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**Human Rights Council**

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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

 Visit to Poland

 Report of the Special Rapporteur in the field of cultural rights[[1]](#footnote-2)\*, [[2]](#footnote-3)\*\*

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| *Summary* |
|  The Special Rapporteur in the field of cultural rights visited Poland from 24 September to 5 October 2018, at the invitation of the Government. |
|  The purpose of the visit was to understand, in a spirit of cooperation and constructive dialogue, how the Government endeavors to implement cultural rights, and assess laws and policies relevant to the enjoyment of these rights, identify good practices in, and possible obstacles to, the promotion and protection of cultural rights in the country. She makes recommendations with a view to assisting the Government and other relevant actors in their efforts to address challenges in implementing cultural rights for all in Poland. |
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 I. Introduction

1. The Special Rapporteur in the field of cultural rights visited Poland from 24 September to 5 October 2018. The Special Rapporteur would like to thank the Government of Poland for the invitation to visit the country and for allowing her to travel unhindered to many places and sites with no obstacle save limitations of time.

2. During her visit, the Special Rapporteur met with numerous officials of seven different ministries including, the Ministry of Culture and National Heritage, the Ministry of Foreign Affairs, the Ministry of Interior and Administration, the Ministry of Family, Labor and Social Policy, the Ministry of National Education and the Ministry of Science and Higher Education, and the Ministry of Digital Affairs, as well as the chancellery of the Prime Minister, in particular the Plenipotentiary of Equal Treatment and Civil Society. At the Ministry of Culture and National Heritage, she had the opportunity to meet with several departments, including the Departments of International Relations, State Patronage, National Cultural Institutions, Cultural Heritage, Monuments Preservation, Art and Culture Education, the Department of Intellectual Property and Media, and the National Heritage Board. At the Ministry of the Interior and National Administration, she met the Department of Religion and National and Ethnic Minorities. She also met with diverse government bodies including the Institute of National Remembrance, the National Freedom Institute, the National Broadcasting Council and the Office of the Commissioner for Human Rights, as well as mixed bodies like the National Commission of UNESCO. At the Municipal level, she had the opportunity to hold discussions with the deputy mayors of Gdańsk and Kraków, as well as relevant municipal bodies and cultural departments, and regional bodies.

3. The Special Rapporteur was pleased to listen to a wide range of Polish voices, including those of academics, actors, artists, civil society organizations and activists from different sectors, cultural professionals, representatives of cultural centres, current and former directors of national cultural institutions, feminists and women human rights defenders, festival directors, journalists, lawyers, musicologists, psychologists, teachers, trade unionists as well as representatives of Kashubian, Jewish, Muslim and Ukrainian groups, activists promoting and defending the rights of Lesbians, Gays, Bisexual and Transgender (LGBT) persons, of persons with disabilities and of refugees and migrants. She tried to meet representatives of the Polish Catholic Church, specifically the Council of Bishops, and of the German and Roma minorities but this was not possible for logistical reasons.

4. The Special Rapporteur visited numerous cultural institutions, including cinemas, museums, theatres, and the National Opera, attended cultural performances, viewed exhibitions, visited churches and synagogues, cultural heritage sites and important memorial sites such as the birthplace of Fredryk Chopin and the adjacent Żelazowa Wola memorial park, and the UNESCO World Heritage Site at Auschwitz-Birkenau German Nazi Concentration and Extermination Camp.

5. The report is based on information gathered during and after the visit. Considering the long period since the end of the visit, the Special Rapporteur looks forward to learning from the Government about further developments. However, she has received reports that the situation is not improving, and that a number of her preliminary observations have not yet been heeded. She is concerned to hear that culture remains a key area in which the ruling party attempts to impose its vision of Poland, rather than a sector in which a variety of voices are equally represented. Some aspects of cultural life seem to be increasingly ideologically circumscribed. Urgent action is needed to reverse course in this regard.

 II. General context

 A. National and international human rights framework

 1. International Obligations

6. Poland has ratified most core human rights instruments, many of which include provisions to respect, protect and fulfil cultural rights. Of particular relevance is Article 15 of the International Covenant on Economic, Social and Cultural Rights, which includes the right of everyone, without discrimination, to take part in cultural life, including to access and enjoy cultural heritage, and to enjoy the freedom indispensable for scientific research and creative activity. Poland also ratified the International Covenant on Civil and Political Rights, which protects rights bearing an important cultural dimension, in particular the rights to freedom of thought, conscience and religion (art.18), to freedom of opinion and expression (art.19), and the rights of persons belonging to ethnic, religious or linguistic minorities to enjoy their own culture, profess and practise their own religion, and use their own language (art.27). Other relevant dispositions protecting cultural rights are found in the obligations undertaken by the Government of Poland in ratifying the Convention on the Rights of Persons with Disabilities (art. 30), the Convention on the Rights of the Child (art. 29, 30 and 31), the Convention on the Elimination of all Forms of Racial Discrimination (art. 5 e), and the Convention on the Elimination of All Forms of Discrimination against Women (art. 13).

7. Poland is also party to various instruments of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) that are relevant for the full implementation of cultural rights. These include the Convention Concerning the Protection of the World Cultural and Natural Heritage of 1972, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the Convention for the Safeguarding of the Intangible Cultural Heritage; the Convention against Discrimination in Education and Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The Government’s commitment to the protection of heritage is visible in the fourteen cultural sites and one natural site inscribed in the World Heritage List.

8. The Special Rapporteur notes that Article 9 of the Constitution requires that “the Republic of Poland shall respect international law binding upon it.” In practice, more needs to be done to systematically and effectively implement such international standards. One particular area of difficulty is regular and transparent consultation with experts or civil society organizations on policy ideas, and the tendency to introduce and pass legislation rapidly, with little opportunity for debate or amendment.

9. She also notes the stated commitment of the Ministry of Foreign Affairs to supporting greater focus by the European Union on Economic, Social and Cultural Rights, and looks forward to cooperating with the Government of Poland in the implementation of relevant resolutions adopted by the Human Rights Council on cultural rights and cultural heritage.[[3]](#footnote-4) She was pleased to learn of the intention of the Government to interact more consistently with civil society for the fourth cycle of the Universal Periodic Review Process, both before and after the presentation of its report, and encourages the authorities to continue developing meaningful consultation with all relevant actors in the context of monitoring its human rights obligations and in all decision-making processes that have an impact on human rights.

10. As enshrined in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in 1993, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.[[4]](#footnote-5) Cultural rights are an integral part of the universal human rights framework. They are not tantamount to cultural relativism and cannot be used to justify or excuse violations of other human rights, discrimination or violence.

11. The purpose of the cultural rights mandate is not to protect culture or cultural heritage per se, but rather the conditions allowing all people, without discrimination, to access, participate in and contribute to cultural life in a continuously developing manner. This requires State to take the necessary steps for the protection and development of enabling conditions in which cultural freedoms can be exercised by all.

 2. Constitutional and legislative framework

12. Cultural rights are protected by important provisions of Polish law. These include numerous articles of the constitution, such as Article 5 requiring the Government to “ensure the freedoms and rights of persons and citizens” and “safeguard the national heritage”, Article 6.1 ensuring the provision of “conditions for the people’s equal access to the products of culture which are the source of the Nation’s identity, continuity and development,” as well as guarantees that Polish citizens belonging to national or ethnic minorities can maintain language and traditions, develop their own culture (art.35.1), establish educational, cultural and religious institutions and “participate in the resolution of matters connected with their cultural identity” (art.35.2).

13. Article 53 guarantees freedom of religion and the right not to be compelled to participate or not participate in religious practices. Article 73 ensures to everyone “the freedom of artistic creation and scientific research”, and “the freedom to teach and to enjoy the products of culture.” Innovatively, the Constitution requires assistance to Poles living abroad so they may “maintain their links with the national cultural heritage.” (art.6.2), a positive approach which should be emulated in other countries.

 3. The Polish Commission for Human Rights

14. The Polish Commission for Human Rights was created in July 1987 and has A status since 2016. Its mandate, tasks and organization are defined in the Statute of the Office of the Commissioner for Human Rights, which was granted by the Ordinance No 45/2015 of 19 November 2015.[[5]](#footnote-6) According to Article 80 of the Constitution of the Republic of Poland, everyone has the right to apply to the Commissioner for Human Rights (the Ombudsman), under the rules set out in the relevant Act of Parliament, for assistance in protecting their freedoms or rights violated by public authorities. Filing an applications with the Commissioner is free of charge and no particular form is required. The broad basis for action and the absence of formal requirements and fees contribute to the large number of applications submitted. The office has, through its activities and independence, earned respect and is an important mechanism for assisting in securing remedies for violations of human rights, including cultural rights.

15. However, since 2015, the Commissioner for Human Rights and his office have been facing increasing pressure from the Government, including in the form of attempts to strip his immunity and budget cuts. The Special Rapporteur is concerned that this may be because of their work fulfilling their constitutional mandate, including by raising issues considered sensitive, such as the rights of LGBT persons, the independence of the judiciary, respect for international treaties and the right to fair trial. Such pressure is unacceptable and is not compatible with the United Nations Principles relating to the Status of National Institutions (Paris Principles)[[6]](#footnote-7) or with the recently adopted Principles on the Protection and Promotion of the Ombudsman Institution (Venice Principles).[[7]](#footnote-8) The Special Rapporteur calls on the Polish authorities to respect the independence of the Commissioner for Human Rights, and guarantee all the necessary conditions for this institution to effectively fulfill its mandate, including through the provision of greater funding. The Special Rapporteur salutes the vital work of the Commissioner and his staff.

 4. Legal and judicial reforms

16. Since its electoral victory in October 2015, the ruling Law and Justice party has engaged in widespread legal change and debate about possible change, including in the areas of the judiciary, the constitution, women’s sexual and reproductive rights, education and the media. Many such proposed reforms provoked great public controversy in Poland and the risk of sanctions from the European Commission.

17. Changing the rules governing the appointment and dismissal of judges has eroded the rule of law and the system of checks and balances in Poland. Respect for Poland’s constitution and safeguarding of the independence of the judiciary which ensures its implementation, are amongst the most important steps that must be taken to secure human rights generally, and cultural rights, in particular, in the country. Many facing violations of their cultural rights indicated that the independence of the judiciary and the strength of the court system represented their best hope for justice and protection against abuse. The Special Rapporteur refers the Government to the relevant recommendations in the 2018 mission report of the Special Rapporteur on the independence of judges and lawyers (A/HRC/38/38/Add.1) and stresses the importance of their full and timely implementation.

 B. System of cultural governance

18. The Special Rapporteur was glad to observe the great importance given in Poland to the cultural sector, as shown by the number of cultural institutions and programmes dedicated to supporting and promoting culture, both inside the country and abroad. However, there is a need for a formalized, detailed and overarching cultural policy grounded in international law obligations and framework, and produced through a consultative process so as to avoid inconsistencies among departments in the pursuit of the protection and promotion of cultural rights for all and to assist citizens in claiming their cultural rights.[[8]](#footnote-9)

19. Through the numerous grant programmes of the various departments, the Ministry of Culture and National Heritage provides an important part of the funding made available to local and regional organizations for their activities. It acts in complementarity with regions and local governments, which also have their own budget and programmes to support cultural activities and initiatives and may provide joint support. The Special Rapporteur supports continuation of this approach based on complementarity between the various levels of government and plurality of forms of support. Efforts aimed at overly centralizing cultural governance should be avoided. However, the Special Rapporteur would also encourage the authorities in the Ministry of Culture and National Heritage to engage in regular consultation processes with all stakeholders about the aims and objectives of the Ministry, and its programming, and concerning any decisions that have an impact on the exercise of cultural rights, as these were reported to often be insufficient or non-existent.

20. The rules and processes for submitting requests for governmental grant programmes are for the most part available on the internet and easily accessible, and except for a small number of targeted programmes, the majority of grants seem to be open to submissions from all types of applicants and organisations. However, concerns have been expressed by various sources about the lack of transparency regarding the attribution of points in the evaluation of projects, especially those attributed for consistency with the strategic goals. There is a need to both clarify the general and strategic goals of grant programmes and provide more detailed explanation for the scores attributed by the experts involved.

21. The Special Rapporteur regrets that she was not able to meet the Minister of Culture and National Heritage, and that the Ministry did not take part in her official debriefing meeting with the Government. She hopes however that all departments of the Ministry will fully engage in the implementation of her recommendations.

 III. **The implementation of cultural rights in Poland: specific issues**

 A. Independence of cultural institutions and media

22. The Special Rapporteur was told repeatedly that the Ministry of Culture and National Heritage’s key objectives are to ensure diversity in the cultural offerings, the independence of cultural institutions and the exercise of scientific and artistic freedoms, and that it does not have a say in the content of cultural projects and productions. These are laudable objectives. The legal framework in this regard is indeed very clear.

23. However, the Ministry is involved in selecting both the experts who assess projects submitted to the funding programmes and the directors of National Cultural Institutions, and the programmes of these institutions are subject to the approval of the Minister. This implies a rather large influence on the orientation of cultural and artistic programming. For the directors and staff of cultural institutions, the fact that some members of the ruling party did not agree with their artistic and cultural choices translated into repeated criticism in public media, and sometimes to prosecutions and investigations. In particular cases, this even led to dismissals.

24. The Special Rapporteur was concerned to hear that some in the cultural field were beginning to engage in self-censorship to protect themselves and their institutions, and that a few highly skilled cultural professionals were making plans to leave the country, which is an important loss for the quality of cultural life.

25. The dissolution of Mr. Pawel Machcewicz’s contract as director of the World War II museum in Gdańsk and the ongoing efforts to modify or displace the museum’s original permanent exhibition because it was deemed too universalist is emblematic and well documented.[[9]](#footnote-10) The Special Rapporteur is concerned that Mr. Machecewicz continues to face investigation and interrogation ostensibly targeting corruption, but actually motivated by the fact that his depiction of the history of the Second World War diverges from the ruling party’s official version. He may require costly legal representation as a result. Moreover, the Special Rapporteur also met with other directors and former directors of cultural institutions who have experienced similar pressure to conform. Such coercion is unacceptable in the field of culture.

26. For the organisers of the Malta theatre festival in Poznań, pressure from authorities who disapproved of one of the programmed guests translated into denying previously agreed funding for that year. In the case of the POLIN Museum of the History of Polish Jews, although its sophisticated and educational content has been attacked repeatedly in the media by representatives of the ruling party in an attempt to discredit or influence it, experts in the country note that it has been able to maintain its independence due to the fact that only one third of its budget comes from the Government. However, as of November 2019, its director is awaiting the confirmation of his renewed contract, despite having been chosen in a selection process.

27. The role of the Ministry must remain one of ensuring diversity of offerings and programming and the conditions for the exercise of the right to scientific and artistic freedom, as these aspects guarantee a rich and dynamic cultural life and enhance creativity. Authorities must avoid using their influence on cultural institutions to impose a political orientation on cultural programming or to insist on static and homogenous vision of what the Polish culture should be.

28. The same safeguards for diversity and pluralism apply to the media landscape. Article 21 of the Television and Radio law stipulates that public media shall be pluralistic, impartial, well balanced and independent. Article 2 of the Press law clearly states the obligations for public bodies to create the necessary conditions for a diversity of press outlets, programming, subjects and attitudes to be present and accessible in the public realm. This is coherent with the obligation in international law to ensure the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of one’s choice, as a necessary condition to effectively take part in cultural life and in social debates shaping society.

29. However, in 2015, the laws amending the Broadcasting Act temporarily placed the power to appoint and dismiss the Management and Supervisory Boards of the public service broadcasters in the hands of the Minister of State Treasury, which substantially eroded the independence of public broadcasters[[10]](#footnote-11) and led to a large wave of dismissals of public media staff, especially those working in management, editorial and foreign news.[[11]](#footnote-12) This trend towards Government control of the public media, contrary to the constitutional and legislative dispositions, has been widely reported as problematic.

30. The argument of the public media authorities that private media mainly presents other views than those of the Government does not justify predominant coverage of the views of the ruling party in public media. It is the responsibility of public media to ensure impartiality, to guard against political pressure and to provide space for a healthy, democratic debate accessible to all. In addition, proposed measures to limit the shares of foreign capital in the media landscape would disproportionately affect media outlets that are critical of the current government.

31. According to commitments made by the Government in the third cycle of the Universal Periodic Review, work to enhance the diversity of the mass media and broaden access to different media by the end of 2017 was being conducted jointly by the Ministry of Culture and National Heritage and the National Broadcasting Council. Relevant measures included reviewing the process to appoint and dismiss public radio and television governing bodies to ensure conformity of the Broadcasting Act with the Constitution.[[12]](#footnote-13) At the time of her visit, the Special Rapporteur was not presented with an update on these measures or on the review of the Act.

 B. Cultural heritage

32. During her mission, the Special Rapporteur had the opportunity to visit three of the country’s fifteen World Heritage sites: Warsaw and Kraków’s historic city centres and Auschwitz-Birkenau. She was impressed by the level of care dedicated to reconstructing and maintaining these sites, which bears testimony to the importance Poland gives to cultural heritage.

33. Poland has developed an impressive number of museums, public and private, and takes seriously its obligation to protect cultural heritage both in these museums and in the public space, through numerous plaques and monuments. The Special Rapporteur was pleased to learn about the many efforts to protect and conserve heritage as well as to transmit, through educational projects, the meaning of these resources to the next generations. For example, she was pleased to learn of efforts to care for some Jewish cemeteries, such as the Warsaw Jewish Cemetery.

34. Cultural heritage is important for the enjoyment of many human rights, including cultural rights, and should be accessible for all. Poland’s record in this regard is impressive, with historical exhibitions displayed in the streets, the monument to Chopin in the Łazienki park being used as a venue for weekly free concerts of young musicians, Chopin’s birthplace hosting school groups and offering free admission for people from the region, and girl scouts involved in commemorating the route of underground canals used during the Warsaw uprising.

35. Heritage resources and commemorative monuments are sites inviting continuous interpretations and discussions about identity and social challenges, as was displayed by the use of statues to raise awareness about attacks on the Constitution. The Special Rapporteur is therefore concerned about reports of attempts to control, homogenize and limit the space for interpretation of heritage.

36. At the time of her visit, the impact of logging of the Białowieża forest, the only natural site in Poland on the World Heritage List, was raising concern. The Ministry of the Environment informed the Special Rapporteur of the Joint World Heritage Centre / IUCN control mission (Reactive Monitoring mission) to the site, from 24 September to 2 October, to allow experts to review the situation and “meet with all stakeholders”. She urges the Government to suspend all logging activities, ensure that all operations in the forest comply with the management prescriptions stated in the 2014 Nomination documents and fully implement the recommendations of the 2018 mission.[[13]](#footnote-14) Complete restoration of the site and development of a management plan, in consultation with and including wide participation of all relevant stakeholders, are essential.

 Politics of history

37. The ruling party has sought to discredit academics who question it[[14]](#footnote-15) and those who challenge its preferred historical narrative, particularly in regard to the events of World War II. Since the beginning of 2018, the law on the Institute of National Remembrance has been amended twice, adding limitations on language that can be used to describe certain historical events. The first amendments in February 2018 added sanctions of up to 3 years imprisonment for anyone who assigned “responsibility or co-responsibility to the Polish nation or state for crimes committed by the German Third Reich”. Many criticised the unclear formulation and lack of definition of certain terms that left room for arbitrary interpretation, including of the parameters of the exception for “artistic or scientific activity”. The law also disregarded recent historical findings that did not fit the official narrative, thus calling into question the validity of this research and the standing of those who carried it out.[[15]](#footnote-16) Following national and international outcry, a second amendment was rapidly adopted in June 2018, removing the fines and criminal penalties but maintaining civil liability.

38. The Special Rapporteur expresses two main concerns about this issue from the perspective of cultural rights. The first relates to important flaws in the process: neither of these amendments were discussed prior to their adoption with the competent departments of the Ministry of Culture and National Heritage or the experts of the Institute of National Remembrance, with academic experts and historians or with other relevant societal actors whose cultural rights will be affected by these additional provisions. The second concerns the scope of the text. Although it is positive that criminal penalties have been removed and that in a case reported to the Special Rapporteur a related investigation was discontinued, the civil liability that remains in the law still interferes with the ability to consider historical facts related to past events from a variety of perspectives and express complex narratives about these events. The mere presence of these provisions, even if they were not to be used, signals that only one narrative about the past is acceptable, constitutes an intrusion into historical debates and has a chilling effect on the ability to talk openly about history. This can have especially dire consequences for cultural institutions, such as museums, whose mission is precisely to address such questions.

39. Though it includes a clause exempting academic work, the law was widely regarded within the academic community as an attempt to discourage research into and discussion of World War II–era Polish crimes against Jews and restricts academic and scientific freedom related to research, teaching and publication. Shortly before the Special Rapporteur’s visit, a complaint by Lublin regional officials was filed about the findings of an historian regarding crimes against the Ukrainian population in March 1944, characterizing them as defamation of the Polish Nation, and the Governor launched a public campaign questioning the credibility of the historian concerned. Other have reported being called “traitors” or “enemies of the nation” simply for questioning the role of some Poles in past events.

40. Beyond the direct impact on the work of historians and curators, the amendments may also have considerable impact on history teaching and on the work of persons and organisations promoting reconciliation with Jews. Moreover, at the time of the Special Rapporteur’s visit, debates over the amendments had already contributed, as survey data has indicated, to the increase in hate speech, in particular of an anti-Semitic nature, of an increasingly open and public nature. The Special Rapporteur deplores this development and stresses the need for effective official responses.

41. More must be done to increase the international recognition for and understanding of the severe suffering of Poles of all religious backgrounds during the Second World War, a reality importantly demonstrated in the Warsaw Uprising museum. There is an array of institutions and monuments in Poland seeking to display a complex vision of history and past human rights abuses and atrocities, such as the European Solidarity Center in Gdańsk, the POLIN Museum in Warsaw and the Auschwitz-Birkenau German Nazi Concentration and Extermination Camp which must be able to continue their work unimpeded. Constructively addressing these difficult chapters of history, including them in school history curricula, in open debates and in museums are essential for developing critical thinking and understanding, shaping a tolerant and inclusive society and guaranteeing cultural rights and many other human rights, such as academic freedom, the right to education and the right to freedom of conscience.

 C. Identity and nationalism

42. Like many countries today, Poland is currently experiencing political and cultural polarization. Efforts must be made to transcend such divides, and cultural and artistic initiatives can play a positive role in this regard. Polish identity does not belong to any one group, or any one opinion bloc alone.

43. The Special Rapporteur was disturbed to hear that the term “anti-Polish” was being applied to Poles who express views different than those of the Government or ruling party, including through art and culture, or the suggestion that there is only one way of being Polish, one monolithic Polish identity based on one interpretation of one religion, and one way of thinking. This does not reflect lived cultural realities. The diversity of perspectives, approaches and views – from avant-garde theatre directors to traditional clergy - and the vibrant debates the Special Rapporteur found in Poland are sources of its cultural richness.

44. One exemplary aspect of the Polish Constitution is its explicit recognition that “Both those who believe in God as the source of truth, justice, good and beauty, as well as those not sharing such faith but respecting those universal values as arising from other sources” are “equal in rights and obligations towards the common good…” (preamble). It stresses that Polish culture is “rooted in the Christian heritage of the Nation and in universal human values.” Turning away from such a pluralist commitment now is a rejection of the values which motivated and underpinned the great Polish human rights movements of the past that have inspired the world.

45. The Special Rapporteur recognizes that many different governments may try to promote cultural expression that reflects their worldviews, and that the current government claims to be aiming to include “conservative” voices that it alleges were not heard in the past. However, present efforts in Poland to defund, side-line and silence cultural dissidence and views at odds with the historical and cultural vision of the current Government, represent a kind of cultural engineering, seeking to alter the public face of Poland and reshape and simplify the complex contours of its difficult history. The Special Rapporteur fears this may give rise to further violations of cultural rights. Additionally, official discourse is often at odds with the lived experience, beliefs and values of wide sectors of the population.

46. The impact of language in debates about identity must also be carefully considered. Inclusive language should be used to refer to all inhabitants of Poland so as not to reinforce dynamics of othering and ideas that within the population of Poland, some are “us” and some are “them”, or that minorities are not Polish.

47. The Special Rapporteur was sorry to hear reports that past commemorative events celebrating Polish independence have evidenced expressions of hate speech and extremism, and that a group of women counter protestors calling themselves Women Against Fascism who opposed this, were assaulted by participants in the November 2017 march. The fact that charges against those who harmed Women Against Fascism counter protestors were dropped, and that these women faced fines, creates the impression that certain narrow definitions of identity are politically accepted and tolerated, even when their expressions break the law and violate the rights of others. Ultra-nationalist symbols and aggression from extremist groups towards anti-fascist demonstrators holding a “Constitution” banner were similarly on display during the 100th anniversary of the independence march in November 2018. Patriotism and national pride should never be equated with discrimination and exclusion. It is the responsibility of Polish authorities to clearly counter such views.

 D. Fundamentalism and extremism

48. The increasing prominence and aggressiveness in Poland of some far right wing nationalist groups, Christian fundamentalist groups and media outlets propagating discriminatory and exclusionary views is a matter of grave concern, and has a deleterious effect on the enjoyment of cultural rights without discrimination. Neo-Nazi and neo-fascist groups are emerging and seeking to influence youth, including reportedly through cultural events such as music festivals. The apparent normalization and increasing mainstreaming of some of these views, including their expression by some government officials without consequences, is particularly worrying and must be addressed with urgency.

 1. Separation of religion and state

49. Article 25.2 of the Polish Constitution stipulates that “Public authorities… shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, and shall ensure their freedom of expression within public life.” Article 25.3 stipulates that “The relationship between the State and churches and other religious organizations shall be based on the principle of respect for their autonomy and the mutual independence of each in its own sphere as well as on the principle of cooperation for the individual and the common good.”

50. Separation of religion and state is everywhere critical to the protection of cultural rights and the freedom of religion or belief, including the right to believe in a diversity of ways and not to believe. It creates and preserves space for women, minorities and others to enjoy their cultural rights without discrimination. It does “not mean the absence of religion but rather a state structure that defends both freedom of expression and freedom of religion or belief, where there is no state religion, where law is not derived from God and where religious actors cannot impose their will on public policy” (A/72/155, para.11; A/HRC/34/56).

51. Many of the Special Rapporteur’s interlocutors indicated however that the influence of the Catholic Church in regard to matters of education, politics and public policy, including those with importance for the enjoyment of cultural rights without discrimination, is a matter of serious concern. She is particularly concerned about the role the Catholic Church reportedly plays in public education, including by organizing and choosing the teachers of most religion courses.

 2. Impact on cultural diversity and artistic freedom

52. The Special Rapporteur recognizes the historically important role played by the Catholic Church in many aspects of Polish cultural life, and that Catholic practice has merged with many treasured traditions. In addition, the Catholic Church represented a critically important partner in human rights movements challenging Communism and repression in the 1970s and 1980s.

53. However, she also takes note of statistics indicating that while 90% of Poles may be baptized Catholic, only some 40% of Poles are practicing Catholics. Hence, religious outlooks are indeed diverse, including among Catholics, and this should be more widely acknowledged as a reality in Polish society.

54. Some voices associated with the Catholic Church reflect discriminatory views, for example about LGBT people, which is of grave concern. On the other hand, among the range of Catholic viewpoints in Poland, some use their interpretation of Catholicism as the basis for their activism for human rights and inclusion, and may themselves be criticized by clerical bodies.

55. The Special Rapporteur was pleased to see first-hand that Polish artists are able to engage in the debate about the role and human rights impact of the Catholic Church, including in the fields of film and theatre, and that audiences are keenly interested in such works. However, she also notes that artists who do so risk facing threats, bans at the local level - as experienced in the case of the film “Kler” -, and jeopardizing future funding for themselves and the institutions or productions with which they are associated. In one case, violence at a performance of the play “Klątwa” resulted in hospitalization of theatre workers.

 E. Discrimination, equality and inclusion

 1. Education for tolerance and diversity

56. The official commitment that arts education aims to emphasize cultural participation, and that language support is available both to foreign children and to Poles returning to the country are very positive. Education for refugee children is also satisfactory, including summer language courses in refugee centres. Additionally, the Special Rapporteur salutes extensive efforts by the Polish government to foster language and cultural education for children in the Polish diaspora.

57. However, she is concerned that insufficient anti-discrimination education, including with regard to minorities, women, LGBT persons and persons with disabilities, is currently being offered in schools. She has the same concern with regard to sex education which she understands to be offered only a few hours per year, and is particularly sorry that deference is given in this regard to religious perspectives rather than scientific or human rights perspectives. At least one school that offered gender equality education faced both backlash from the Church and demands to fire those involved, and subsequently had to withdraw the program.

58. Not enough is being done to ensure that ethics classes are available as an alternative to religion classes in all schools as even some officials acknowledge, and to counter stigma felt by children whose parent choose this alternative over religion class, as is their right under Polish law. More must be done to counter cultural stereotypes that may inhibit choices made by girls and young women with regard to their subjects of study.

 2. The situation of minorities

59. The Government has obligations to respect the cultural rights of religious minorities and non-religious persons and ensure conditions for expression of this diversity. Responsibilities in this field are shared between a number of departments across several Ministries. Steps should be taken to ensure this mainstreaming increases efficiency of measures to guarantee non-discrimination and equality of treatment. Poland has the legal framework and mechanisms in place to efficiently address reported cases of discrimination, to provide education for children belonging to minority groups in their mother tongue and about their own culture, to ensure equitable presence of minority groups in the media and therefore to foster an inclusive society where all citizens have equal opportunities to take part in cultural life. What seems to be missing is the willingness to implement those existing legal and institutional frameworks that would ensure adequate participation of minorities in political and public life at all levels and protection of their cultural resources and heritage.

60. It is the responsibility of the State to bring national and local laws and regulations in line with the international obligations of equal treatment and non-discrimination. This may sometimes require temporary special measures. For example, when the programme in Kashubian language and ethnology at the University of Gdańsk did not reach the required threshold of 25 enrolled students, an exception could have been considered allowing it to proceed with 21 students, rather than being cancelled.

61. Multiple sources indicated that hostility to Muslims and migrants has proliferated in media discourse in recent years, reaching a particular high in 2015. During the period of 2017 and 2018 alone, civil society organizations recorded more than 35 incidents of anti-Muslim hate speech and violence,[[16]](#footnote-17) leading to an environment in which some Muslims are nervous about displaying their identity publicly.

 3. The cultural rights of women

62. Women’s rights are at the heart of the quest for a culture of equality, in accordance with international law, in Poland. Women are very active in the cultural and educational sector, including serving as directors of national cultural institutions. Polish women’s employment rate is higher than the average across the European Union. The Special Rapporteur greatly appreciated the women’s history tour of the Gdańsk shipyards, which discussed the role of women in movements for human rights during the Communist regime. The role of women human rights defenders has been a critical component of this history, which needs to be more fully reflected, and their work needs to be strongly supported today as well, since they are key actors in the process of ensuring cultural rights.

63. The Special Rapporteur is, however, concerned about what are said to be religious and cultural narratives used to justify discrimination against women, such as a focus on women as primarily self-sacrificing mothers. In higher education for example, she has heard the concern of some women academics that different retirement ages for women and men may harm career prospects. Some within the Catholic Church hierarchy are propounding the view that advocating for gender equality, as required by international human rights standards, is a threat to Polish religious and cultural values and the national identity.

64. Fundamentalist and anti-choice discourse during the debate related to changes in the abortion law reaffirmed stereotypical cultural attitudes toward women. It is essential for women’s enjoyment of cultural rights without discrimination that these views and stereotypes be publicly challenged. The Special Rapporteur was pleased to hear of women’s public activism, including in the Black Marches, and by both religious women, including Catholics4Choice and nonreligious women, in this context. It is a matter of concern that women teachers in Katowice who had posted pictures on their personal Facebook accounts wearing black shirts to express support for these demonstrations had faced disciplinary proceedings and pressure.

65. As UN experts have made clear in the past, sexual and reproductive rights are critical human rights and healthcare issues, and essential to enable women to access their economic, social and cultural rights in equality. The Special Rapporteur welcomes the Government’s decision in 2016 to respect women’s opposition and general public opinion and shelve the attempt to change the abortion law and believes that this remains essential for guaranteeing women’s equal participation in cultural life.[[17]](#footnote-18) Similarly, comprehensive sexuality education together with human rights education, is indispensable for addressing the problem of gender-based violence. It is unacceptable that it should be criminalized or equated with paedophilia.

66. The Special Rapporteur stresses the importance for the Government to ensure a comprehensive approach to combating gender-based violence against women in line with its regional and international law obligations[[18]](#footnote-19) and to support efforts to build a culture of equality, free from violence against women.

 4. The cultural rights of lesbians, gays, bisexual and transsexual persons (LGBT)

67. There is growing acceptance of LGBT people in Polish society, and increasing possibility for open cultural expression of their identity, including through growing numbers of pride and equality marches which are important exercises of internationally guaranteed cultural rights and the right to freedom of assembly. All of this is very positive. The Special Rapporteur welcomes legal recognition of the need for protection from discrimination through, for example. Case Number II KK333/17 concerning the refusal of a printing company to prepare materials for an LGBT organization.

68. She recognizes the use by some LGBT people of a flag which combines the rainbow flag and the Polish eagle symbol as an exercise of cultural rights to express one’s identity and inclusion. Hence, she regrets that this has sometimes been harshly criticized and that people carrying such a flag have reportedly faced questioning by law enforcement.

69. The Special Rapporteur remains concerned about the lack of specific legal protection for LGBT persons under Polish law, a gap which must be filled promptly. There are no specific policies and standards ensuring equal treatment and safety of LGBT persons in schools, both teachers and students. Many schools denied the existence of LGBT students, who report experiencing homophobic behaviour not only from other students but also from teachers and educators, and in particular in the context of religion classes. This is unacceptable.

70. There are also no laws specifically prohibiting homophobic hate speech or hate crimes. Acts of hate and hate speech against LGBT people and their cultural events continue. Sometimes the hate speech emanates from those in official positions, which is especially worrying. The Special Rapporteur was concerned that a high government official with responsibility in the equality area told her that his daughter would be “disturbed” to see an Equality March on the street and suggested that its participants might be naked.

71. The Special Rapporteur was glad to learn that Lublin could hold its first equality march shortly after her visit, despite efforts from anti-LGBT campaigners to have the parade banned and to obstruct it. She commends the decision of Poland’s Court of Appeal to overrule the ban on the basis of freedom of assembly laws, and the measures taken by the city and the police forces to ensure the safety of those taking part in the march. Moreover, she was glad to see that a second march took place in 2019. However, she condemns the violence and aggressive behaviours of the group opposing the march and the fact that a regional and a local official have both used derogatory language to describe it, and called for it to be banned.

 5. The rights of persons with disabilities

72. The Special Rapporteur was pleased to see that creative measures were being taken to ensure accessibility of cultural sites for persons with disabilities, such as models of cultural heritage buildings that could be touched and annotated in braille for visually impaired persons in the cultural heritage site of the old city of Kraków.

73. A movement for the rights of persons with disabilities, led by them, is emerging in Poland as evidenced by the protest of persons with disabilities and their families in the Polish Parliament in April-May 2018, asking for more state support to alleviate poverty among persons with disabilities. This is a very positive development that would merit more attention from the relevant authorities. The Special Rapporteur stresses the importance of persons with disabilities being fully recognized as equal participants in cultural, social and political life, and not mere beneficiaries. In the framework of programmes such as “Accessible culture” and “Accessibility plus”, particular attention, including adequate funding, should be given to their rights to fully participate in cultural life and cultural spaces, and to meaningfully contribute to shaping the cultural sphere.

74. At the time of the Special Rapporteur’s visit, a strategy for inclusion of persons with disabilities was being drafted. She encourages the Government to ensure wide participation of organizations of persons with disabilities in the decision-making, implementation and evaluation processes related to this strategy, and to consider inviting the Special Rapporteur on the rights of persons with disabilities for a country visit in this regard.

 6. Hate speech and hate crimes

75. The Special Rapporteur was dismayed to learn of the spate of purported hate incidents and a reported rise in hate speech, including on the internet, of increasing intensity, targeting inter alia members of minorities and their cultural sites. In some instances, persons in official positions have engaged in hate speech with impunity, creating an atmosphere of fear and exclusion for those who are not deemed “truly” Polish. Some of the impacts reported to the Special Rapporteur included persons belonging to minorities leaving their homes less frequently to avoid being targeted, and feeling less comfortable displaying their identities publicly.

76. Events under investigation at the time of the visit include an October 2017 incident when a rock was thrown at the Muslim Cultural Center in Warsaw, incidents at a Gdańsk synagogue and a break in and related vandalism at a burial house located at the Jewish cemetery in Kalisz. In another incident, in which an anonymous anti-Semitic letter directed at the Center for Holocaust Research was left at the Centre’s door, calling its staff members “stupid dirty Jews” and “liars” and referring to historians Barbara Engelking and Jan Grabowski as “lying” and “crazed with hatred of Poland and Poles”, the Prosecutor declined to investigate. All such acts raise human rights concerns, and the impact of anti-Semitic acts is magnified by the history of the Holocaust.

77. The Special Rapporteur was alarmed by the fact that, when she herself raised reports of such a “series of events” in a meeting with a highly placed official with responsibility in the area of equality, she was told she was “insulting the nation”. In every society, it is essential to have an open debate about reports of hate speech and hate incidents, including violence, and their impact on human rights, so as to appropriately document these incidents, prevent them in the future and punish perpetrators where appropriate and in accordance with international standards. Denial and defensiveness will not solve the problem.

78. Moreover, the Special Rapporteur calls on the authorities to investigate why their official statistics at the time of her visit appeared to show that such incidents were diminishing when civil society and representatives of targeted groups reported experiencing precisely the opposite trajectory in the same timeframe. The government must give serious consideration to the question of how to facilitate reporting. She notes that the Polish Commissioner for human rights indicates only approximately 5% of hate crimes are reported. Whatever the precise number of incidents, failure to acknowledge the concerns of citizens and take appropriate action to respond can only lead to a lack of social trust in the relevant authorities and institutions and less reporting.

79. The Special Rapporteur visited the Gdańsk New Synagogue, which had a large paving stone thrown through its window on Yom Kippur, 19 September 2018, narrowly missing women and children. She salutes the rapid and sensitive response by the late Mayor of Gdańsk and some local religious leaders to this incident, which is a model of local action, and the response by the central Government two days later. She looks forward to receiving an update on the results of the investigation into this incident.

80. The Special Rapporteur strongly condemns the assassination of the Mayor of Gdansk Mr. Paweł Adamowicz during a cultural event shortly after her visit, in January 2019, and calls for the alleged perpetrator to be brought to justice, and for a full investigation of the reported role of hate speech in motivating this tragic killing which shocked the nation and also represented an attack on its cultural life. She is concerned to hear reports of threats to the current mayor. The government of Poland must act now and with urgency to ensure that acts of political violence, including those motivated by extremist rhetoric, do not multiply.

81. For all the cases mentioned above, and as a matter of principle for all hate crimes, the Special Rapporteur urges that the findings and information be made available to the persons and organizations concerned as soon as possible, and that the perpetrators be brought to justice in accordance with the law to deter any repetition, and send a clear message about the unacceptability and gravity of such acts. The Criminal Code specifically provides for the investigation and prosecution of hate crimes motivated by race, ethnicity, nationality, religion and political affiliation. However, the Government does not seem to have developed an effective overall response to hate incidents. Whereas the engagement of civil society in countering hate speech and hate incidents is laudable and necessary, it is not an alternative to resolute government policy, as required by international human rights law, implemented in accordance with the framework developed by the Special Rapporteur on freedom of expression (A/67/357).

 F. Participation in civic space and cultural life

82. The Special Rapporteur was pleased to note the widespread civic engagement with debates regarding law reform and the culture of the rule of law across Polish society, and salutes those taking part in it. She noted in particular the creative use of cultural resources, such as statues and monuments, and of T-shirts to raise awareness about constitutional rights protection and for human rights education. She was, however, sorry to learn that at least one person faced dismissal from a state owned company for wearing such a T-shirt with the word “constitution” on personal time. While she shares the concern to protect monuments, the Special Rapporteur also regrets that charges of “defiling the monuments” were brought against some of the persons responsible for these actions. She has received no information suggesting that monuments were harmed.

83. The Special Rapporteur received mixed reports regarding the available space for Polish civil society action, which is important for securing cultural rights. On the one hand, demonstrations are regularly organised by a variety of actors, and the Special Rapporteur was told that protection granted to participants by police forces was sometimes good, including in the case of equality marches where participants sometimes felt safe. On the other hand, there are shocking reports about failure of police forces to protect peaceful demonstrators against violent physical attacks and about abuses by the police forces themselves, as well as lack of legal remedies from the prosecutor’s office in cases of abuse. One worrying example concerns the reported intrusive body searches of female demonstrators, arrested for trying to stop the logging of the World Heritage forest of Białowieża.

84. Freedom of assembly is generally respected in law and in practice, but in recent years, protesters have increasingly risked surveillance, intimidation, physical attack by counter protesters and sometimes even use of force by authorities, arrest, and prosecution for their activities.

85. In 2017, a law created the National Institute of Freedom, tasked with the distribution of public Non-Governmental Organizations funding, including money from the European Union. Many of the Institute’s council are appointed by the Committee for Public Benefit Activity, chaired by a member of the Polish Cabinet. Domestic and international critics of the law warned it could be used to muzzle criticism of the ruling party and to deny funding to projects that do not match the ruling party’s perspective and priorities.

86. In terms of participation in cultural life and artistic freedoms, the Special Rapporteur commends the engagement of local governments in supporting cultural events in public spaces and artistic productions. She appreciates the work of civil society initiatives and public-private partnerships, such as Villa Decius, to create spaces for artistic exchange. She was, however, concerned about reports of censorship of movies and plays, and recalls that censorship of cultural activities and artistic expression violate not only the right to freedom of artistic expression of those involved in the production, but also the rights of all to access and enjoy the creativity of others, to access a diversity of ideas and opinions and to take part in the public debate about social controversies. Censorship hampers freedom of opinion and full democratic participation. If limits are deemed necessary to protect legitimate goals, in accordance with article 20 of the International Covenant on Civil and Political Rights, authorities should rely on rating and classification procedures. These should be user-friendly and transparent.[[19]](#footnote-20)

87. It is the responsibility of the State to ensure respect for a diversity of points of view, and that real opportunities exist for those who embrace different views to freely exercise their human rights and fully take part in cultural life.

 IV. Conclusions and recommendations

 A. Conclusions

88. **The world can and should learn much from Poland’s rich and diverse culture, sophisticated cultural institutions and vibrant cultural life, with which the Special Rapporteur was deeply impressed. Poland’s cultural strength rests on the achievements of its diverse artists, cultural workers, the contributions of its cities and local areas, as well as participation by many different sectors of society, and the creation of space for debate about social and historical questions.**

89. **However, all these achievements are currently challenged by attempts at official cultural engineering aimed at reducing cultural expression to reflect a monolithic vision of contemporary society and a simplistic and exclusionary version of Polish history. These trends undermine the enjoyment of human rights, including cultural rights, for all.**

90. **Polish authorities must re-commit to a vibrant and plural cultural life, and take greater steps to ensure that all sectors of Polish society are included in it, including women, minorities, persons with disabilities and LGBT persons, without discrimination. Hate speech, intolerance and discriminatory attitudes must be combated with urgency to protect human rights and prevent future acts of violence. Safeguarding the separation of religion and state is vital for cultural rights in Poland today.**

91. **The Special Rapporteur pays tribute to all those who engage vigorously in defence of cultural rights today in Poland, and hopes that they will receive full national and international support in their important work.**

 B. Recommendations

92. **To improve the legislative and judicial framework for the protection of human rights, including cultural rights, the Government should:**

(a) **Adhere without delay to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;**

(b) **Ratify and implement the Convention on the Rights of All Migrant Workers and Members of their Families;**

(c) **Respect the independence of the Commissioner for Human Rights, recognize the importance of this mechanism for the promotion of cultural rights for all, and provide it with adequate resources to effectively fulfil its mandate, in compliance with the Paris Principles;**

(d) **Institutionalize the process for implementing recommendations of UN experts and mechanisms.**

93. **To fight against discrimination and develop a more inclusive society, the Government should:**

(a) **Clearly express condemnation of discriminatory ideas and acts, and implement related recommendations of the Universal Periodic Review[[20]](#footnote-21);**

(b) **Conduct awareness-raising and educational campaigns to promote respect for universal human rights and cultural diversity;**

(c) **Promote equality between men and women in private and public life; publicly challenge stereotypical ideas about women and efforts to degrade women and the pursuit of gender equality; engage in regulatory monitoring and evaluation of media representations to ensure these do not spread sexist ideas;**

(d) **Respect and ensure the right to education for all without discrimination, in accordance with international standards; this implies a secular public schooling system with a non-sexist curriculum that promotes a culture of equality;**

(e) **Respect and ensure women’s equal rights to participate in cultural life without discrimination;**

(f) **Review the legal framework so as to enable same-sex couples to enter into civil union and enjoy equality;**

(g) **Ensure wide participation of organizations of persons with disabilities in the decision-making, implementation and evaluation processes related to the Strategy for persons with disabilities; consider inviting the Special Rapporteur on the rights of persons with disabilities for a country visit.**

94. **To improve enjoyment of human rights related to the knowledge of history and ensure the right to access and enjoy cultural heritage, the Government should:**

(a) **Review the relevant legislative frameworks to ensure they fully respect academic freedoms, including the freedom to seek and impart information;**

(b) **Respect the artistic and scientific freedom of directors and staff of cultural institutions and museum curators as well as the autonomy of universities and refrain from politicizing or exercising undue pressure on the content of their work;**

(c) **Support the work of those seeking to display a complex vision of history and of past human rights abuses and atrocities; foster open debate about historical events and respect the integration of this complexity in school history curricula and in museums, as important means of developing critical thinking and understanding, and shaping a tolerant and inclusive society;**

(d) **Encourage history teaching, at all levels, to foster critical thought, and analytic learning and debate, stressing the complexity of history;**

(e) **Develop, as a matter of priority, an overall Management Plan for Białowieża Forest World Heritage site, which places the protection of its cultural and environmental value and of the human rights related to heritage as its central objectives; implement the recommendations of the 2018 monitoring mission.**

95. **To increase the realisation of artistic freedom and the right to access and enjoy the arts and the creativity of others, and the right of everyone to take part in cultural life without discrimination, the Government should:**

(a) **Refrain from any efforts to mold the cultural sphere into a vehicle solely for promoting the ruling parties 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 these arise, ensure the rule of law and protect artistic freedom;**

(c) **Encourage and support various forms of financial support for artistic production, as means to ensure diversity in cultural programming and independence in the creative process;**

(d) **Ensure the participation of representatives of independent associations of artists in decision-making related to art; nomination or appointment of cultural administrators or directors of cultural institutions should be made on the basis of recognized expertise rather than political or other views;**

(e) **Fully support arts education, artistic creativity and the establishment of cultural institutions accessible to and inclusive of all;**

(f) **Ensure that directors of cultural institutions and other cultural workers, do not face investigations, prosecutions or interrogations, or any other violations of their human rights, based on their legitimate work defending cultural rights; review any such ongoing cases and bring to a halt any such actions;**

(g) **Investigate all allegations of violations of the rights of cultural rights defenders and where appropriate hold perpetrators accountable.**

96. **To combat the rise of fundamentalism and extremism, the authorities should:**

(a) **In accordance with relevant international law, recognize and combat extremist and fundamentalist ideologies that promote violations of cultural rights;**

(b) **Condemn all acts of extremist or fundamentalist violence or hate speech and express solidarity with victims;**

(c) **Provide for and protect the separation of religion and State and guarantee freedom of religion or belief in accordance with international standards;**

(d) **Examine how and why fundamentalism and extremism take root and combat the root causes through, inter alia, the implementation of economic, social and cultural rights;**

(e) **Take effective steps to ensure that all national celebrations are marked in ways that include, rather than exclude, and that discrimination is not equated with patriotism;**

(f) **Carefully review the language of official publications and messaging addressed to all inhabitants of Poland with a view to using inclusive language and avoiding statements or formulations stressing homogeneity of Poles or undue distinctions between groups;**

(g) **Strengthen efforts to prevent and eradicate all acts of racist, xenophobic and homophobic violence and hate speeches; effectively and urgently combat hate speech;**

(h) **Develop an effective overall response to hate crimes and adopt measures to make clear that hate speech and incitement to discrimination are not tolerated, including by facilitating civil suits by victims, thoroughly investigating all allegations that hate speech is inciting or has incited acts of violence and holding perpetrators accountable;**

(i) **Revise the Criminal Code to add disability, gender, gender identity and expression, sexual orientation, and social or economic status on the list of prohibited grounds for hate crimes requiring investigation and prosecution;**

 (j) **Take measures to protect historians, researchers, cultural professionals and museum staff from defamation and threats, including on the internet.**

1. \* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only. [↑](#footnote-ref-2)
2. \*\* The present report was submitted after the deadline so as to include the most recent information. [↑](#footnote-ref-3)
3. See www.ohchr.org/EN/Issues/ESCR/Pages/CulturalRightsProtectionCulturalHeritage.aspx. [↑](#footnote-ref-4)
4. A/CONF.157/24 (Part I), chap.III, para.5. [↑](#footnote-ref-5)
5. www.rpo.gov.pl/en/content/office. [↑](#footnote-ref-6)
6. www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx. [↑](#footnote-ref-7)
7. www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)005-e. [↑](#footnote-ref-8)
8. The Special Rapporteur takes note of the document “Information of the Minister of Culture and National Heritage on the Strategy and Changes Planned in the Area of Culture and National Heritage, information for the meeting of the Council of Ministers on 11 October 2016”, provided to her, which refers to the State’s cultural policy and objectives. However, she has not received a copy of an actual cultural policy document. [↑](#footnote-ref-9)
9. Paweł Machcewicz, *The war that never ends; The Museum of the Second World War in Gdańsk*, 2019, De Gruyter Oldenbourg, München. [↑](#footnote-ref-10)
10. See Poland’s ranking in the World Press Freedom Index between 2014 and 2018. [↑](#footnote-ref-11)
11. See https://mappingmediafreedom.org/plus/wp-content/uploads/2017/03/MMF.2016.Q4.NEW\_.WEB\_.pdf. [↑](#footnote-ref-12)
12. A/HRC/36/14, recommendation 120.106. [↑](#footnote-ref-13)
13. Decision 43 COM 7B.14, https://whc.unesco.org/en/decisions/7478. [↑](#footnote-ref-14)
14. As shown by recent cases for criminal defamation, brought by members of the ruling party, such as the lawsuit against academic Wojciech Sadurski. [↑](#footnote-ref-15)
15. One example is the lawsuit against historian Barbara Engelking, accused of defamation for writing about collaboration of individuals with the Nazis. [↑](#footnote-ref-16)
16. See www.nigdywiecej.org/en/our-news/177-articles-from-2019/4112-a-new-report-on-violence-against-muslims. [↑](#footnote-ref-17)
17. A/HRC/41/33/Add.2. [↑](#footnote-ref-18)
18. Ibid, para.87a. [↑](#footnote-ref-19)
19. A/HRC/23/34, paras.25-39 for international standards on acceptable limitations of freedom of artistic expression, and paras.57-64 for censorship and classification systems. [↑](#footnote-ref-20)
20. A/HRC/36/14, recommendations 120.40, 120.45, 120.46, 120.47, 120.48, 120.49, 120.54, 120.55, 120.56, 120.57, 120.60, 120.62, 120.65. [↑](#footnote-ref-21)