1. *Assessing the achievements made by the mandate of the Special Rapporteur on the right to education over the last 25 years* 
   * + 1. *In your country, are education issues approached through the lens of the human right to education, and if so, with what challenges and results? In your view, what is the added value of such an approach in your work?*

The Constitution of the Republic of Poland in Art. Article 70 guarantees everyone (i.e. children, youth and adults) the right to education and free education in public schools, and states that education is compulsory until the age of 18. It imposes on public authorities the obligation to provide citizens with universal and equal access to education.

The method of fulfilling the compulsory education is specified in the Act of 14 December 2016 - *Education Law*. Before 1 September 2017, similar regulations were contained in the Act of 7 September 1991 *on the education system*.

The above regulations regulating the conditions for fulfilling the compulsory education in Poland, the percentage of adults with incomplete primary education (i.e. without a primary school leaving certificate) is negligible and covers only random cases resulting from a difficult life situation. Every year, about 85% of primary school graduates choose to continue their education in post-primary schools providing secondary education (general or technical secondary school), the completion of which enables further education in higher education institutions. In terms of the level of education of its inhabitants, Poland is one of the leading European countries: the percentage of people aged 25-64 who completed at least secondary education in 2018 was 92.4%, with the average of 78.1% for the European Union countries.

Polish education system provides education to all students, that, regardless of the type of disability, are covered by compulsory: one-year pre-school preparation, schooling and education.

* + - 1. *How do you assess the 4 A’s framework of availability, accessibility, acceptability and adaptability as conditions for realizing the right to education? Is such a framework integrated in legal and policy documents relating to education in your country, as well as used in practice? If not, what are the key obstacles? Should the framework be reviewed to include other dimensions? If so, which?*

All aspects of the framework (4A's) are included in Polish education regulations, and government policy strategic documents. All units of the education system (kindergartens, schools, institutions) and leading and managing bodies at all levels, are obliged to apply in practice the principles resulting from the 4A's framework, and to ensure access to education, adaptation of forms and conditions of teaching and exams to the abilities of children with disabilities and children who do not speak Polish.

With regard to adults, the education system provides the opportunity to:

• supplementing general education (increasing the level of education) through education in schools for adults, i.e. in a primary school for adults or in a general secondary school for adults, respectively;

• acquiring or changing professional and specialist qualifications through education at vocational qualification courses, and in the case of persons with secondary education or sectoral vocational secondary education - also at a post-secondary school.

A special path of education is provided for graduates of a stage I sectoral vocational school who can continue their education in a stage II sectoral vocational school in order to obtain a secondary sectoral vocational education and a vocational diploma in the profession taught at the level of technician, in which a qualification common to the profession taught in the stage I sectoral vocational school and stage II sectoral vocational school has been separated. Graduates of a stage I sectoral vocational school can also obtain secondary education through education in a general secondary school for adults, starting from the second grade.

In the area of adult education, flexible solutions are provided for taking into account the preferences of students and adapting the organization of education to the needs of people combining education with professional work or caring for a child, senior or disabled family member. Education in schools for adults takes place in the form of full-time (3 or 4 days a week) or extramural (every 2 weeks for 2 days, and in justified cases every week for 2 days), and in a vocational secondary school and post-secondary school education may take place in the above stationary or extramural forms, as well as in a daily form (for 5 or 6 days a week).

A person who has turned 18 may obtain a certificate of completion of a primary school and a general high school in extramural mode, by passing extramural exams conducted by the regional examination commission. Extramural examinations are conducted in the field of compulsory educational activities specified in the framework curricula of schools for adults, on the basis of the requirements specified in the core curriculum for general education. Preparation for extramural examinations can be obtained at general competence courses run by continuing education institutions. Those courses are carried out on the terms set out in the regulations on lifelong learning in out-of-school forms, including the use of distance learning methods and techniques (in the blended learning formula).

* + - 1. *The human right to education entails States’ obligations to respect, protect and fulfil the right to education in international human rights law. To what extent are these obligations clearly identified in your country’s legislation and in practice?*

Public authorities are responsible for ensuring universal and equal access to education for citizens. The Art. 1 of the Act of 14 December 2016 - *Education Law* lists as the first task of the education system ensuring the implementation of the right of every citizen to education and the right of children and youth to be brought up and cared for, appropriate for age and development. This right is specified in detail by subsequent regulations contained in the provisions of the above-mentioned Act, which indicates that the education system also provides, among others, supporting the educational role of the family by the school, taking care of disabled students and particularly gifted students, promoting access to schools, the completion of which ensures the possibility of further education.

The education system in Poland allows for the inclusion of students with disabilities in all types of kindergartens and types of schools and facilities, chosen by parents. The education system ensures the adaptation of the content, methods and organization of teaching to the psychophysical abilities of students, as well as the possibility of using special forms of didactic work and psychological and pedagogical assistance. The implementation of classes in the field of psychological and pedagogical assistance is one of the basic forms of didactic and educational activities of kindergartens, schools and institutions.

All higher education institutions in Poland, both public and private, have the autonomy guaranteed in Art. 70 sec. 5 of the Constitution of the Republic of Poland. This constitutional principle is underlined by the of the Act of July 20, 2018 - *Law on Higher Education and Science* currently in force. University autonomy is one of the fundamental principles of the higher education and science system.

Pursuant to the Constitution of the Republic of Poland, public authorities ensure universal and equal access to education for citizens. Equal access to education should be perceived against the background of the general principle of equality of citizens before the law, expressed in Art. 32 of the Constitution of the Republic of Poland. This principle consists in the fact that all legal entities (addressees of legal norms) characterized by a given essential (relevant) feature to an equal extent should be treated equally, according to the same measure, without discriminatory or favouring differentiations (cf. e.g. judgment of the Constitutional Tribunal in February 22, 2005, file reference number K 10/04).

The conditions of admission to studies are determined by universities, while the eligibility criterion may be based only on an objective assessment of the knowledge or skills of candidates. Pursuant to Art. 72 sec. 5 of the Act of July 20, 2018 *- Law on Higher Education and Science* (Journal of Laws of 2022, item 574, as amended), the results of the admission procedure are overt.

* + - 1. *Has the right to free education been progressively implemented at all levels of education in your country, based in particular on article 26 of the Universal Declaration of Human Rights, articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, and article 28 of the Convention on the Rights of the Child? If yes, please provide examples. If not, please explain why not.*

The constitutional right of a citizen to universal access to free education is primarily implemented by public kindergartens, public other forms of pre-school education and public schools. They are obliged to conduct recruitment based on the principle of universal access expressed in the Act, and in the case of a regional school (for the level of primary education) admit a student ex officio to the district school appropriate for his place of residence. The state provides free textbooks and educational materials for all pupils of primary schools fulfilling the compulsory schooling (public and non-public).

The Government program provided help for students with disabilities, subsidizing the purchase of textbooks, educational materials and exercise materials in the years 2020-2022. In 2022, a total of 43,491 students received support under the program. The program positively affects the development of personality, sense of human dignity and respect for human rights and fundamental freedoms. Work is currently underway on the next edition of this government program for 2023-2025.

Another helpful tool is the possibility of providing students with financial assistance in the form of payments of social assistance benefits to students in a difficult financial situation resulting from low income per person in the family and with many children, disability, severe illness, unemployment, drug addiction, etc. In 2021, 7,444 students received school benefits.

Another form of assistance for students and teachers is support in the field of equipment and teaching aids with access to a free educational platform and free digital educational materials or free access to the Internet in schools.

Universal and equal access to higher education is also implemented through financial support for student education from the state budget. Pursuant to the Act of July 20, 2018 *- Law on Higher Education and Science*, students have the right to apply for non-refundable benefits at the university in the form of a social scholarship, a scholarship for the disabled, an allowance and a rector's scholarship. Every student is entitled to benefits. Students may also apply for repayable assistance in the form of a preferential student loan with interest subsidies from the state budget and favourable loan granting and repayment terms.

* + - 1. *Is the right to education considered a justiciable right in your country and if so which aspects of that right? If so, please provide a short summary of emblematic cases.*

The Constitution of the Republic of Poland in Art. Article 70 guarantees everyone (i.e. children, youth and adults) the right to education and free education in public schools[[1]](#footnote-1), and states that education is compulsory until the age of 18. It imposes on public authorities the obligation to provide citizens with universal and equal access to education.

The Act of 14 December 2016 - *Education Law*[[2]](#footnote-2)specifies the manner of fulfilling the compulsory schooling and education obligation. Similar regulations were contained in the Act of September 7, 1991 *on the education system*[[3]](#footnote-3).

Compulsory school attendance starts at the beginning of the school year in the calendar year in which the child turns 7, and lasts until the end of primary school, but no longer than until the age of 18[[4]](#footnote-4). At the parents' request, a child who turns 6 in a given calendar year may start primary school education. The schooling obligation is fulfilled by attending a public or non-public primary school. In the years 1999 - 2019, compulsory education included attending primary and lower secondary schools, public or private[[5]](#footnote-5). The obligation to study involves attending a public or non-public post-primary school, or carrying out vocational training at the employer's. After completion of post-primary school before the age of 18, students may attend a university or qualifying vocational courses[[6]](#footnote-6). **Failure to meet the school or learning obligation is subject to enforcement under the provisions on enforcement proceedings in administration[[7]](#footnote-7)**.

The Education Law specifies the structure of the school system that ensures the possibility of fulfilling the compulsory education and compulsory education. Under current legal status, the education system (without universities) includes public and private schools[[8]](#footnote-8):

1) eight-year primary school;

2) secondary schools:

* four-year general secondary school,
* five-year technical school,
* a three-year stage I sectoral vocational school,
* a three-year special school preparing for work,
* a two-year stage II sectoral vocational school,
* post-secondary school for people with secondary education or vocational secondary education, with a period of teaching not longer than 2.5 years.
  + - 1. *To what extent are the non-discrimination and equality principles respected in implementing the right to education in your country? Have past recommendations made by the Special Rapporteur on the right to education of vulnerable and marginalized populations been taken into account? If so, can you list which ones?*

The education system in Poland allows for the inclusion of students with disabilities in all types of kindergartens and types of schools and facilities. Parents decide on the choice of school. This education is organized on the basis of a certificate on the need for special education, which is issued at the request of the student's parents by the assessment team operating in a public psychological and pedagogical counselling centre, including a public specialist centre. The system of financial support for students helps counteract inequalities in access to education by including students from families in a disadvantaged socio-economic situation.

***For information on the assistance system, see the answers to question 4.***

The organization of the education system reflects the constitutional principles of decentralization of public authority and the participation of local government in the exercise of public authority, while public tasks serving to meet the needs of the local government community (education is one of them) are performed by the local government unit as its own tasks. Providing education, upbringing and care at every educational stage, including special education and social prevention, is the educational task of local government units at the appropriate level.

Comprehensive and exhaustive legal regulations regulating the functioning of the education system, guarantee the full implementation of the right to education in Poland, understood as ensuring universal and equal access to education.

* + - 1. *~~In countries where the Special Rapporteur has undertaken visits~~~~[[9]](#footnote-9)~~~~, have recommendations been implemented? If so, please list recommendations acted upon~~*~~.~~
      2. *In countries to which the Special Rapporteur has sent communications (allegation letters, urgent appeals and other letters)[[10]](#footnote-10), have measures been adopted to address the issues raised and ensure their non-recurrence? Please provide specifics.*

Poland’s response to the Joint Communication from Special Procedures concerning the situation of LGBT persons in Poland (AL POL 1/2020 of 20 January 2021, pages 8-14)

**Ad. Access to comprehensive sexuality education**

*The scope of sexual education is defined by the educational goals and the contents of the core curricula specified for the various types of schools. Sexual-education contents included in the core curriculum encompass a broad spectrum of issues relating to the emotional sphere, psychology, biology, sociology, safety, law, health, hygiene and disease prevention. They are suitable for the students’ age and cognitive capabilities and needs, and they are present at each stage of education. Sexual education is thus designed to be a comprehensive and internally consistent whole.*

1. ***Main challenges and crucial issues for the future***
2. *In your view, what are the main challenges in your country in implementing the right to education?*

Since 2017, works have been carried out - in cooperation with the ministries of health, family and social policy and universities - on the preparation of comprehensive solutions for diagnosing the diverse educational needs of children and youth and on this basis providing the appropriate type of support and preparing the system for their implementation.

The preparation of solutions was based on recommendations collected during social consultations and educational debates (2015-2016), the work of a team of experts appointed by the Minister of National Education (2017-2019) and cooperation with the European Agency for Special Needs and Inclusive Education in the project entitled "Supporting the improvement of the quality of inclusive education in Poland". The project was implemented at the request of the Ministry of National Education in 2018-2021 as part of the Support Program for Structural Reforms of the European Commission.

Recommendations and assumptions of legislative changes were widely consulted. More than 1,300 people took part in the consultations. The collected feedback made it possible to set priority directions for action.

In the years 2018-2022, new regulations were introduced to improve the quality of education for students, including those with disabilities:

* + - * 1. In 2018, a financial weight was introduced for the organization of individual teaching, and from 2019 - for providing psychological and pedagogical assistance in schools.
        2. In 2019, a new teacher education standard was introduced; education in the field of special education includes preparation for inclusive education.
        3. In the school year 2021/2022, an additional PLN 180 million was allocated from the state budget for psychological and pedagogical support for students. From March 1, 2022, public and non-public primary and secondary schools and art schools providing general education in the field of primary school and general secondary school may conduct specialist classes in additional hours.
        4. On September 1, 2022, the implementation of a new solution began, i.e. the introduction of employment standards for specialist teachers in mainstream and integration facilities.

In 2022, the authorities running kindergartens and schools received PLN 520 million from the state budget for this purpose. These amounts will amount to PLN 1,556 million in 2023, and to PLN 1,935 million in 2024.

From the school year 2022/2023, the educational information system will collect data on the scope of support provided by the kindergarten, school or institution to children and students with an opinion on the need for early support for the child's development, a certificate on the need for special education, a certificate on the need for individual one-year pre-school preparation/individual teaching or opinion of a psychological and pedagogical counselling centre.

* + - * 1. In 2022, the possibility of organizing individual distance learning was introduced.

The activities carried out are in line with the recommendations of the Educational Research Institute in the Research Report: Monitoring the inclusion of students' diverse educational needs in the education process (2021), including:

* increasing students' access to specialist support (pedagogical, psychological, speech therapy, therapeutic, physiotherapy) at the school they attend,
* promoting a school model that fully takes into account the diversity of students' educational needs in the learning-teaching process,
* strengthening the awareness and competence of teachers in the field of personalization of the learning process - teaching as part of ongoing work with the student. Methodological support for teachers in this area.

Work is underway on a new act on support for children, students and families, providing for:

* creating a national support system for children, students and families,
* regulating the developed solutions in the field of: early support for children's development and support for families, functional assessment (a new way of assessing the development and educational needs of children and students and planning support on this basis and evaluation of its effects, moving away from the closed catalogue of disabilities and disorders entitling to education provision of support for kindergartens and mainstream schools by special schools and institutions through the possibility of performing additional activities by them - a specialist centre supporting inclusive education (SCWEW),
* providing supervision for teachers and specialists working in units of the education system.

1. *What are the crucial issues to address, nationally as well as internationally, to ensure the realization of the right to education*

***National challenges are listed in the reply to point 8 above.***

International challenges stem from the state of implementation of the 4A's framework in individual countries and regions.

1. Only in public higher education institutions it is allowed to provide some educational services for a fee in the cases specified in the Act. [↑](#footnote-ref-1)
2. Journal Laws of 2021, item 1082, as amended. [↑](#footnote-ref-2)
3. Journal Laws of 2022, item 2230. [↑](#footnote-ref-3)
4. Article 35 of the Act - Education Law. [↑](#footnote-ref-4)
5. Article 16 par. 5 of the Act of September 7, 1991 on the education system and art. 118, 127 and 128 of the Act of 14 December 2016 - provisions introducing the Act - Education Law (Journal of Laws, item 60, as amended). [↑](#footnote-ref-5)
6. Article 36 of the Act - Education Law. [↑](#footnote-ref-6)
7. Article 42 of the Act - Education Law. [↑](#footnote-ref-7)
8. Article 18 of the Act - Education Law. [↑](#footnote-ref-8)
9. Algeria, Bhutan, Bosnia and Herzegovina, Botswana, Chile, China, Colombia, Ecuador, Fiji, Germany, Guatemala, Indonesia, Ivory Coast, Kazakhstan, Malaysia, Mexico, Mongolia, Morocco, Paraguay, Senegal, Seychelles, Tunisia, Türkiye, Uganda, United Kingdom and Northern Ireland, United States, Qatar. [OHCHR | Country visits](https://www.ohchr.org/en/special-procedures/sr-education/country-visits) [↑](#footnote-ref-9)
10. Communication search (ohchr.org) [↑](#footnote-ref-10)