of communal housing, a grown-up care leaver has to return to his or her family of origin. Due to lack of social work with the family of origin, the family is usually more problem-stricken than it used to be.

10. Also, there is no sufficient supervised housing available for care leavers, esp. in small communes.⁶

11. Contrary to the Article 19 of the Convention on the Rights of Persons with Disabilities, which Poland ratified in 2007, there is no state policy dedicated to housing and supervision of disabled care leavers. The only solution aimed at disabled care leavers is a big institution called "DPS" which provides housing for both mentally and physically disabled adults. Additionally, it provides housing for adult care leavers who grew up in family type of alternative care.

12. Following Concluding Observation No. 5 of 2002 of the Committee on the Rights of the Child on Family environment and alternative care, the Parliament passed the Bill on Family Support and System of Alternative Care on 9th June 2011. The Bill also deals with issues related to right to housing of care leavers. In terms of financing, the whole cost of implementation of the Bill is estimated to be 700 million Polish zloty. According to information provided by the Ministry of Labor and Social Policy, 70 million Polish zloty⁷ is allocated in the 2012 Polish state budget to the implementation of the Bill. The rest of the

⁵ "Poland" in "Ageing out of care. From care to adulthood in the European and Central Asian societies", SOS Children's Villages International, Innsbruck, 2010,

"Leaving care situation analysis in Poland" SOS Children's Villages Poland, Warsaw, 2009

⁶ In 2010 there were only 534 care leavers allowed to leave care to supervised housing in 2010, as there was no more housing available (Ministry of Labor and Social Policy).

⁷ The 2012 state budget proposes 70 million Polish zloty for implementation of the Bill and additional 65 million may be provided by state's special fund.

spending needs to be provided by local authorities, i.e. by communes and districts. The 2012 Polish state budget does not propose financial means sufficient to implement the new law.

Recommendations:

1. National program for disabled care leavers should be developed. Supervised small housing dedicated to disabled adults should be created to replace big institutions.
2. Supervised housing meeting local demand should be developed.
3. National program of social housing development should be worked out and implemented. Such a program should take into account care leavers' needs and meeting needs of this social group should be treated as priority.

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