

Universal Periodic Review (41st session)

Contribution of UNESCO

Poland

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance, or succession</i>	<i>Declarations /Reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education 1960	Ratified on 15/09/1964	Reservation to this Convention shall not be permitted		Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Ratification on 29 June 1976 Committee Member (1976-1978 ; 2013-2017)			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratification on 16 May 2011 Committee Member (2018-2022)			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Accession on 17 August 2007			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The **Constitution of the Republic of Poland of 1997**¹ provides in its Article 70 that “everyone shall have the right to education” and that “education to eighteen years of age shall be compulsory”. Article 32 guarantees that “all persons shall be equal before

¹ <http://www.unesco.org/education/edurights/media/docs/f3d78b322a4ee203e3960e8b535b3f97e3d39004.pdf>

the law” and that “no one shall be discriminated against in political, social or economic life for any reason whatsoever”.

2. The **Law on School Education of 2016**² states that education is compulsory until the age of eighteen, and that the child’s compulsory education starts at the beginning of the school year in the calendar year in which the child turns seven years old. Education is free at primary and secondary levels in public schools for twelve years. Three years of free and one year of compulsory pre-primary education are provided.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. The 1997 Constitution guarantees the freedom of the press (Article 14), freedom of expression (Article 54), and prohibits both preventive censorship and licensing of the press (Article 54).³
4. The right to access information is guaranteed in Article 61 of the Constitution,⁴ and in the Act of 6 September 2001 on Access to Public Information.⁵ The latter allows anyone to demand access to public information, and public assets held by public bodies, private bodies that exercise public tasks, trade unions and political parties.
5. Poland did not respond to UNESCO’s annual survey aimed to assess implementation of the right to information (RTI) guarantees, mandated by the Decision on Monitoring and Reporting on SDG Indicator 16.10.2 (on public access to information) adopted by the Intergovernmental Council of the International Programme for the Development of Communication at its 31st session in November 2018.
6. Under Article 212, 226 and 235 of the Penal Code of 6 June 1997;⁶ punishments for defamation vary depending on the context. The Criminal Code includes offences for insulting State symbols (Article 137).
7. Article 241 of the Criminal Code prohibits the dissemination of confidential information with respect to an ongoing investigation with prison sentences of up to

² <https://www.unesco.org/education/edurights/media/docs/3f1c5cf4c4f8c6a799e12ba6433b7d58385c8a77.pdf>

³ <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

⁴ Ibid.

⁵ <https://www.global-regulation.com/translation/poland/2986180/the-act-of-6-september-2001-on-access-to-public-information.html>

⁶ https://www.imolin.org/doc/amlid/Poland_Penal_Code1.pdf

two years.⁷ This has given rise to criminal lawsuits against journalists.

8. The reform of the broadcasting law (the so called “Lex-TVN” bill) passed by the Sejm (lower house of the parliament) in December 2021 banned in practice broadcasting by companies directly or indirectly controlled by persons registered outside the European Economic Area. This law was accused of restricting media pluralism in the country and notably by directly affecting Poland’s largest private media group and TV broadcaster TVN, which is US-owned.⁸ The amendment was later vetoed by the President on 27 December 2021.

Implementation of the law:

9. There is no independent national self-regulatory body in Poland. The Polish Chamber of Press Publishers (Izba Wydawców Prasy, IWP), along with the two biggest professional journalism organizations, have formulated their own codes of professional ethics.
10. The legal framework concerning the transparency of media ownership in Poland is not equally applicable to all media actors. In particular, there are no sector-specific provisions on the transparency of news media ownership. The acquisition of German-owned Polska Press by the state-controlled oil company PKN Orlen has raised concerns as a potential threat to media market pluralism. The transaction was approved by Poland’s competition authority (UOKiK) in February 2021, but subsequently challenged by the Polish Ombudsperson in March 2021, who argued that the transaction should be reversed as it threatens the press freedom⁹. A regional court in Warsaw suspended the acquisition in April 2021.
11. The right of access to public information is not sufficiently implemented in practice. Civil society organizations have called attention to how this right risks being further limited as a result of the request lodged on 16 February 2021 by the newly appointed First President of the Supreme Court. The latter asked the Constitutional Tribunal to declare unconstitutional the provisions governing the access to documents on the ground that these broaden ‘in illegitimate ways’ the definition of entities obliged to

⁷ CoE Platform to Promote the Protection of Journalism and Safety of Journalists, ‘Journalist Katarzyna Wlodkowska Faces Investigation Following Report on Assassination of Mayor’, 19 February 2020. Article 241 states: “Article 241. § 1. Whoever publicly disseminates, without permission, information from preparatory proceedings before they have been disclosed in court proceedings shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.”

⁸ 2021 EU Rule of Law report [2021_rorl_country_chapter_poland_en.pdf\(europa.eu\)](#)

⁹ 2021 EU Rule of Law report [2021_rorl_country_chapter_poland_en.pdf\(europa.eu\)](#)

disclose public information and allow for a too broad disclosure of data.¹⁰ This request to the Constitutional Tribunal is still pending.

12. Moreover, legal provisions adopted in March 2021 as a part of the COVID-19 act of 19 June 2020¹¹, enabled the authorities to suspend deadlines stipulated by administrative law, thereby limiting or delaying access to public information.

Safety of journalists:

13. As of 17 February 2022, UNESCO has recorded one killing of a journalist in Poland since the Organization started systematic monitoring the killings of journalists, in 2006. This killing occurred in 2015¹² and is considered resolved.

III. Review and specific recommendations

A. Education

Legislative, regulatory and policy framework:

- The Act of 27 October 2017¹³ on Financing of School Education Tasks sets financing of school education tasks based on the redistribution of some funds from the state's budget earmarked for education among different levels of local government. Financing of specific types of schools has been described with a complex algorithm based on a number of weights that depend on the type and specifics of the schools, as well as needs of students that influence the final amount distributed to a given school.
- The Act of 20 July 2018¹⁴, Law on Higher Education and Science, aims to improve the quality of higher education and enhance international competitiveness of higher education institutions.
- Act of 13 June 2019¹⁵, amending the Teachers' Charter and some other Acts.

¹⁰ Public Information Bulletin of the Ombudsman, Ombudsman opposes motion of the First President of the Supreme Court to the Constitutional Tribunal concerning access to public information:

<https://bip.brpo.gov.pl/pl/content/rpo-przeciw-wnioskowi-prezes-sn-do-tk-informacja-publiczna>

¹¹ https://trade.ec.europa.eu/doclib/docs/2020/september/tradoc_158930.pdf

¹² <https://en.unesco.org/themes/safety-journalists/observatory>

¹³ <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20170002203/U/D20172203Lj.pdf>

¹⁴ <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180001668>

¹⁵ <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20190001287>

¹⁶ <http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20190000072/O/D20190072.pdf>

- Regulation of 7 December 2018¹⁶ on the infrastructure and sanitary requirements for premises to be used by crèches and kids' clubs.
- Regulation of the Minister of National Education of 15 February 2019¹⁷ on the general aims and tasks of vocational education arranged by sector and the classification of occupations for sector-based vocational education and Regulation of the Minister of National Education of 16 May 2019¹⁸ on the core curricula for vocational education arranged by sector and additional vocational skills for selected occupations identified within vocational education.

Pre-primary education

- For pupils whose health condition prevented them from attending school or significantly hindered their ability to do so, individual teaching was organized in accordance with the provisions of the Regulation of the Minister of National Education of 9 August 2017 on individual compulsory one-year pre-primary education of children and individual teaching of children and youth.
- Pupils/students staying for treatment in medical entities were provided with education and upbringing and care at schools operating in these entities, pursuant to the Regulation of the Minister of National Education of 24 August 2017 on organization of education and conditions and forms of implementation of special care and care activities.

Special needs and pupils with disabilities

- The Regulation of the Minister of National Education of 14 February 2017¹⁹ on the core curriculum for pre-school education and general education in primary schools, including for pupils with moderate or severe intellectual disability, general education for stage-one sectoral VET schools, general education for special schools preparing for employment, and general education for post-secondary schools emphasizes that teaching pupils with disabilities, including pupils with mild intellectual disabilities, shall be adapted to their psychophysical capabilities and learning pace. The choice of forms of individualization should result from identification of the potential of each pupil. The teacher should select tasks so that on one hand they do not interrupt

¹⁶ <http://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20190000072/O/D20190072.pdf>

¹⁷ <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20190000316>

¹⁸ <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20190000991>

¹⁹ <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20170000356>

learning opportunities, and on the other hand they do not reduce motivation to deal with challenges (also supported by the Regulation of the Minister of National Education of 30 September 2018 on the core curriculum for general upper secondary schools, technical upper secondary schools, and second-stage sectoral VET schools).

- In 2019, decisions on the need for pre-school special education were issued for 35,422 children.
- The Government programme of assistance for pupils with disabilities in the form of co-financing the purchase of school textbooks, educational materials and exercise materials in the years 2020-2022 (Resolution no. 89/2020 of the Council of Ministers and the Regulation of the Council of Ministers of 26 June 2020 on detailed conditions of providing assistance for pupils with disabilities in this domain) implements one of the priority tasks of the state which is the elimination of poverty and social exclusion, and the continuation of activities aimed at equalizing educational opportunities, and supporting the development of children and youth with disabilities. This area was previously covered by the Regulation of the Minister of National Education of 9 August 2017 on the conditions for organization of education, upbringing and care for children and youth with disabilities, socially maladjusted, and at risk of social maladjustment.
- The Strategy for persons with disabilities 2021-2030 aims to enable persons with disabilities to live independently and to fully participate in all areas of life including education, social and professional life.²⁰

Foreigners' right to education

- In line with recommendations N°120.176 and N°120.183 of the last UPR cycle, Poland adopted the Regulation of the Minister of National Education in August 2017, to guarantee on the right to education to non-Polish citizens as well as to Polish citizens who received education in schools operating in education systems of other countries, with articles 165 and 166 setting the terms and conditions for foreigners taking up education in Polish schools.

Roma children's right to education

²⁰ <https://www.gov.pl/web/family/the-first-polish-strategy-for-persons-with-disabilities>

- In line with recommendations N°120.167, N°120.169, and N°120.170 of the last UPR cycle, Poland stepped up efforts to facilitate Roma origin children and youth to access to education. In this regard, Poland adopted the Regulation of the Minister of National Education on 18 August 2017²¹ on the conditions and arrangements for public nursery schools, schools and other public institutions to perform tasks aimed at preserving a sense of national, ethnic and linguistic identity of pupils from national and ethnic minorities and the community speaking the regional language. Public nurseries and schools have to take, where necessary, additional measures to preserve and develop the ethnic identity of children and young people of Roma origin, and support their education, in particular, by providing remedial classes. They may also employ Roma teaching assistants to support children and young people of Roma origin in their interactions with the school environment and collaborate with their parents.

Corporal punishment within educational institutions

- Although the Constitution of Poland prohibits corporal punishment, this prohibition does not explicitly apply to educational settings.

Financing education

- In 2018, Poland dedicated 4.6%²² of its GDP on education, which is in line with the Education 2030 Framework for Action that requires States to allocate 4 to 6% of their GDP on education. This amount corresponded to 11.1% of total government expenditure.

Digital education

- UNESCO’s Initiative on the Evolving Right to Education emphasizes the need to increase digital skills of learners and teachers. In Poland, the minister responsible for education and upbringing has determined the following principal directions of the State education policy: for the school year 2018/2019, the “development of digital competences of pupils and teachers; safe and responsible use of resources available online”; and for the school year 2019/2020, the “development of creativity, entrepreneurship and digital competences of pupils, including safe and deliberate use

²¹ <https://dziennikustaw.gov.pl/DU/2017/1627>

²² <http://uis.unesco.org/en/country/pl>

of information and communication technologies in the implementation of the general education core curriculum”.

- The “Safe School, threats and recommended preventive measures in the field of physical and digital safety of pupils” provided guidelines and recommendations and proposal for actions by school leaders in their school environments together with teachers and parents of the pupils.
- The ongoing “Smartphones in school. Let’s set the rules of the game” is a participatory project implemented by the Educational Research Institute in 2020, aiming to create a set of recommendations concerning standards and methods of using smartphones in primary schools, and their effective use in education.²³

Specific recommendations:

14. Poland should be encouraged to:

- Explicitly prohibit corporal punishment within educational institutions.
- Continue to enhance the digital inclusion of learners and teachers.
- Continue to submit regularly comprehensive national reports for the periodic consultations on UNESCO’s education-related standard-setting instruments, and notably on the Convention against Discrimination in Education.
- Share with UNESCO any relevant information to update its country profile on UNESCO’s [Observatory on the Right to Education](#) and [Her Atlas: Monitoring the right to education for girls and women](#).

B. Freedom of opinion and expression

15. It is recommended that Poland decriminalize defamation and place it within a civil code that is in accordance with international standards.²⁴

²³ <https://www.ibe.edu.pl/smartfonywzskole/opis-projektu.html>

²⁴ See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87th Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

16. It is recommended that Poland adopt legislation ensuring the transparency of the distribution of State advertising and transparency of media ownership.
17. Poland is encouraged to co-operate with UNESCO's annual survey instrument to measure global progress on public access to information, and consider including relevant information in their Voluntary National Reviews for reporting on progress on SDG implementation.
18. It is recommended that Poland establish an independent regulatory body mandated to implement access to information laws, in accordance with international human rights standards.

C. Cultural Rights

19. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), Poland is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions which are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Poland is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and civil society organizations as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

20. Poland did not submit its national report on the implementation of the Recommendation on Science and Scientific Researchers (2017) for the consultation period from 2018 to 2021. Therefore, Poland is encouraged to report to UNESCO on its implementation actions, especially noting legislative or other measures adopted by it with the aim to ensure application of these norms and standards in national law,

policy and practice paying particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers themselves (rights of association, freedom of research, expression and publication, etc.) as well as human rights obligations related to the practice of science generally; the human rights related to access to and uses of scientific knowledge through education; the principle of non-discrimination, requiring, in this case, active promotion of women and girls entering scientific careers, as well as protections for human rights of human subjects of research. Poland is invited to provide input about issues covered by the 2017 Recommendation in its national report to the UPR allowing thereby a dedicated discussion at the Human Rights Council and the formulation of specific recommendations. Additionally, Poland is urged to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers.