

# **Advance version**

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## **Human Rights Council**

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Agenda item 6

**Universal Periodic Review**

## **Report of the Working Group on the Universal Periodic Review\***

### **Poland**

#### **Addendum**

#### **Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review**

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\* The present document was not edited before being sent to the United Nations translation services.

## **Poland's position on recommendations received at 27<sup>th</sup> session of the UN Human Rights Council Working Group on the Universal Periodic Review**

120.1. At this time, the Polish Government (the Government) cannot present its final position concerning this recommendation; the justifiability of signing and ratifying the Protocol to the Covenant on Economic, Social and Cultural Rights will be subject to a future review.

120.2. See 120.1.

120.3. At this time, the Government cannot present its final position concerning this recommendation; the justifiability of signing and ratifying the Protocol to the Convention on the Rights of the Child will be subject to a future review.

120.4. See 120.3.

120.5. See 120.3.

120.6. See 120.3.

120.7. Partially accepted. Poland has been taking and developing measures to support persons with disabilities (see 120.3).

120.8. Not accepted. No immediate plans exist to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; however, it should be underscored that the Government remains committed to migrants' rights protection.

120.9. See 120.8.

120.10. See 120.8.

120.11. See 120.8.

120.12. Accepted.

120.13. Accepted.

120.14. Accepted.

120.15. Accepted.

120.16. At this time, the Government cannot present its final position concerning this recommendation; the justifiability of signing and ratifying the Protocol to the Convention on the Rights of Persons with Disabilities will be subject to a future review.

120.17. See 120.16.

120.18. See 120.16.

120.19. See 120.16.

120.20. Not accepted. The Polish legal system already has in place provisions that protect stateless people, including the Act on Polish Citizenship which effectively prevents children born or found in Poland from becoming stateless.

120.21. See 120.20.

120.22. See 120.20.

120.23. Not accepted. No plans exist to sign and to ratify the Convention. Poland is not inhabited by groups that would qualify as indigenous or tribal people under the definition set out in the Convention.

120.24. Accepted. The implementation of all the ratified conventions is guaranteed.

120.25. Accepted and implemented.

120.26. Accepted. Recommendations made by the Committee on Economic, Social and Cultural Rights have been presented to the competent ministries and other institutions to be applied in developing policy.

120.27. Accepted and implemented. The budget of the office of the Commissioner for Human Rights is comparable to those of other budget units.

120.28. See 120.27.

120.29. See 120.27.

120.30. See 120.27.

120.31. Accepted and implemented. The Commissioner is able to review complaints.

120.32. Accepted. Recommendations made by the International Ombudsman Institute are being implemented.

120.33. Accepted and implemented. The mechanism has been in place in Poland since 2010.

120.34. Not accepted. At the same time, the Government is actively working to prevent racial discrimination, xenophobia and intolerance.

120.35. See 120.34.

120.36. See 120.34.

120.37. See 120.34.

120.38. See 120.34.

120.39. See 120.34.

120.40. See 120.34.

120.41. Accepted; under implementation. Preventing and combating all forms of discrimination is an ongoing task of public authorities.

120.42. Accepted (see 120.41). Measures to combat hate crime implemented and to be continued.

120.43. Accepted; under implementation (see 120.41).

120.44. Accepted and implemented. The Polish antidiscrimination law treated as a system provides adequate legal protection against discrimination on any grounds.

120.45. Accepted; under implementation. Awareness-raising and educational measures are treated as permanent.

120.46. Accepted.

120.47. Accepted.

120.48. Accepted and implemented (see 120.44).

120.49. Partially accepted; under implementation. The prohibition of discrimination in political, social and economic life on all grounds is enshrined in Article 32(2) of the Constitution. The Polish legal system, understood as a whole, guarantees broad protection of the observance of the principle of equal treatment on many levels.

120.50. Partially accepted; under implementation (see 120.49).

120.51. Accepted. Measures to combat racial and xenophobic crimes already implemented and to be continued.

120.52. See 120.51.

120.53. See 120.51.

120.54. See 120.51.

120.55. Accepted.

120.56. Accepted.

120.57. Accepted; under implementation. Poland promotes inter-religious tolerance: each year the presidential couple are joined by Jewish community representatives in lighting a Hanukkah candle at the Presidential Palace; the Polish President has publically called to condemn anti-Semitism (e.g. during the 70th anniversary of the Jewish pogrom in Kielce); government officials attend events to mark the Jedwabne massacre. Training programmes on combatting racism and intolerance.

120.58. Accepted.

120.59. Accepted and implemented. Article 13 of the Constitution prohibits political parties and other organizations whose programmes or activities are based upon or sanction racial or national hatred, among others.

120.60. Accepted (see 120.51).

120.61. Accepted.

120.62. Accepted (see 120.51).

120.63. Accepted.

120.64. Accepted (see 120.51).

120.65. Accepted. Relevant actions taken by the Police.

120.66. Accepted and implemented. Relevant measures carried out under the Sports Development Programme 2020, as well as by the Ministry of Sport, and Polish sports federations.

120.67. Accepted. Public awareness campaigns are an effective tool of communication and public education, and they help to counter discriminatory attitudes. For many years, the Roma community in Poland has been the addressee of many dedicated measures. The 2014-2020 Programme for the Integration of the Roma Community in Poland is currently under implementation.

120.68. Accepted.

120.69. Accepted; under implementation. Relevant measures already carried out by the Police, the Ministry of the Interior and Administration, and the Government Plenipotentiary for Equal Treatment.

120.70. See 120.69.

120.71. See 120.69.

120.72. Accepted.

120.73. Accepted.

120.74. Accepted.

120.75. Not accepted. Poland has no immediate plans to introduce new regulations on partnerships.

120.76. Partially accepted (see 120.75). Preventing and combating all forms of discrimination is an ongoing task of public authorities.

120.77. Partially accepted (see 120.75 and 120.76); Polish law defines marriage as a union between a woman and a man. To enter into marriage abroad, Polish citizens are issued certificates to the effect that they are allowed to do so under Polish laws. A document that attests to the lack of obstacles to entering into marriage applies only to a man and a woman because, as indicated above, only persons of different sex may enter into marriage under Polish law.

120.78. Accepted; under implementation. Funds allocated to development cooperation steadily increasing.

120.79. Accepted. The implementation is planned under the Polish National Action Plan for the Implementation of the United Nations Guiding Principles on Business and Human Rights 2017-2020, adopted by the Government on 29 May 2017, and Council of Europe Recommendation CM/Rec (2016) 3 on Human Rights and Business.

120.80. Partially accepted. The Law on Antiterrorist Measures is compliant with the principles of legality, necessity and proportionality. In line with constitutional standards, the Law has provided the Prosecutor General, and to a certain extent also the courts, the power to exercise oversight of specific legal instruments connected with operational intelligence activities. The Council of Ministers decided that the Law will be subject to review after being in force for two years. The extra review is therefore unnecessary.

120.81. Accepted.

120.82. Accepted; under implementation. The Prison Service management carries out ongoing measures to improve prison and pre-trial detention conditions.

120.83. Accepted (see 120.82).

120.84. Accepted.

120.85. Accepted.

120.86. Accepted.

120.87. Accepted.

120.88. Accepted.

120.89. Accepted.

120.90. Accepted.

120.91. Accepted and implemented. The Constitutional Tribunal (CT) is an independent institution in Poland. Regulations on its functioning adopted by Parliament in late 2016 are in line with the relevant European standards. These regulations comprehensively govern the CT's operations and take into account many Venice Commission recommendations.

120.92. See 120.91.

120.93. See 120.91.

120.94. See 120.91.

120.95. See 120.91.

120.96. Accepted. The principles referred to in the recommendation are the bedrock of the Polish legal order, and even in the event that the Constitution is amended, they will surely be guaranteed.

120.97. Accepted and implemented. The Venice Commission's opinion taken into account in the process of amending Polish law on the CT. Many recommendations of the Venice Commission have been accepted, among them the ones concerning the number of CT judges needed for a full bench and the majority needed to pass a ruling.

120.98. Accepted. Polish judicial reforms are in line with relevant European standards. Opinions from international institutions concerning these reforms are taken into account when drawing new legislation.

120.99. Not accepted. The European Commission for Democracy through Law does not rule out linking the prosecutor's office with the executive branch. The linking of the prosecutor's office with the executive branch has strengthened the government's ability to implement internal security measures.

120.100. Not accepted (see 120.99).

120.101. Accepted.

120.102. Accepted and implemented. Pre-schools and schools are obligated to organize religious education classes (of any denomination) for a group of at least seven pupils in a given grade or form (smaller groups can attend as combined classes; classes consisting of pupils from different schools or at a religious education facility outside school). The grade received for religious education is featured on the school certificate.

120.103. Accepted.

120.104. Accepted and implemented. The government has no influence over the programme content disseminated by public or private media.

120.105. Accepted. Media freedom and independence are guaranteed by the Constitution, the Broadcasting Act, and the Press Law Act. As a European Union Member State, Poland must ensure that national legislation is fully in line with European law regulations. Hence the currently drafted regulations will be fully consistent with European law.

120.106. Accepted. The Ministry of Culture and National Heritage and the National Broadcasting Council are together looking into possible ways of appointing and dismissing public radio and television governing bodies that would ensure conformity of the act with the Constitution. The relevant measures should be ready by the end of this year.

120.107. Accepted and implemented. The legal regulations in force (as laid down in the Constitution, the Broadcasting Act and the Press Law Act) ensure access to information, and the freedom of the press and to use the media.

120.108. Partially accepted and implemented. The legal provisions adopted in 2015 do not restrict media freedom and pluralism. These provisions temporarily gave the Minister of Treasury the power to appoint and dismiss the governing bodies of public media. With regard to the protection of privacy it should be noted that the use of the judicial oversight mechanism as set out in the Amendment to the Act on the Internal Security Agency and the Foreign Intelligence Agency is consistent with constitutional standards and it ensures a supervisory instrument by an independent body.

120.109. Accepted and implemented. The freedom of expression and assembly is guaranteed under the Constitution. Detailed issues connected with organizing assemblies are provided for in the Law on Assemblies of 24 July 2015.

120.110. Not accepted (see 120.109).

120.111. Accepted; under implementation. The legal and institutional infrastructure in Poland makes it possible for NGOs to operate, and specifies the conditions of financing them. Transparent financial support mechanisms are also in place that provide resources for NGOs and the civil society.

120.112. Accepted (see 120.111).

120.113. Accepted; under implementation. The Government has adopted many initiatives and measures to enhance the legal, institutional and financial conditions in which the civil society operates.

120.114. Accepted and implemented. Combatting human trafficking, and organized illegal migration, is among the primary tasks of the Border Guard and is prioritised in the Border Guard Act.

120.115. Accepted.

120.116. Accepted.

120.117. Accepted.

120.118. Accepted.

120.119. Accepted.

120.120. Accepted.

120.121. Accepted.

120.122. Partially accepted (see 120.80). The Law amending the Law on the Police adopted on 15 January 2016 implement the CT's ruling on operational surveillance and the retention of data by the relevant services. The measures adopted in the law are subject to review proceedings pending before the CT. Possible regulatory changes should be the subject of the CT judgements.

120.123. Partially accepted (see 120.80, 120.122).

120.124. Accepted. A group of experts to promote the participation of families in public life and to counteract their discrimination has been working since November 2016. The group members have been advocating greater participation of organisations representing the interests of the family, including those representing families with disabled children and adults in the public debate and in developing public policies at the central and local levels. The protection of the human foetus is guaranteed by statute.

120.125. Accepted and implemented.

120.126. Accepted and implemented (see 120.125).

120.127. Accepted; under implementation. Relevant measures carried out.

120.128. Accepted and implemented.

120.129. Accepted and implemented.

120.130. Accepted and implemented.

120.131. Accepted and implemented.

120.132. Accepted and implemented.

120.133. Accepted and implemented.

120.134. Accepted and implemented. The patient's right to file an objection to a medical doctor's opinion or certificate is the principal measure introduced to the Polish legal system with a view to implementing the judgements.

120.135. Accepted and implemented (see 120.134).

120.136. Accepted.

120.137. Accepted.

120.138. Accepted.

120.139. Accepted.

120.140. Accepted.

120.141. Accepted.

120.142. Accepted.

120.143. Accepted.

120.144. Accepted and implemented.

120.145. Accepted.

120.146. Accepted and implemented.

120.147. Accepted and implemented.

120.148. Accepted.

120.149. Accepted.

120.150. Accepted.

120.151. Accepted and implemented.

120.152. Accepted and implemented.

120.153. Accepted.

120.154. Accepted.

120.155. Accepted and implemented.

120.156. Accepted.

120.157. Accepted.

120.158. Accepted; under implementation.

120.159. Accepted; under implementation.

120.160. Accepted.

120.161. Accepted.

120.162. Accepted. It should be noted that recent legislative amendments have increased the protection of children against violence and other forms of ill treatment. More severe punishment has been introduced for physical and mental abuse of vulnerable young persons. Furthermore, a legal obligation exists to report information about prepared, attempted or perpetrated sexual crimes against minors. The aforementioned provisions came into force on 13 July 2017.

120.163. Accepted.



120.164. Accepted.

120.165. Accepted.

120.166. Accepted.

120.167. Accepted. Relevant solutions already in place; their implementation to continue.

120.168. Accepted.

120.169. Accepted.

120.170. Accepted.

120.171. Accepted. Relevant measures carried out and will continue.

120.172. Accepted.

120.173. Accepted.

120.174. Accepted and implemented. Foreigners issued return decisions may carry out such decisions on their own or await its execution at liberty or at a detention centre. Foreigners who stay at guarded centres have the right to contact non-governmental and international organizations. When assigned an attorney, they also have the right to contact and meet such attorney in conditions that do not violate their right to privacy.

120.175. Accepted and implemented. Many legislative acts lay down the rules and conditions for employing foreigners. The National Labour Inspectorate pays attention to the protection of foreigner workers' rights. It should be emphasized that Poland did not issue work visas to North Korean nationals in 2016.

120.176. Accepted and implemented.

120.177. Accepted.

120.178. Not accepted. Poland is strongly opposed to any automatic and mandatory redistribution mechanisms. Such instruments are not the right response to the current migratory challenges. Instead they encourage new waves of migrants to cross into the EU, thus intensifying the migratory pressure.

120.179. Accepted and implemented.

120.180. Accepted and implemented.

120.181. Partially accepted. Compulsory education is guaranteed at guarded centres for families with children. Educational and childcare teams set up to organize and run cultural and educational classes, as well as remedial courses for children who need them. Each foreigner, including each minor without a guardian, is assigned a social guardian. Moreover, minors without guardians who seek international protection cannot be placed in a guarded centre, but should be put in foster care. However, no plans exist to prohibit placing families with children in guarded centres.

120.182. Noted (see 120.181).

120.183. Accepted and already implemented. Under the Act on Granting Protection to Aliens within the Territory of Poland, healthcare services are included in the care of persons seeking international protection in Poland. Conditions to be met by foreigners who want to enrol in Polish schools are set out in Article 94a of the Educational System Act of 7 September 1991.

120.184. Accepted; under implementation. Some of the long-running projects in Poland to commemorate the Holocaust include annual events to mark International

Holocaust Remembrance Day (27 January), and commemorations of the outbreak of the Warsaw Ghetto Uprising (19 April) with its accompanying “Daffodils” campaign.

120.185. Accepted. Each case of vandalising a monument or desecrating a burial or memorial site is subject to preparatory proceedings or investigation into a petty offence conducted by the Police to identify perpetrators and bring relevant charges against them. The responsibility for careful examination of such act rests with Police officers in charge of the investigation overseen and evaluated by prosecutors.

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