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Poland

Compilation of information by 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 outcome of the previous review.¹ It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

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

2. The Committee on the Elimination of Racial Discrimination encouraged Poland to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization (ILO).²

3. The Special Rapporteur in the field of cultural rights recommended that Poland adhere without delay to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.³

4. The Office of the United Nations High Commissioner for Refugees (UNHCR) and the Committee on the Rights of the Child recommended that Poland accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.⁴ The Committee also recommended that Poland consider ratifying the European Convention on Nationality and the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession.⁵

5. The Committee on the Rights of Persons with Disabilities called upon Poland to withdraw its interpretative declaration on article 12 of the Convention and its reservations to articles 23 (1) (a) and (b) and 25 (a).⁶



III. National human rights framework

1. Constitutional and legislative framework

6. The Committee against Torture urged Poland to: (a) take effective legislative measures to include torture as a separate and specific crime in its Penal Code, and adopt a definition of torture that covered all the elements contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; (b) ensure that penalties for torture were commensurate with the gravity of that crime, as set out in article 4 (2) of the Convention, which would also help to differentiate acts of torture from ill-treatment; and (c) ensure that the absolute prohibition of torture was non-derogable and that acts of torture were not subject to any statute of limitations and were not limited to those arising from crimes against humanity and extreme suffering caused by an official.⁷

7. The Committee on the Elimination of Racial Discrimination recommended that Poland: (a) amend the Equal Treatment Act to introduce “national origin”, “colour” and “descent” as prohibited grounds of discrimination, in order to bring it into line with article 1 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination; (b) ensure the implementation of existing legal provisions prohibiting racial discrimination and facilitate effective access to justice for all victims of racial discrimination; (c) ensure that the definition of hate speech enshrined in the Criminal Code was fully in line with the Convention and that it includes all grounds of discrimination recognized in the Convention and recommendation No. R 97 (20) of the Committee of Ministers of the Council of Europe; and (d) amend article 53 (2) of its Criminal Code, specifically making a racist motive of a crime an aggravating circumstance and allowing for enhanced punishment to combat the occurrence of such acts.⁸

8. The Committee on the Rights of Persons with Disabilities called upon Poland to repeal all discriminatory provisions under the Civil Code and other legal acts allowing for the deprivation of legal capacity of persons with disabilities. It also recommended that Poland establish a procedure aimed at restoring the full legal capacity of all persons with disabilities, and develop supported decision-making mechanisms that respected their autonomy, will and preferences.⁹

2. Institutional infrastructure and policy measures

9. The Committee against Torture recommended that Poland: (a) allocate the amount of financial resources requested by the Office of the Commissioner for Human Rights to enable it to discharge its mandate, and significantly increase the resources provided to the national preventive mechanism in order to enable it to function effectively, hire the necessary specialized staff and fully implement its mandate in accordance with the Optional Protocol to the Convention against Torture, including to ensure follow-up to its visits to places of deprivation of liberty; (b) conduct an awareness-raising campaign in order to heighten knowledge among the general public, law enforcement agencies and medical institutions about the mandate and work of the national preventive mechanism; and (c) ensure the independence, security and ability to function of the Commissioner for Human Rights of Poland so that he or she could fully discharge his or her constitutional mandate, in keeping with international standards.¹⁰

10. The Committee on the Elimination of Racial Discrimination recommended that Poland: (a) provide the Commissioner for Human Rights of Poland, in particular its Department of Equal Treatment, with the human and financial resources necessary to enable it to fully discharge its mandates in an independent and impartial manner, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles); (b) amend its legislation to provide the Commissioner with the statutory mandate to investigate cases of racial discrimination both in the public and private sectors; and (c) ensure that the statutory competences of the Commissioner were fully recognized and respected, and more specifically, that requests made by the Commissioner to initiate proceedings in cases to be prosecuted by public indictment, including racially motivated crimes, resulted in an immediate investigation by the Office of the National Public Prosecutor or the respective subordinate prosecutors.¹¹

IV. Promotion and protection of human rights

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

1. Equality and non-discrimination

11. The Committee on the Rights of Persons with Disabilities recommended that Poland explicitly recognize and prohibit multiple and intersectional discrimination on the grounds of disability, sex, age, ethnicity, gender identity or sexual orientation, and any other status in all areas of life within its anti-discrimination legislation, policies and strategies, including the Equality Act.¹²

12. The Committee on the Elimination of Racial Discrimination recommended that Poland: (a) firmly combat racist hate speech and incitement to violence, including on the Internet, and publicly condemn and distance itself from racist hate speech by public figures, including politicians and media officials; (b) intensify its public campaigns to combat hate speech, incitement to hatred and hate crimes, to address prejudices and negative sentiments towards national and ethnic minorities, migrants, refugees and asylum-seekers, and to promote tolerance and understanding towards those groups; and (c) send strong messages to journalists and broadcasters that they had a responsibility to avoid the use of hate speech and stereotypes in describing minority communities, take action against websites promoting racial hatred and, particularly in the context of election campaigns, closely scrutinize broadcasters with respect to content that incited hatred or strengthened xenophobic attitudes.¹³

13. The same Committee recommended that, when implementing the International Convention on the Elimination of All Forms of Racial Discrimination in its domestic legal order, Poland give effect to the Durban Declaration and Programme of Action, taking into account the outcome document of the Durban Review Conference. The Committee also recommended that, in the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, Poland prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent.¹⁴

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

14. The Subcommittee on Torture recommended that Poland ensure that different categories of inmates were kept in separate parts of an institution, in particular that remand detainees were kept separate from convicted prisoners and persons detained for civil offences were kept separate from persons detained for criminal offences.¹⁵

15. The Committee against Torture recommended that Poland: (a) ensure that pretrial detention was used as an exception and as a measure of last resort and was applied for a limited period of time; and establish a maximum period prescribed by law that could be monitored by a court of law; (b) take measures to put a stop to the practice of extending pretrial detention, and in particular to the six-month extensions of pretrial detention after the initial verdict of the court of first instance that were allowed under the Code of Criminal Procedure, to ensure that pretrial detention was not prolonged arbitrarily and to ensure that pretrial detainees were held separately from convicted prisoners; (c) consider replacing pretrial detention with non-custodial measures, especially for sentences not exceeding two years, and consider alternatives to detention; and (d) ensure that redress and compensation were provided to persons who were victims of unjustified prolonged pretrial detention.¹⁶

16. The same Committee recommended that Poland: (a) ensure adequate material conditions in all police detention units, including sufficient ventilation and lighting, clean bedding and appropriate sanitary conditions, and, where possible, ensure that police detention facilities were above the ground; (b) rigorously implement the programme for the modernization of the Prison Service (2017 to 2020); (c) prevent overcrowding, with a view to bringing conditions of detention into line with international standards enshrined in the

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and ensure that prisoners had living space in accordance with the national standard; and (d) build new penitentiary units and refurbish and modernize historic and older units, taking into account their sanitation and toilet facilities, lighting, ventilation and heating.¹⁷

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

17. The Special Rapporteur on the independence of judges and lawyers recommended that Poland reconsider the ongoing reform of the judicial system. Any reform of the judiciary should aim at strengthening the independence and impartiality of the judiciary, not at bringing the judicial system under the control of the executive and legislative branches. The reform should be the result of an open, fair and transparent process, involving not only the parliamentary majority and the opposition, but also the judiciary itself, the Office of the Ombudsman and civil society actors.¹⁸

18. The same Special Rapporteur recommended that the Act on the National Council of the Judiciary be amended to bring it into line with the Constitution and international standards relating to the independence of the judiciary and the separation of powers. In particular, the Special Rapporteur recommended: (a) removing the provisions concerning the new appointment procedure for the judicial members of the National Council of the Judiciary and ensuring that the 15 judicial members of the Council were elected by their peers; and (b) removing the provisions concerning the early termination of the mandates of all the current judicial members of the National Council of the Judiciary.¹⁹

19. The Committee on the Elimination of Racial Discrimination recommended that Poland: (a) encourage and facilitate the reporting of hate speech and hate crimes, including by raising public awareness about access to legal aid and available legal remedies, and by ensuring the registration of all reported cases, effective investigations and prosecutions, and the imposition of appropriate penalties on perpetrators; (b) commission an independent research agency to do an annual estimate of the number of unreported hate-motivated crimes along with an analysis of causes and recommended solutions; (c) recruit persons belonging to minority groups into the police force and the judiciary, and as prosecutors and lawyers, and continue providing training on the proper identification, registration, investigation and prosecution of racist hate speech and hate crimes; and (d) provide detailed information on investigations and prosecutions of, and convictions for, racist hate speech and hate crimes, especially those committed by public figures and politicians.²⁰

20. The Committee against Torture recommended that Poland: (a) ensure that all allegations of torture and ill-treatment by law enforcement officials and all deaths in custody were investigated promptly, effectively and impartially by mechanisms that were structurally and operationally independent, with no institutional or hierarchical connection between the investigators and the alleged perpetrators, and ensure that perpetrators, if found guilty, were punished in a manner that was commensurate with the gravity of their acts; (b) ensure that all persons under investigation for having committed acts of torture or ill-treatment were suspended immediately from their duties and remained so throughout the investigation, while ensuring that the principle of presumption of innocence was observed; and (c) ensure that records of injuries were kept where cases of torture and ill-treatment could be recorded and that all interrogation rooms in all parts of the country had closed-circuit television and the equipment necessary to make video and audio recordings of interrogations.²¹

21. The same Committee recommended that Poland: (a) enact legislation that explicitly prohibited the admissibility of evidence obtained as a result of torture and ill-treatment in all judicial proceedings and repeal article 168a of the Code of Criminal Procedure; (b) ensure that courts examined the circumstances under which statements and confessions, including self-incriminating statements of persons interrogated as witnesses, had been made and that, if a claim of coerced confession had been made, they suspended proceedings until the claim had been thoroughly investigated; (c) ensure that, in practice, statements made as a result of torture could not be invoked as evidence in any proceedings, except against the person accused of torture as evidence that the statement was obtained under torture; and (d) provide

training to judges and prosecutors in order to ensure their ability to effectively identify torture and ill-treatment and investigate all allegations of confessions obtained under torture.²²

4. Fundamental freedoms and the right to participate in public and political life

22. The Committee on the Rights of the Child recommended that Poland respect the right of the child to freedom of thought, conscience and religion in education, in accordance with international standards, that the secular public school system promote a culture of equality and inclusion, and that ethics classes be available in all schools as an alternative to religion classes.²³

23. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Poland decriminalize defamation and place it within a civil code that was in accordance with international standards and adopt legislation ensuring the transparency of the distribution of State advertising and transparency of media ownership. It encouraged Poland to participate in the annual UNESCO survey to measure global progress on public access to information, and consider including relevant information in its voluntary national reviews for reporting on progress on implementation of the Sustainable Development Goals, and to establish an independent regulatory body mandated to implement access-to-information laws, in accordance with international human rights standards.²⁴

24. The Working Group on the issue of discrimination against women in law and in practice noted that women faced social and cultural barriers preventing them from occupying the most senior-level positions in the political life of the country. It recommended that the Government: (a) adopt further effective measures to improve women's political participation, such as the zipper system, and provide training and support to women candidates; (b) increase the representation of women at the highest level of the Government and State institutions with a view to achieving gender parity; and (c) secure an enabling environment for women human rights defenders, who should receive a fair share of public funding, and protect them from any intimidation.²⁵

25. The Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted that human rights defenders faced threats and intimidation at the border with a neighbouring country. They stated that Poland must investigate all allegations of harassment of human rights defenders, including media workers and interpreters, at the border, and grant access to journalists and humanitarian workers to the border area, ensuring that they could work freely and safely.²⁶

5. Prohibition of all forms of slavery, including trafficking in persons

26. The Committee on the Rights of the Child recommended that Poland: (a) increase the identification of children who were victims of sexual exploitation and trafficking, in particular children in vulnerable situations, such as unaccompanied asylum-seeking or refugee children or children in situations of migration; (b) strengthen the training of professionals concerned with identifying children who were victims of trafficking and referring them to the appropriate services; (c) provide children who were victims of trafficking with services specific to their needs and ensure that they were referred to appropriate services; and (d) provide financial support to civil society organizations working with children who were victims of trafficking.²⁷

6. Right to work and to just and favourable conditions of work

27. The Working Group on the issue of discrimination against women in law and in practice recommended that the Government of Poland: (a) adopt further measures to increase the participation of women in the labour force, particularly women with disabilities, Roma women and older women, and monitor the impact of social protection measures on women's labour force participation; (b) identify the most significant factors contributing to the gender pay gap through analytical work and consultations with social partners and other stakeholders and develop effective remedies to reduce the gender pay gap; and (c) consider the adoption of temporary special measures such as gender quotas for publicly listed companies.²⁸

28. The Committee on the Rights of Persons with Disabilities recommended that Poland develop legislation and measures for the employment of persons with disabilities in the open labour market, and that it in particular: (a) promote the work and employment of women with disabilities, and ensure equal income, particularly in rural areas, (b) promote decent work for persons with disabilities, particularly women with disabilities, in public and private sectors and provide specific incentives and support for reasonable accommodation, including individual assistance for employing persons with a wide range of disabilities; (c) ensure that the employment quota of 6 per cent for persons with disabilities was reached in all sectors, in particular in the public administration sector; and (d) ensure that open labour market activation programmes effectively include all persons with disabilities.²⁹

7. Right to social security

29. The Committee on the Rights of Persons with Disabilities recommended that Poland: (a) emphasize the rights of persons with disabilities, particularly of women with disabilities, and mainstream them into the national strategy for reducing poverty with concrete measures and relevant budget; (b) ensure that the employment of persons with disabilities did not make them ineligible for disability-related protection schemes, such as disability allowances; (c) collect disaggregated data on the poverty of persons with disabilities, and monitor the effectiveness of social security mechanisms designed to combat poverty; and (d) ensure specific measures to ensure access to housing for persons with disabilities.³⁰

8. Right to an adequate standard of living

30. The Committee on the Rights of the Child recommended that Poland ensure an adequate and sustainable standard of living for all children within its territory, in particular the ones in the most vulnerable situations. It also recommended that Poland: (a) apply the multidimensional child poverty approach to measuring child poverty and to developing a national poverty reduction strategy, with a particular focus on children and families in situations of vulnerability, and the appropriate budget for its implementation; (b) strengthen support programmes for single-parent families with a single child, parents of children with disabilities and children without parental care; and (c) develop and enforce a mechanism for recovering child maintenance.³¹

9. Right to health

31. The Committee on the Rights of Persons with Disabilities recommended that Poland: (a) ensure access to health services by all persons with disabilities, and the availability of such services, regardless of the type of impairment; (b) take measures to ensure universal coverage of health services for all women and girls with disabilities, including by providing information in accessible formats on their sexual and reproductive health and rights, gynaecological services, perinatal care and adapted health-care equipment, such as gynaecological rooms; and (c) take measures to ensure that persons with disabilities had access to high-quality health-care products at an affordable price, and to eliminate the differences in health-care coverage for different groups of persons with disabilities.³²

32. The Working Group on the issue of discrimination against women in law and in practice recommended that the Government: (a) ensure full access to health-care services, including reproductive health care and tailored care to address the needs of adolescent girls, women with disabilities, sex workers, rural women and lesbian, bisexual, transgender and intersex women; (b) ensure that a full range of modern contraceptives and related information and services, including emergency contraception, were readily accessible to and affordable for all women; (c) ensure that legal abortion was accessible in practice by removing existing barriers and abortion stigma, including through the proper monitoring and regulation of the practice of conscientious objection and by improving the effectiveness of the complaint mechanism, and consider liberalizing the abortion law; (d) ensure full access to reproductive health services, including contraceptive information and services, for adolescents; and (e) continue with efforts to improve access to and the quality of maternal health care for all pregnant women in rural and urban areas.³³

10. Right to education

33. The Committee on the Rights of the Child recommended that Poland: (a) ensure access to education in the context of the coronavirus disease (COVID-19) pandemic, in particular by strengthening new methods of learning and by providing better information technology infrastructure in schools and at home; (b) take measures to improve access to education for children living in rural areas, including their access to extracurricular activities; (c) extend the programme for the integration of the Roma community and strengthen measures for the inclusion and retention of Roma children in education, in particular Roma girls, including by raising awareness of the importance of education and school registration requirements among the Roma community; (d) ensure that all children with disabilities, including children with autism, Asperger syndrome and attention deficit/hyperactivity disorder, had access to inclusive education; and (e) address homophobic behaviour by students and teachers targeted at lesbian, gay, bisexual and transgender students and teachers, in particular in the context of religion classes.³⁴

34. UNESCO recommended that Poland explicitly prohibit corporal punishment within educational institutions, continue to enhance the digital inclusion of learners and teachers and continue to regularly submit comprehensive national reports for the periodic consultations on the education-related standard-setting instruments of UNESCO, notably the Convention against Discrimination in Education. It also recommended that Poland share with UNESCO any relevant information to update its country profile on the UNESCO Observatory on the Right to Education and on Her Atlas, the UNESCO interactive tool for monitoring the right to education for girls and women.³⁵

11. Cultural rights

35. The Special Rapporteur in the field of cultural rights recommended that, in order to increase the realization of artistic freedom and the right to access and enjoy the arts and the creativity of others, as well as the right of everyone to take part in cultural life without discrimination, the Government should: (a) refrain from any efforts to mould the cultural sphere into a vehicle solely for promoting the ruling party's views and agenda, and afford equal space for diverse cultural voices; (b) abide by the obligation to protect artists and all persons participating in artistic production, creation and dissemination from violence by third parties, take measures to de-escalate tensions when they arose, ensure the rule of law and protect artistic freedom; (c) ensure that directors of cultural institutions and other cultural workers did not face investigations, prosecutions or interrogations, or any other violations of their human rights, based on their legitimate work defending cultural rights; and (d) investigate all allegations of violations of the rights of cultural rights defenders and hold perpetrators accountable.³⁶

36. UNESCO encouraged Poland to fully implement the relevant provisions of the Convention for the Protection of the World Cultural and Natural Heritage, the Convention for the Safeguarding of the Intangible Cultural Heritage and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions that promoted access to and participation in cultural heritage and creative expressions that were conducive to implementing the right to take part in cultural life. It encouraged Poland to, in doing so, 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 persons and persons with disabilities).³⁷

12. Development, the environment, and business and human rights

37. The Committee on the Rights of the Child urged Poland to: (a) adopt urgent mitigation measures in line with greenhouse gas emission targets and deadlines compliant with the international commitments set out in the Paris Agreement; (b) phase out the funding of coal-fired power plants and accelerate the transition to renewable energy; (c) expedite the implementation of the national air protection programme; (d) place the rights and participation of children at the centre of national and international climate change adaptation and mitigation strategies; (e) carry out an assessment of the impact of air pollution from coal-fired power plants and from transport on children's health, as a basis for designing a well-resourced strategy to remedy the situation, and strictly regulate the maximum allowed air

pollutant emissions, including those produced by private businesses; and (f) increase awareness among children and their preparedness for climate change and natural disasters by incorporating the subject into school curricula and teacher training programmes.³⁸

38. The same Committee recommended that Poland ensure that members of the business sector comply with international and national human rights, labour, environmental and other standards, in particular with regard to children's rights, and require impact assessments of, consultations on and full public disclosure of the environmental, health-related and children's rights impacts of their business activities and their plans to address such impacts.³⁹

B. Rights of specific persons or groups

1. Women

39. The Working Group on the issue of discrimination against women in law and in practice recommended that the Government: (a) ensure a comprehensive approach to combating gender-based violence against women, and the full compatibility of laws regulating domestic violence with international standards, by broadening the scope of its definition and coverage, including a gender-sensitive focus on the specific concerns of women, and the implementation of effective emergency barring orders; (b) take measures to prevent and address sexual harassment in education and public institutions and cyberviolence; (c) ensure the efficiency of the proceedings for issuing restraining orders; (d) improve services for victims/survivors of gender-based violence and their access to justice, in particular women in vulnerable situations, such as minority women, older women, women and girls with disabilities, migrant women and sex workers, including access to shelter for the period needed, as well as preferential access to municipal housing assistance; and (e) ensure effective prosecution of sexual violence, including all forms of non-consensual sex, and respect for victims'survivors' rights.⁴⁰

2. Children

40. The Committee on the Rights of the Child recommended that Poland: (a) formulate, with the involvement of children, a comprehensive strategy for preventing, combating and monitoring all forms of violence against children, including bullying and digital violence; (b) consider extending the national programme for countering domestic violence that ended in 2020, with a view to the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence; (c) strengthen measures to eradicate corporal punishment, in particular in the home, and domestic violence; (d) legally oblige care and educational facilities to develop internal standards for safeguarding children from violence; (e) encourage the reporting of all forms of violence against children and establish accessible, confidential, child-friendly and effective complaint and reporting mechanisms, including in police emergency youth centres, schools and care institutions; (f) ensure that all cases of violence against children were investigated and prosecuted and that perpetrators were brought to justice; and (g) strengthen programmes and services for violence prevention and for the recovery and social reintegration of children who were victims of violence.⁴¹

3. Persons with disabilities

41. The Committee on the Rights of Persons with Disabilities recommended that Poland ensure that women and girls with disabilities had access to support when they made important life decisions for themselves and were not subjected to sterilization without their full, free and informed consent. It urged Poland to put an end to the use of conversion therapy and to offer support for persons with a psychosocial disability that respected the gender identity and sexual orientation of the persons concerned.⁴² The Committee also recommended that Poland abolish all legal provisions prohibiting persons with disabilities from marrying and from founding a family and that it develop inclusive support systems to assist families with children with disabilities and parents with disabilities, to support their parenthood.⁴³

42. The same Committee recommended that Poland: (a) repeal all provisions that deny persons with psychosocial or intellectual disabilities and persons deprived of legal capacity

their right to vote and all other political rights; (b) replace the amendment to the electoral law of 2018, and ensure the accessibility of voting procedures for all persons with disabilities; and (c) ensure the accessibility of all polling stations and election procedures for all persons with disabilities, including by taking measures to allow independent and secret voting by persons with severe hand paresis, and provide support for deaf persons to vote.⁴⁴

4. Minorities

43. The Committee on the Elimination of Racial Discrimination urged Poland to improve the situation of Roma, including through coordination at all levels of government and by engaging with Roma communities in the design, implementation and evaluation of inclusion policies and action plans. It also recommended the Poland: (a) take all measures to eliminate structural discrimination against Roma; (b) continue its efforts to end all segregation in education faced by Roma children and take effective measures, including special measures, to enhance rates of school attendance, including in institutions of higher education, and rates of school completion among Roma children; (c) take measures to end extreme poverty among Roma, provide genuine solutions for housing problems, including by improving infrastructure and basic services available in Roma settlements with the engagement of Roma communities, and end forced evictions of Roma and housing demolitions; (d) take effective measures to end unemployment among Roma and to eliminate the wage gap; (e) take measures to end hate speech and hate crime against Roma, provide them with protection from hate crime and violence, and ensure the proper registration, investigation, prosecution and conviction of perpetrators of any cases of hate speech and hate crime; and (f) prevent all ethnic profiling by law enforcement and conduct training to ensure such practices were not utilized.⁴⁵

5. Lesbian, gay, bisexual, transgender and intersex persons

44. The Special Rapporteur in the field of cultural rights remained concerned about the lack of specific legal protection for lesbian, gay, bisexual and transgender persons under Polish law, a gap that must be filled promptly. There were no specific policies and standards ensuring the equal treatment and safety of lesbian, gay, bisexual and transgender persons in schools, both teachers and students. Many schools had denied the existence of lesbian, gay, bisexual and transgender students, who reported experiencing homophobic behaviour not only from other students but also from teachers and educators, and in particular in the context of religion classes. There were also no laws specifically prohibiting homophobic hate speech or hate crimes. Acts of hate and hate speech against lesbian, gay, bisexual and transgender persons and their cultural events continued. Sometimes the hate speech emanated from those in official positions, which was especially worrying. The Special Rapporteur recommended that Poland review the legal framework so as to enable same-sex couples to enter into civil unions and enjoy equality.⁴⁶

6. Migrants, refugees and asylum-seekers

45. The Committee on the Elimination of Racial Discrimination recommended that Poland: (a) refrain from detaining migrant and asylum-seeking children and families with children and implement non-custodial alternatives, as provided for in the Act on foreigners; (b) ensure that asylum-seekers were properly registered by border guards and promptly referred to asylum authorities and granted access to a lawyer if they so requested; (c) increase the duration and amount of the financial support provided to refugees and beneficiaries of subsidiary protection in order to facilitate their full integration into society; (d) remove all financial barriers, as well as any legal, administrative, language or cultural barriers, that impeded access by undocumented migrant women to affordable maternal health care throughout pregnancy, including by prohibiting health-care facilities and medical professionals from eliciting information from patients about their immigration status; and (e) prevent hate speech and hate crime against migrants, refugees and asylum-seekers, including through educational campaigns on tolerance and the elimination of prejudices and social stereotypes, as well as the proper registration, investigation, prosecution and conviction of perpetrators of hate speech and hate crimes.⁴⁷

46. UNHCR recommended that the Government of Poland: (a) ensure access to the territory and the asylum procedure for those who might be in need of international protection; (b) ensure full respect for the principle of non-refoulement, including by ensuring that border policies and emergency measures did not place undue restrictions on the right to seek and enjoy asylum; and (c) ensure that independent oversight mechanisms and UNHCR had unrestricted access to areas where asylum-seekers might be deprived of liberty, including border areas and transit zones.⁴⁸

7. Stateless persons

47. UNHCR recommended that the Government of Poland: (a) ensure that the Law on Polish Citizenship provided adequate safeguards against statelessness at birth and grant nationality to children born in the country if they would otherwise be stateless; and (b) establish a dedicated statelessness determination procedure and ensure access to durable solutions for stateless persons.⁴⁹

Notes

- ¹ See [A/HRC/36/14](#), [A/HRC/36/14/Add.1](#) and [A/HRC/36/2](#).
- ² [CERD/C/POL/CO/22-24](#), para. 25.
- ³ [A/HRC/43/50/Add.1](#), para. 92.
- ⁴ UNHCR submission for the universal periodic review of Poland, p. 4 and [CRC/C/POL/CO/5-6](#), para. 22.
- ⁵ [CRC/C/POL/CO/5-6](#), para. 22.
- ⁶ [CRPD/C/POL/CO/1](#), paras. 20, 40 and 44.
- ⁷ [CAT/C/POL/CO/7](#), para. 8.
- ⁸ [CERD/C/POL/CO/22-24](#), paras. 8 and 16.
- ⁹ [CRPD/C/POL/CO/1](#), para. 20.
- ¹⁰ [CAT/C/POL/CO/7](#), para. 24.
- ¹¹ [CERD/C/POL/CO/22-24](#), para. 10.
- ¹² [CRPD/C/POL/CO/1](#), para. 8.
- ¹³ [CERD/C/POL/CO/22-24](#), para. 16.
- ¹⁴ *Ibid.*, paras. 26–27.
- ¹⁵ [CAT/OP/POL/ROSP/1](#) and [CAT/OP/POL/ROSP/1/Corr.1](#), para. 39.
- ¹⁶ [CAT/C/POL/CO/7](#), para. 18.
- ¹⁷ *Ibid.*, para. 30.
- ¹⁸ [A/HRC/38/38/Add.1](#), para. 72; see also para. 76.
- ¹⁹ *Ibid.*, para. 85.
- ²⁰ [CERD/C/POL/CO/22-24](#), para. 20.
- ²¹ [CAT/C/POL/CO/7](#), para. 20.
- ²² *Ibid.*, para. 12.
- ²³ [CRC/C/POL/CO/5-6](#), para. 25.
- ²⁴ UNESCO submission for the universal periodic review of Poland, paras. 15–18.
- ²⁵ [A/HRC/41/33/Add.2](#), paras. 21 and 83; see also para. 25.
- ²⁶ See <https://www.ohchr.org/en/press-releases/2022/02/poland-human-rights-defenders-face-threats-and-intimidation-belarus-border>.
- ²⁷ [CRC/C/POL/CO/5-6](#), para. 44.
- ²⁸ [A/HRC/41/33/Add.2](#), para. 84.
- ²⁹ [CRPD/C/POL/CO/1](#), para. 48.
- ³⁰ *Ibid.*, para. 50.
- ³¹ [CRC/C/POL/CO/5-6](#), para. 38.
- ³² [CRPD/C/POL/CO/1](#), para. 44.
- ³³ [A/HRC/41/33/Add.2](#), para. 85.
- ³⁴ [CRC/C/POL/CO/5-6](#), para. 39.
- ³⁵ UNESCO submission, para. 14.
- ³⁶ [A/HRC/43/50/Add.1](#), para. 95.
- ³⁷ UNESCO submission, para. 19.
- ³⁸ [CRC/C/POL/CO/5-6](#), para. 37.
- ³⁹ *Ibid.*, para. 16.
- ⁴⁰ [A/HRC/41/33/Add.2](#), para. 87.
- ⁴¹ [CRC/C/POL/CO/5-6](#), para. 27.

⁴² [CRPD/C/POL/CO/1](#), para. 31.

⁴³ *Ibid.*, para. 40.

⁴⁴ *Ibid.*, para. 52.

⁴⁵ [CERD/C/POL/CO/22-24](#), para. 22.

⁴⁶ [A/HRC/43/50/Add.1](#), paras. 69–70 and 93.

⁴⁷ [CERD/C/POL/CO/22-24](#), para. 24.

⁴⁸ UNHCR submission, p. 3.

⁴⁹ *Ibid.*, pp. 4–5.
