



Human Rights Council
Working Group on the Universal Periodic Review
Forty-first session
7–18 November 2022

Summary of stakeholders' submissions on Poland*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 23 stakeholders' submissions¹ for the universal periodic review, presented in a summarized manner owing to word-limit constraints. The report has been prepared taking into consideration the outcome of the previous review.²

II. Information provided by stakeholders

A. Scope of international obligations and cooperation with human rights mechanisms

2. JS2 recommended to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.³

3. JS4 recommended to extend a standing invitation to all UN Special Procedure mandate holders, prioritising the Special Rapporteurs on the situation of human rights defenders, on the Promotion and Protection of the Right to Freedom of Opinion and Expression, on the Rights to Freedom of Peaceful Assembly and of Association, and on the Independence of Judges and Lawyers, as well as the Working Group on Arbitrary Detention.⁴

4. The International Campaign to Abolish Nuclear Weapons called upon Poland to sign, ratify or accede the Treaty on the Proliferation of Nuclear Weapons, as a matter of international urgency.⁵

* The present document is being issued without formal editing.



B. National human rights framework

Constitutional and legislative framework

5. Amnesty International (AI) recommended to fully implement the Istanbul Convention on preventing and combating violence against women and domestic violence, especially in terms of consent-based rape laws and definition of economic violence. It also recommended to amend the legal definition of rape in the Criminal Code to non-consensual intercourse and the current definition of domestic violence to include economic violence.⁶

6. JS2 recommended to amend the Criminal Code to ensure that all hate crimes are prosecuted *ex officio* and that the motivation of a crime based on the victim's national, ethnic, racial, political or religious affiliation, or the victim's sexual orientation, gender identity, gender or disability, is treated as an aggravating circumstance.⁷

7. JS4 recommended to reform the Polish Criminal Code in conformity with the article 19 of the International Covenant on Civil and Political Rights and to ensure the freedom of expression and media freedom, by bringing all national legislation into line with international standards and by adopting a framework for the protection of journalists from persecution, intimidation and harassment.⁸

8. The Citizens Network Watchdog Poland recommended to respect the right to information when drafting legislation at the national level, and to be guided by the standards arising from article 19 of the ICCPR, article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the indicators set out in the 16th Sustainable Development Goal, to reform the procedure for the judicial protection of access to information and to take action for the proactive provision of information.⁹

9. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) recommended to: (i) amend the definition of torture to ensure that it is broad enough to encompass all acts against a person's integrity that have been qualified as torture and other ill-treatment under international law, and to include all the elements envisaged by Article 1 of the Convention against Torture; and (ii) ensure that relevant legislation expands on the State's full responsibility for all acts of torture committed in any territory under its jurisdiction, when inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.¹⁰

C. Promotion and protection of human rights

1. Implementation of international human rights obligations, taking into account applicable international humanitarian law

Equality and non-discrimination

10. Broken Chalk noted that societal discrimination against Roma continued to be a problem with widespread discrimination in employment, housing, banking, the justice system, media, and education. It recommended that the Polish Government implement solutions to stop the discrimination against Romani community, especially in field of education.¹¹

11. Africa Connect Foundation noted that hate crime cases have increased for the last three years owing to the rise of far right wing groups. Hate speech in the media have also increased exponentially owing to Government's laxity in putting in place the adequate mechanisms.¹² JS2 recommended to adopt and implement a government hate crime action plan, conduct outreach campaigns to encourage victims to report hate crimes, and give appropriate training to the police and other public bodies responsible for taking reports and providing victim support services to assist the victims of hate crimes.¹³

12. JS2 noted that hate crimes are widespread in Poland. People identified as, or associated with, migrants, religious minorities, LGBTI and other vulnerable and stigmatised groups are at a higher risk of violence compared with general population. JS2 recommended to adopt and implement a government hate crime action plan, conduct outreach campaigns to

encourage victims to report hate crimes, and give appropriate training to the police and other public bodies responsible for taking reports and providing victim support services to assist the victims of hate crimes.¹⁴

13. JS2 noted that many migrant workers have reported being discriminated in their workplace, but they were unwilling to seek protection against discriminatory practices as they were afraid of being dismissed and, consequently, losing their right to stay in Poland. JS2 recommended to amend its law in order to ensure that protection against discrimination in Poland is effective, sufficient and adequate.¹⁵

Right to life, liberty and security of person, and freedom from torture

14. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommended to rigorously pursue efforts to combat ill-treatment by the police. Police officers throughout the country should receive at suitable intervals a firm message that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are unlawful and will be punished accordingly. It should also be reiterated to the police officers that no more force than is strictly necessary is to be used when carrying out an apprehension and that, once apprehended, persons are brought under control.¹⁶

15. The CPT recommended to ensure that all persons detained by the police are fully informed of their fundamental rights as from the outset of their deprivation of liberty. This should be ensured by the provision of clear verbal information at the time of apprehension, to be supplemented at the earliest opportunity) by the provision of written information on detained persons' rights. Persons detained should always be given a copy of the above-mentioned written form. Particular care should be taken to ensure that detained persons understand their rights. It is incumbent on police officers to ascertain that this is the case.¹⁷

Administration of justice, including impunity, and the rule of law

16. The International Commission of Jurists recommended to abrogate the reforms of the judiciary introduced in the last decade and, in particular, guarantee that the judicial system be free from control of the executive and legislative branches of the State, and overhaul the reforms introduced to disciplinary procedures for judges, including at the Supreme Court level, with a view to ensuring freedom from undue political (executive and legislative) influence in this respect. Any judicial reform should be (i) carried out in accordance with international law obligations, in particular, article 14 of ICCPR and international standards on the independence of the judiciary, the separation of powers and the rule of law; (ii) the result of transparent, open, and fair processes that involve all relevant domestic stakeholders, including the judiciary, representatives of the legal profession, the Office of the Ombudsperson and civil society actors and; (iii) in compliance with the judgments and recommendations of relevant regional and international bodies, including, inter alia, the Human Rights Committee, Venice Commission, the European Court of Human Rights and the Court of Justice of the European Union.¹⁸

17. The Venice Commission invited the Polish legislator to implement the main recommendations contained in the 2017 Opinion of the Venice Commission, namely, to: (i) return to the election of the 15 judicial members of the National Council of the Judiciary (the NCJ) not by Parliament but by their peers; (ii) significantly revise the composition and internal structure of the two newly created "super-chambers", and reduce their powers, in order to transform them into normal chambers of the Supreme Court; (iii) return to the pre-2017 method of election of candidates to the position of the First President of the Supreme Court or develop a new model where each candidate proposed to the President of the Republic enjoys support of a significant part of the Supreme Court judges; and (iv) restore the powers of the judicial community in the questions of appointments, promotions, and dismissal of judges, and ensure that court presidents cannot be appointed and dismissed without the significant involvement of the judicial community.¹⁹

18. The Commissioner for Human Rights for the Council of Europe invited the Polish authorities to separate the offices of the Prosecutor-General and that of the Minister of Justice in order to restore the independence of the prosecution service, and to limit their respective

powers vis-à-vis judges and prosecutors, by establishing adequate procedural safeguards. She also considered that all decisions to appoint or dismiss a court president or vice-president should be adequately justified and subject to approval by the general assembly of judges of the respective court. Moreover, any person concerned by such dismissal should be able to appeal that decision to a court. The Commissioner urged the authorities to ensure that disciplinary proceedings are not instrumentalised and to secure the right to a fair trial of any person subjected to them. She further recommended that all draft legislation of systemic importance be carefully considered through a regular parliamentary procedure.²⁰

19. The CPT also recommended to develop, without further delay and in co-operation with the Polish Bar Council – a fully-fledged and properly funded system of legal aid for persons in police custody who are not in a position to pay for a lawyer, to be applicable from the very outset of police custody.²¹

20. JS8 recommended to ensure that all communications and consultations between lawyers and their clients within their professional relationship are confidential, including in situations where lawyers are called in for interviews and questioning. JS8 also recommended to ensure that sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of lawyers and their effective protection against any form of retaliation as well as to refrain from any actions that may constitute harassment, persecution or undue interference in the work of lawyers, including their criminal prosecution on improper grounds such as the expression of critical views or the nature of cases they are involved in.²²

21. JS7 recommended the liquidation of the Disciplinary Chamber and ensure that disciplinary cases against judges are considered by fully independent and lawfully established court and abolish provisions allowing for the imposition of disciplinary penalties on judges for their interpretation of law, in particular for examination of the legality of the appointment of another judge.²³

22. The Citizens Network Watchdog Poland noted a consistent decline in judicial protection of the right to information, which also affects journalists who rely on access to public information on a daily basis. Over the years, public institutions have found ways to delay their responses to requests, with the result that a single case can result in several successive proceedings that take several years in total. Even when the case ends in favour of the applicant, the information is already outdated.²⁴

Fundamental freedoms

23. Free Press Unlimited recommended to adopt a legal framework which fosters the development of free, independent and pluralistic media and implement safeguards limiting political control over media outlets in Poland, including measures that allow for early dismissal of strategic lawsuits against public participation.²⁵

24. JS5 recommended to ensure the independence of Poland's media regulation bodies from the government, and depoliticise state entities involved in oversight of the media market to ensure fair and transparent market competition and media pluralism as well as to restore politically neutral governance to the public broadcaster and guarantee independence, accountability, and transparency. JS5 also recommended to stop direct involvement of the government in appointments of the public service broadcaster and ensure independent, impartial, well-balanced and diversified coverage of the public broadcaster.²⁶

25. JS5 recommended to vigorously condemn all attacks, threats, or harassment of journalists both online and offline, ensure that any such incidents are investigated in an efficient, independent and transparent manner, treat complaints of journalists subjected to violence and threats with priority, and set up an early warning mechanism for journalists subjected to attacks and threats online and offline.²⁷

26. JS6 recommended to provide effective safeguards against excessive use of secret surveillance, including effective protection of journalistic sources being unlawfully disclosed through surveillance measures, by implementing the recommendations provided in the Venice Commission Opinion No. 839/ 2016. JS6 also recommended to ensure that

international standards on the protection of journalistic sources are properly applied by courts and prosecutors.²⁸

27. JS4 recommended to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit freedom of association. JS4 also recommended to remove all undue restrictions on domestic and international funding for civil society organizations and ensure that funding is allocated in an open and transparent manner, and cease unwarranted raids on CSOs and unjustifiable disruptions of legitimate activities organised by civil society organizations.²⁹

28. JS4 recommended to immediately and unconditionally drop charges against all human rights defenders, including journalists and bloggers, for exercising their fundamental rights to freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment. JS4 also recommended that government officials and non-state actors perpetrating intimidation and harassment against women human rights defenders and LGBTQI+ defenders are effectively investigated and establish mechanisms that protect human rights defenders, including by adopting a specific law on their protection.³⁰

29. AI noted that human rights defenders working on sexual and reproductive rights faced harassment and persecution from both state and non-state actors opposing the provision of safe and legal abortion services. In March 2021, a bomb threat was sent to numerous NGOs working on women's rights. Women human rights defenders were targeted by a harmful and stigmatizing public smear campaigns - they were labelled as "murderers" and their faces were publicly shown. Dozens of activists are under investigation or prosecuted either for participating in the protests against abortion restrictions or for providing abortion-related information.³¹ AI recommended to ensure prompt, thorough, independent and impartial investigations into threats and attacks against human rights defenders.³²

30. JS3 noted that there were several cases of environmental rights defenders and environmental civil society organizations facing strategic lawsuits against public participation, which endangers both the dissemination of facts in the public interest and the plurality of opinions in a functioning democracy and dissuade public discourse. Strategic lawsuits against public participation have direct implications for environmental defenders' work and for their safety. JS3 recommended to ensure a safe and favourable environment for environmental HRDs so they can work without fear of sanction, reprisal or intimidation.³³

31. AI recommended to ensure that Pride parades are not arbitrarily banned and guarantee that LGBTI people can exercise their right to freedom of peaceful assembly without fear of reprisals as well as to ensure that all demonstrations enjoy equal access to public spaces and that all individuals are equally protected by the police. It also recommended to ensure that law enforcement officials refrain from arresting and harassing protesters solely for participating in a peaceful assembly and to immediately release all individuals detained solely for exercising their right to peaceful assembly and drop all charges against them.³⁴

Prohibition of all forms of slavery, including trafficking in persons

32. GRETA urged the Polish authorities to develop and maintain for the purpose of preparing, monitoring and evaluating anti-trafficking policies, a comprehensive and coherent statistical system on trafficking in human beings, by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to ensure the right to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.³⁵

33. GRETA considered that the Polish authorities should: (i) review and assess the system of "statements of intension to employ" third country nationals for periods of six months per year with a view to preventing exploitative practices; (ii) provide the National Labour Inspectorate with necessary resources and further training to effectively prevent and combat trafficking in human beings; (iii) strengthen inspections in sectors considered at risk of trafficking in human beings, by engaging with key stakeholders, including with a view to

preventing trafficking in human beings in supply chains; and (iv) work closely with the private sector, in line with the Guiding Principles on Business and Human Rights, and consider including business representatives in the regional anti- trafficking in human beings teams.³⁶

Right to work and to just and favourable conditions of work

34. The European Committee of Social Rights (ECSR) noted that, in some jobs the working day can exceed sixteen hours and even be as long as 24 hours. On-call periods where no effective work is performed are assimilated to rest periods. Workers in both the public and private sectors do not have a right to increased compensatory time off for overtime hours. No notice period is required in cases where a worker is dismissed due to long-term illness or occupational accident. After maintenance payments and other authorised deductions, the wages of workers with the lowest pay do not enable them to provide for themselves or their dependants. During the reference period, the legal framework continued to restrict some categories of workers from fully enjoying the right to organise. The regulation of night work does not adequately protect women carrying out night work in industrial employment.³⁷

Right to social security

35. ECSR noted that the minimum level of unemployment benefits was inadequate. Equal treatment with regard to access to family benefits is not guaranteed to nationals of all other States. The right to maintenance of accruing rights is not guaranteed to nationals of all other States. Access to social services by nationals of other States is subject to an excessive length of residence requirement. The 10-year residence requirement to be eligible to family benefits for foreigners without a work permit, is excessive. Family benefits are inadequate for children under the age of five.³⁸

Right to health

36. AI recommended to ensure legal, timely and effective access to both safe abortion and contraception to all people who need it, in line with international human rights law and standards. It recommended decriminalizing all aspects of abortion and refraining from criminalizing the provision of other sexual and reproductive health services and information, and identifying and removing any access barriers. It also recommended to refrain from criminalizing comprehensive sexuality education and ensure its provision to all children and adolescents both in and outside of school, in line with international law and standards.³⁹

37. JS10 recommended to urgently reform the law so as to decriminalize abortion and legalize abortion on request, at least up until 12 weeks of pregnancy, and adopt the necessary accompanying guidelines to ensure women can access safe abortion services in a timely manner and without unnecessary authorization or certification requirements. JS10 recommended to review the delivery of sexuality education in schools, especially teachers' preparation, qualifications and attitude, communication with students, programs, topics and style of presenting them. The sexuality education should be obligatory and comprehensive.⁴⁰

38. JS10 recommended to guarantee access to modern contraception, subsidized from the state budget and unlimited access to emergency contraception without a need to obtain the prescription and to execute the European Court of Human Rights judgment in the case R.R. v. Poland and P. and S. v. Poland. JS10 also recommended to issue policy guidance clarifying that sexual and reproductive health care, including emergency contraception, contraception and abortion care, and all forms of maternal health care, including antenatal care, are essential health care that should be provided free of charge and that health-care providers will be fully reimbursed, under existing regulations, for the provision of this care to all those fleeing a neighbouring country.⁴¹

39. The European Centre for Law and Justice noted commitment to work together to improve and secure access to health and development gains for women, including sexual and reproductive health, which must always promote optimal health, the highest attainable standard of health.⁴²

Cultural rights

40. The Committee of Ministers, under the terms of articles 24 to 26 of the Framework Convention for the Protection of National Minorities, recommended to strengthen the protection and promotion of cultures and identities of persons belonging to national minorities, effectively addressing the needs of numerically smaller ones, including through the provision of adequate funding for associations of national minorities and making it more sustainable in the long term; promote intercultural dialogue and mutual understanding between the majority and the different minority groups, as well as religious communities, in Poland; condemn at the highest political level all manifestations of intolerance and ethnically motivated hostility in political discourse and in the media and promote actively a sense of belonging to a shared country, based on the acceptance of the complexity of Poland's history.⁴³

Development, the environment, and business and human rights

41. JS3 recommended to revise Polish policy on water and flood management, prioritizing the long term safety of people and basing strategies on the latest scientific knowledge. This should include reducing depletion of water resources through unsustainable extraction, diversion and damming, focusing on ecological restoration of rivers and removing dams. More non-technical measures should be introduced, such as warning systems or legal solutions dealing with spatial planning, rules and conditions for development, and the use of facilities in threatened areas.⁴⁴

42. JS3 noted that Poland's energy system was still based on coal (70.8% in electricity generation, ARE 2021) and there were no realistic coal phase-out dates. Moreover, the government is actively hampering the development of renewable energy – Poland's renewable electricity target for 2030 is just 32%, just over half the EU average (59%). In recent years, the development of renewables significantly slowed down due to a law introduced in 2016, which effectively banned onshore wind development, excluding over 99% of Polish land from wind investments. JS3 recommended to lower GHG emissions from Poland's economy, especially by planning a coal phase-out and just energy transition, as well as the development of renewable energy sources.⁴⁵

2. Rights of specific persons or groups*Women*

43. Human Rights Watch noted that measures to prevent and respond to domestic violence and to support victims, such as through provision of shelter spaces and psychological and legal assistance, were inadequate, underfinanced, and did not meet obligations under the Istanbul Convention. Government officials have threatened to withdraw from the Istanbul Convention, with the Minister of Justice affirming, in 2020, his intent to pursue withdrawal even as reports of domestic violence increased during Covid-19-related lockdowns. It recommended to ensure availability of immediate and longer-term protection mechanisms for those experiencing domestic violence and their application and enforcement by police and judicial authorities, including protection orders against abusers.⁴⁶

44. JS1 recommended to ensure former and/or non-cohabiting partners were included in the Law on Family Violence definitions of domestic violence and psychological violence; ensure that assistance and services are specialized and meet the specific needs of women victims of violence; ensure that victims are able to freely give informed consent for their information to be released to entities involved in the Blue Card Procedure; and reconsider Blue Card Procedure protocols in order to conserve victim safety and privacy, in cooperation with specialized NGOs providing services to victims.⁴⁷

Children

45. Empowering Children Foundation Fundacja Dajemy Dzieciom Siłę noted that Poland did not support financially the children's helpline. In addition, the State is still very much focused on the punitive part of the justice system rather than crime prevention. It is more than desirable to introduce to the legal system effective solutions tested by other jurisdictions like

children safeguarding practices in all settings and serious case reviews in the event of child death resulting from maltreatment. In Poland every year approximately 30 children lose their lives being victims to murder and manslaughter. The majority of the deaths happen in families which were under the care of social services (which are – alongside other problems – underfunded and understaffed). This makes the cases preventable only if the State would put an effort to follow the roots of the systemic problem rather than focus only on punishing the direct perpetrators.⁴⁸

Persons with disabilities

46. OSCE-ODIHR, in its Opinion on the Legal Framework Governing Participation of Persons with Disabilities in Political and Public Life in Poland (20 December 2020), recommended to repeal existing discriminatory provisions across the legislation allowing for the deprivation of legal capacity of persons with disabilities,; and enable the full realization of freedoms of assembly and association, by amending applicable laws to ensure persons with disabilities can organize assemblies and found and join associations since currently only persons with full legal capacity have such rights.⁴⁹

Minorities

47. The Committee of Ministers, under the terms of articles 24 to 26 of the Framework Convention for the Protection of National Minorities, recommended to adopt, implement, monitor and regularly evaluate, with the participation of Roma, a Roma Integration Programme for 2020 onwards, incorporating measures targeting the majority population to combat anti-Gypsyism, developing consultation mechanisms at local level, and granting multi-annual financial support to projects where necessary. I also recommended expanding the Roma school assistants programme and increasing participation of Roma children, especially in preschool and in secondary education, as well as ensuring that all funds allocated to improving housing conditions of Roma are actually spent for that purpose.⁵⁰

Lesbian, gay, bisexual, transgender and intersex persons

48. AI noted that the situation of LGBTI people in Poland has worsened significantly since the last review. A governmental electoral campaign targeting LGBTI people has led to a well-documented increase of homophobia, transphobia and biphobia, especially the introduction of so called "LGBT ideology-free zones" in 94 local government areas by June 2020 and repeated targeted and smear attacks, harassment, profiling and policing of human rights defenders advocating for LGBTI rights. Since 2019, the Code of Petty Offences has been increasingly used by the authorities to target and penalize people, particularly LGBTI advocates, restricting their ability to participate in public life and events. AI recommended to amend the Criminal Code so that crimes motivated by discrimination on the grounds of sexual orientation or gender identity are investigated and prosecuted as hate crimes.⁵¹

49. JS9 recommended to amend, in the upcoming two years, the Criminal Code, by adding sexual orientation and gender identity as protected grounds of discrimination; properly investigate and prosecute hate crimes/hate speech motivated by discrimination on the grounds of sexual orientation, gender identity and sex characteristics by the police and prosecutor's office; amend the Act on Equal Treatment to prohibit discrimination comprehensively including sexual orientation, gender identity and sex characteristics in all spheres and sectors, including education, health care, social protection and housing; immediately refrain from smear campaigns and other forms of harassment against LGBT+ community, representatives of civil society, journalists and judges, especially in the context of upcoming Parliament and local elections next year; and for the Plenipotentiary for Equal Treatment to take actions in order to protect and represent the LGBT+ community.⁵²

50. JS9 recommended to immediate repeal resolutions "against LGBT ideology" and Family Rights Charters and stop further proceeding with legislative proposals that deteriorate civic space, human rights and rule of law, in particular the "Stop LGBT+ bill" (no.1607). JS9 recommended to ensure all laws and local government projects affecting civic space are prepared through transparent and participatory policy-making, involving NGOs representatives, and explicitly including anti discriminatory activities and measures to advance equality and LGBT+ rights. JS9 also recommended to amend article 196 of the

Criminal Code (provision of “offending religious beliefs”) in order to ensure the respect of the freedom of opinion and expression and to adopt legislation recognising the institution of same-sex marriage and civil partnership available to same-sex couples as well as to recognise two same-sex parents while issuing official Polish registration number or passports for their children as well as accepting transcriptions of birth certificates for children born outside Poland.⁵³

51. The Center for Family and Human Rights noted that Poland was one of 14 countries in the European Union that did not recognize same-sex unions. Poland also does not extend protections singularly reserved for the family in Polish law to homosexual relations, or other relations or household structures that are not equivalent or analogous to the family.⁵⁴

Migrants, refugees and asylum-seekers

52. JS1 noted that the contrast between Poland’s treatment of Ukrainian refugees and its treatment of Belarusian refugees, as well as many Iraqis and Afghans held at the Belarusian border, displayed discrimination in its immigration policies. The government has provided aid at the Ukrainian border while still withholding aid for Belarusians. This discriminatory treatment threatens the right to life of refugees from Belarus and of refugees from minority groups.⁵⁵

53. JS1 noted that though Poland has generally welcomed Ukrainian refugees fleeing Russia’s attacks, there are reports of harassment and discrimination against refugees of African, Asian, or Arab descent. Extremist groups have targeted refugees at the Ukrainian border whom they perceive to be non-white or non-Christian. One instance of assault went on for twenty minutes before Polish police intervened. JS1 recommended to ensure that all refugees enjoy the same treatment regardless of their race, ethnicity, or religion, real or perceived, and to condemn and punish all acts of harassment and discrimination against refugees of colour and hold perpetrators accountable.⁵⁶

54. JS2 recommended to respect the principle of non-refoulement in law and practice, in particular by ceasing push-backs at the Polish border; immediately initiate asylum proceedings upon asylum-seekers’ request; allow media and NGOs to enter the border area; conduct a criminal investigation into cases of the officers’ brutality at the border; and repeal national legislation disrespecting the principle of non-refoulement and ensure a rigorous scrutiny in asylum proceedings.⁵⁷

55. ODIHR, in its Urgent Opinion on Draft Amendments to the Aliens Act, and the Act on Granting Protection to Aliens on the Territory of the Republic of Poland (10 September 2021), concluded that the Draft Act, now adopted, unjustifiably restricted the possibility of seeking international protection and asylum. ODIHR recommended to: (i) reconsider the proposed administrative procedure since it fails to provide the requisite safeguards and guarantees, including due to limiting grounds for requesting international protection and the lack of individual risk assessment of the cases that persons present to border guards, thus potentially leading to a violation of the obligation to prevent indirect *non-refoulement*; and (ii) ensure that existing provisions do not allow forced expulsion by executive order that may also lead to collective expulsion based on a written protocol which merely documents the illegal crossing of the person onto the territory of Poland.⁵⁸

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org (one asterisk denotes a national human rights institution with “A” status).

Civil society

Individual submissions:

AFRICON	Africa Connect Foundation, Warsaw, Poland;
AI	Amnesty International, London (United Kingdom);
BCN	The Stichting Broken Chalk, Amsterdam, Netherlands;
CFam	Center for Family and Human Rights, New York, USA;

ECLJ	European Centre for Law and Justice, Strasbourg, France;
FDDS	Fundacja Dajemy Dzieciom Siłę, Warsaw, Poland;
FPU	Free Press Unlimited, Amsterdam, Netherlands;
HRW	Human Rights Watch, Geneva, Switzerland;
ICAN	International Campaign to Abolish Nuclear Weapons, Geneva, Switzerland;
ICJ	International Commission of Jurists, Geneva, Switzerland;
Watchdog Poland	Sieć Obywatelska Watchdog Polska, Warsaw, Poland.

Joint submissions:

JS1	Joint submission 1 submitted by: Advocates for Human Rights and Women's Rights Centre, Minneapolis, United States of America;
JS2	Joint submission 2 submitted by: Stowarzyszenie Interwencji Prawnej, Lambda Warsaw, Birmingham City University and Global Detention Project, Warsaw, Poland;
JS3	Joint submission 3 submitted by: Fundacja ClientEarth Prawnicy dla Ziemi, Fundacja Frank Bold, Helsińska Fundacja Praw Człowieka and WWF Polska; Warsaw, Poland;
JS4	Joint submission 4 submitted by: CIVICUS: World Alliance for Citizen Participation and Committee for the Defence of Democracy; Johannesburg, South Africa;
JS5	Joint submission 5 submitted by: Committee to Protect Journalists (CPJ), Reporters Without Borders (RSF), the International Press Institute (IPI), New York, USA;
JS6	Joint submission 6 submitted by: Helsinki Foundation for Human Rights, Press Club Polska, Society of Journalists (Towarzystwo Dziennikarskie), Warsaw, Poland;
JS7	Joint submission 7 submitted by: Human Rights House Foundation, Helsinki Foundation for Human Rights (HFHR), Geneva, Switzerland;
JS8	Joint submission 8 submitted by: Lawyers for Lawyers (L4L) International Bar Association (IBA), Amsterdam, Netherlands;
JS9	Joint submission 9 submitted by: Campaign Against Homophobia (as main submitting organisation) Federation Signs of Equality Trans-Fuzja Foundation Love Does Not Exclude Lambda Warszawa Stowarzyszenie na rzecz osób LGBT Tolerado Helsinki Foundation for Human Rights, Warszawa, Poland;
JS10	Joint submission 10 submitted by: The Sexual Rights Initiative, Federation for Women and Family Planning, Ottawa, Canada.

Regional intergovernmental organization(s):

CoE	The Council of Europe, Strasbourg (France);
OSCE-ODIHR	Office for Democratic Institutions and Human Rights/Organization for Security and Co-operation in Europe, Warsaw, Poland.

² See A/HRC/36/14, A/HRC/36/14/Add.1 and A/HRC/36/2.

³ JS2, paras. 6 and 77.

⁴ JS4, para. 6.5.

⁵ The International Campaign to Abolish Nuclear Weapons, p. 1.

⁶ AI, paras. 46–48.

⁷ JS2, para. 34.

⁸ JS4, p. 18.

⁹ The Citizens Network Watchdog Poland, pp. 5–6.

¹⁰ The OSCE Office for Democratic Institutions and Human Rights (ODIHR), para. 8.

¹¹ Broken Chalk, paras. 16 and 24.

¹² Africa Connect Foundation, p. 4.

¹³ JS2, paras. 14 and 39.

¹⁴ JS2, paras. 14 and 39.

¹⁵ JS2, paras. 9 and 13.

¹⁶ CPT/Inf (2020) 31, para. 17.

¹⁷ CPT/Inf (2020) 31, para. 27.

¹⁸ ICJ, paras. 21 and 23.

¹⁹ CDL-AD(2020)017, para. 61.

²⁰ CommDH(2019)17, paras. 38, 47, 50 and 62.

²¹ CPT/Inf (2020) 31, para. 22.

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- 22 JS8, p. 6.
23 JS7, paras. 1.3.–1.4.
24 The Citizens Network Watchdog Poland, pp. 5–6.
25 Free Press unlimited, para. 5.
26 JS5, pp. 12–13.
27 JS5, p. 13.
28 JS6, para. 1.4.
29 JS4, p. 17.
30 JS4, pp. 17–18.
31 AI, para. 30.
32 AI, paras. 36 and 44.
33 JS3, p. 6.
34 AI, paras. 57–60.
35 GRETA(2017)29, para. 48.
36 Ibid, para. 78.
37 Poland and the European Social Charter, Factsheet – POLAND, Update: March 2021, p. 3.
38 Ibid, pp. 3–4.
39 AI, paras. 49–50.
40 JS10, paras. 53–54.
41 JS10, paras. 55–57.
42 The European Centre for Law and Justice, pp. 3–4.
43 CM/ResCMN(2020)12, paras. 2–3.
44 JS3, p. 9.
45 JS3, pp. 10–11.
46 HRW, paras. 16–17.
47 JS1, para. 22.
48 Fundacja Dajemy Dzieciom Siłę, pp. 1–2.
49 The OSCE Office for Democratic Institutions and Human Rights (ODIHR), para. 9.
50 CM/ResCMN(2020)12, para. 1.
51 AI, paras. 12–13 and 45.
52 JS9, para. 1.4.
53 JS9, paras. 4.1–4.2.
54 The Center for Family and Human Rights, paras. 3 and 22.
55 JS1, para. 20.
56 JS1, paras. 21–22.
57 JS2, para. 66.
58 The OSCE Office for Democratic Institutions and Human Rights (ODIHR), para. 10.
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