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**Human Rights Council**

**Fifty-second session**

27 February–31 March 2023

Agenda item 6

**Universal periodic review**

**Report of the Working Group on the Universal Periodic Review**[[1]](#footnote-2)\*

**Poland**

**Addendum**

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

Following careful examination, Poland kindly presents its position, supplemented with additional comments and an Annex, on the Recommendations presented during a meeting at the 41st session of the Working Group on the Universal Periodic Review on 15 November 2022 and requests that this position along with the additional comments and the Annex be included in the final report:

**114.1-2:** **Noted – not supported.** The Convention is not scheduled for ratification at the moment. The reasons are provided in the Annex.

**114.3:** **Noted – not supported in regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Noted in regard to the International Convention for the Protection of All Persons from Enforced Disappearance.** The Conventions are not scheduled for ratification at the moment. The reasons are provided in the Annex.

**114.4-6: Noted.** The Convention is not scheduled for ratification at the moment. The reasons are provided in the Annex.

**114.7: Noted in regard to the International Convention for the Protection of All Persons from Enforced Disappearance. Noted without taking a definitive position in regard to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.** The Conventions are not scheduled for ratification at the moment.

**114.8–15: Noted without taking a definitive position.** Ratification is not planned at the moment.

**114.16: Noted – not supported in regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Noted in regard to the Convention relating to the Status of Stateless Persons.** Reasons in regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families are provided in the Annex.

**114.17–19, 114.26, 114.47, 114.53, 114.69, 114.148, 114.151, 114.155, 114.156, 114.161, 114.185, 114.186, 114.188, 114.211, 114.213, 114.217, 114.223, 114.220, 114.222, 114.224, 114.228, 114.232–233: Noted.**

**114.20: Noted – not supported.** The Conventions are not scheduled for ratification at the moment. The reasons are provided in the Annex.

**114.21: Noted in regard to the ratification of the Istanbul Convention and noted – not supported for the remainder.** The reasons are provided in the Annex.

**114.22, 114.38, 114.43, 114.49, 114.51–52, 114.54–61, 114.63–65, 114.67, 114.70, 114.108–116, 114.139–142, 114.144–146, 114.152–154, 114.157–158, 141.160, 114.179–184, 114.189–191, 114.193–197, 114.218–219, 114.221, 114.225–227, 114.229–230: Supported.**

**114.23: Supported.** No declaration as to the date of the visit.

**114.24: Rejected.** The Constitution of the Republic of Poland refers to the protection of the environment so there is no reason for making any changes in this regard in this Act.

**114.25, 114.80: Rejected.** The National Council of the Judiciary is an independent body safeguarding the independence of courts and judges, and it is fully autonomous in its decision-making. The reasons are provided in the Annex.

**114.27: Noted in regard to the full implementation of the Istanbul Convention. Rejected in regard to the withdrawal of the motion to the Constitutional Tribunal.** Poland has exercised protection from violence at a higher level than provided for by the Istanbul Convention.

**114.28: Rejected.** Poland rejects the Recommendation offered by the Russian Federation on political grounds. The reasons are provided in the Annex.

**114.29: Noted, 114.50: Noted** The reasons are provided in the Annex.

**114.30: Noted with an interpretative remark.** Poland has legal norms that are general in character, giving way to full and wide-ranging protection for everyone. The reasons are provided in the Annex.

**114.31–35, 114.42, 114.87: Noted.** The reasons are provided in the Annex.

**114.36–37: Noted.** The National Action Programme for Equal Treatment for 2022-2030 foresees a review and possible update of the anti-discrimination regulations.

**114.39: Noted.** The laws that provide for the independence of media outlets and regulatory bodies are already in place in Poland. The reasons are provided in the Annex.

**114.40: Noted.** The Ministry of Justice is working on a draft act on the freedom of speech in online social media.

**114.41: Noted.** The Polish Constitution guarantees the right to freedom of assembly and association and freedom of speech. Polish laws ensure the freedom of activity of non-governmental organizations, which are supported in our country.

**114.44: Supported**. According to the Constitution and the Act of 15 July 1987 on the Commissioner for Human Rights, the Commissioner is independent of any other State body and is appointed by the Sejm, with the consent of the Senate, for a five-year term. The Commissioner for Human Rights defends human and civil rights and freedoms as set forth in the Constitution and other laws. All persons subject to the Polish law, both Polish citizens and foreigners, and stateless persons, have the right to apply to the Commissioner for Human Rights for assistance in the execution of their rights and freedoms which have been violated by public authorities.

The Commissioner can be removed before the end of the term of office by the Sejm, only in three cases if he or she: 1) renounced performing the duties, 2) became permanently incapable to perform obligations as a result of illness, disability or lower strength – observed with a medical certificate, 3) made an untrue lustration statement, observed with a final and binding court decision.

**114.45–46, 114.68, 114.71: Supported and implemented.**

**114.48: Rejected.** Poland rejects the Recommendation offered by Belarus on political grounds.

**114.62: Rejected.** Poland rejects the Recommendation offered by the Russian Federation on political grounds. The reasons are provided in the Annex.

**114.66, 114.149: Rejected.**

**114.72: Rejected.** Poland rejects the Recommendation offered by the Russian Federation on political grounds.

**114.73: Rejected.** The CJEU rulings on the organisation and functioning of the judiciary in Poland are beyond the scope of competences conferred upon the Union (Article 4(1) of the TEU). This state of affairs renders these rulings unenforceable.

The case law of the national constitutional courts in EU Member States, including Poland (the rulings of 14 July 2021 in case P 7/20 and of 7 October 2021 in case K 3/21), conveys that the principle of maintaining sovereignty in the process of European integration requires observance of the constitutional limits of the delegation of competence.

**114.74, 114.77–78, 114.83, 114.89: Rejected.** The reasons as in Recommendation 73. More reasons are provided in the Annex.

**114.75: Rejected.** The reasons as in Recommendation 74. More reasons are provided in the Annex.

**114.76: Rejected.** The reasons as in Recommendations 73, 74 and 75. More reasons are provided in the Annex.

**114.79, 114.81–82, 114.84, 114.90–92, 114.100, 114.132, 114.147, 114.215: Rejected.** The reasons are provided in the Annex.

**114.85: Rejected.** The reasons as in Recommendations 25 and 73. More reasons are provided in the Annex.

**114.86: Rejected.** The reasons as in Recommendation 84.

**114.88: Rejected.** Poland rejects the Recommendation offered by the Russian Federation on political grounds. More reasons are provided in the Annex.

**114.93–96: Noted.** The reforms of the judiciary carried out in Poland address the expectations of the society at large. The work to implement changes to the judicial system aims at improving the quality and efficiency of the judiciary as well as adjusting the latter to the social and economic requirements, putting a curb on lengthy proceedings, and enhancing the independence of judges.

**114.97. Noted.** The regulations concerning the operation of the individual services and laying down the requirements for candidates for a given service do not stipulate any restrictions in this respect, especially with regard to minority groups.

**114.98–99, 114.101, 114.103: Rejected.** Poland already has such regulations in place. The Polish Constitution safeguards freedom of the press (Article 14) and freedom of speech, forbidding censorship (Article 54). More reasons are provided in the Annex.

**114.102: Supported and implemented.**

**114.104: Rejected.** The reasons as in Recommendation 98. Moreover, Article 12 of the Constitution of the Republic of Poland ensures freedom for the creation and functioning of trades unions, socio-occupational organizations of farmers, societies, citizens' movements, other voluntary associations and foundations.

**114.105: Rejected.** The Belarusian authorities rigged the presidential elections in 2020 and brutally suppressed peaceful protests. They detained thousands of protesters for political reasons, tortured and harassed many of them, closed down all organisations that stood up for human rights, banned the operation of independent media outlets, and persecuted political opponents. Poland, similarly to most democratic states, has taken necessary steps to persuade the Belarusian authorities to resolve the political crisis and start democratisation of the country. The international community has called several times on the Belarusian authorities to stop violating human rights, inter alia, through Human Rights Council Resolution A/HRC/RES/49/26, or the Moscow Mechanism describing human rights violations in Belarus.

**114.106: Rejected.** Poland does not support extremists. On the contrary, Poland supports all those who have been forced to flee their homes in Belarus in connection with the brutal pacification of peaceful protests following the rigged presidential elections in August 2020 and the systemic repressions by the Belarusian authorities, including mass human rights violations. Poland also supports democratic organisations seeking to resolve the political crisis through dialogue, stop human rights violations in Belarus, bring to account those responsible for these violations and launch democratic processes in the country.

**114.107: Rejected.** The reasons are provided in the Annex.

**114.117: Noted, in the implementation phase.** Poland continues to take actions to ensure the right to access to healthcare financed from public funds to all of its citizens.

**114.118–119: Rejected.** The reasons are provided in the Annex.

**114.120: Rejected.** In regard to providing access to termination of pregnancy as in the case of Recommendation 118. As for access to contraception, the reasons are provided in the Annex.

**114.121: Rejected.** In regard to providing access to termination of pregnancy as in the case of Recommendation 118. As for the amendment of Article 152(2) of the Criminal Code, there are no plans to initiate legislative work in this respect. Therefore, there are no grounds to support the Recommendation to repeal or amend this provision in the near future.

**114.122: Supported and implemented.**

**114.123: Rejected.** The reasons as in the case of Recommendations 118 and 122.

**114.124: Supported and implemented**. The reasons are provided in the Annex.

**114.125: Supported and implemented.** The reasons as in Recommendation 124.

**114.126: Supported and implemented.**

**114.127: Rejected.** The reasons are provided in the Annex.

**114.128: Rejected.** The reasons as in Recommendations 21, 118 and 122.

**114.129: Supported in regard to combating violence against women and rejected for the remainder.**

**114.130–131: Supported and implemented.** The reasons as in Recommendation 122.

**114.133–135: Rejected.** The reasons as in Recommendations 118, 121, 122 and 127.

**114.136: Supported and implemented.** The reasons as in Recommendations 118 and 122.

**114.137: Supported and implemented.** The reasons as in Recommendation 124.

**114.138: Supported and implemented.**

**114.143: Rejected.** The education system provides for sexual education, inter alia, as part of family life education and biology classes. Additional reasons as in Recommendations 118 and 122.

**114.150: Rejected.** Poland’s ODA at the level of 0.7 percent of GNI is not possible in the next five years, since it was not planned and is not included in the government document cited in correspondence, namely *Solidarity for Development. The Multiannual Programme for Development Cooperation for 2021-2030.*

**114.159: Supported.** The Youth Climate Council is an advisory and consultative body attached to the Minister of Climate and Environment.

**114.162: Noted.** Poland understands the term “gender” as exclusively biological sex, therefore a natural sex of a person, that is of a woman or a man.

**114.163: Noted.** Additional reasons are provided in the Annex.

**114.164: Rejected.** In regard to the introduction of the definition of rape, reasons as in the case of Recommendation 21.

**114.165: Supported.** The reasons as in Recommendation 162.

**114.166: Noted.** The reasons as in Recommendation 162.

**114.167: Noted.** The reasons as in Recommendations 21 and 162.

**114.168: Rejected.** With regard to the introduction of the definition of rape, the reasons as in Recommendation 21.

**114.169–170, 114.173, 114.176: Supported.** The reasons as in Recommendation 163.

**114.171: Noted.** The reasons as in Recommendation 163.

**114.172: Noted.** The reasons as in Recommendation 162. Additional reasons as in Recommendation 163.

**114.174: Noted.** The reasons as in Recommendation 163.

**114.175, 114.177–178: Supported.** The reasons as in Recommendation 162. Additional reasons as in Recommendation 163.

**114.187: Rejected.** The reasons are provided in the Annex.

**114.192: Rejected.** The reasons as in Recommendation 132.

**114.198: Rejected.** Poland understands the term “gender” as exclusively biological sex, therefore a natural sex of a person, that is of a woman or a man.Poland does not recognise the term “gender identity”.

**114.199–200: Rejected.** Poland has appropriate legal mechanisms that protect all persons against discrimination, hate speech, hate crime, prejudice on the grounds of sexual orientation etc. Therefore, there is no need to categorise individuals, awarding them protection specifically provided for by law of downright individual character.

**114.201, 114.203–204, 114.207–209: Rejected.** The reasons as in Recommendations 198 and 199.

**114.202: Rejected.** The reasons as in Recommendation 199. Additionally, pursuant to Article 18 of the Polish Constitution, marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, are placed under the protection and care of the Republic of Poland.

**114.205. Supported.** According to the Article 32 of the Polish Constitution all persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason whatsoever.

**114.206, 114.210: Rejected.** The reasons as in Recommendations 198, 199 and 202.

**114.212. Rejected.** According to the Article 32 of the Polish Constitution all persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason whatsoever.

**114.214: Rejected.** The Border Guard treats migrants and persons seeking international protection in compliance with the law. All returns of foreigners to the Polish-Belarusian borderline are based on the Polish law. They are the consequence of actions of the Belarusian services and apply only to persons who do not seek protection and who deliberately and illegally crossed the border aided by the Belarusian services. Introduced in the autumn of 2021, the provisions related to issuing orders to leave the territory of Poland are not contrary to the principle of *non-refoulement*, since they do not repeal relevant provisions of the Act on Granting Protection to Foreigners within the Territory of the Republic of Poland, guaranteeing the right to seek protection.

Poland rejects the Recommendation due to the fact that it was made by the country that caused the migration crisis referred to in the Recommendation.

**114.216: Partially supported.** The reasons are provided in the Annex.

**114.231: Rejected.** Poland rejects the Recommendation offered by the Russian Federation on political grounds. The reasons are provided in the Annex.

1. \* The present document is being issued without formal editing. [↑](#footnote-ref-2)