

**Advance unedited version**

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**Human Rights Committee****List of issues prior to submission of the eighth periodic report of Poland\*****A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant**

1. Please report on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations (CCPR/C/POL/CO/7), including examples of cases in which the provisions of the Covenant have been referred to by national courts including the constitutional tribunal.

**B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee****Constitutional and legal framework within which the Covenant is implemented (art. 2)**

2. Please indicate the procedures in place for the implementation of the Committee's Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party, including *A.B. and B.D. v. Poland (2022)* (CCPR/C/135/D/3017/2017). Please report on measures taken to raise awareness about the Optional Protocol, in particular among judges, prosecutors, lawyers and all those who believe that their human rights under the Covenant may have been violated.

3. In the light of the most recent concluding observations (para. 6), please indicate the measures taken to enable the Office of the Commissioner for Human Rights to discharge its functions fully and in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by: (a) providing it with sufficient human and financial resources, ensuring they are adequate to carry out the full breadth of the Office's mandate, including the National Preventive Mechanism and the whistleblower support body which is set to be established in December 2024; (b) formalizing a clear, transparent and participatory selection and appointment process in relevant legislation; and (c) ensuring follow-up to and the implementation of its recommendations.

**Counter-terrorism measures (arts. 2, 6, 7, 14, 17 and 21)**

4. With reference to the Committee's most recent concluding observations (paras. 10 and 12), please provide information on any steps taken to review the State party's legislation on counter-terrorism, including article 115 of the Penal Code and the Counter-terrorism Law of June 2016 and its regulation of July 2016, to bring it into line with its obligations under

\* Adopted by the Committee at its 142<sup>nd</sup> session (14 October – 7 November 2024).

the Covenant and to ensure: (a) that both the purpose and nature of terrorist crimes are narrowly defined; and (b) that a precise definition of “terrorist incidents” is included. Please also provide updated information on the status and results of the investigations and proceedings on the involvement of Polish officials in secret detentions, torture and renditions between 2003 and 2005 in Stare Kiejkuty.

#### **Non-discrimination (arts. 2, 19, 20 and 26)**

5. Bearing in mind the Committee’s most recent concluding observations (para. 14), please report on the measures taken to ensure that the State party’s anti-discrimination legislation and policy framework, including the Act on Equal Treatment and the National Action Programme on Equal Treatment for 2022-2030, provide full and effective protection against direct, indirect and multiple discrimination in all spheres, including in the private sphere, and on all the grounds prohibited under the Covenant, as well as effective remedies, including compensation, for victims of discrimination. Please include statistical data on complaints of discrimination brought before the courts and the Commissioner for Human Rights during the reporting period, along with an indication of the basis of the discrimination, the nature of the investigations conducted and their outcome, and any redress provided to victims. Please also describe the steps taken to raise public awareness and ensure access to information on the anti-discrimination bodies and the resources available to victims of discrimination.

6. In connection with the Committee’s most recent concluding observations (paras. 16 and 18), please report on the efforts taken to prevent and eradicate all acts of racism, xenophobia, Islamophobia, anti-Semitism and homophobia, including online hate speech, and provide statistical data on the number of reports and investigations relating to such acts as well as the outcomes of investigations conducted. Please report on measures taken to amend legislation protecting against hate crimes, including articles 119 and 257 of the Criminal Code, ensuring that crimes motivated by discrimination on any grounds under the Covenant are investigated and prosecuted as aggravated forms of criminal conduct. Please provide information on measures taken to address the continued increase in attacks and violence against lesbian, gay, bisexual, transgender and intersex persons, including the hostile and stigmatizing rhetoric against them by high-level officials, and comment on the local government resolutions creating so-called “LGBTI ideology-free zones”, which allegedly sought to prohibit various activities for lesbian, gay, bisexual, transgender and intersex persons, some of which are allegedly still in force.

7. Please provide information on the legal framework concerning legal recognition of gender reassignment, including on whether there have been any complaints from transgender people on its practical application. Please report on the legislative and other measures taken to prohibit and warn the public against the use of so-called “conversion therapy”.

#### **Gender equality (arts. 2, 3 and 26)**

8. Bearing in mind the Committee’s most recent concluding observations (para. 21), please provide information about the measures taken by the State party to achieve gender parity in the labour market and public life, particularly in leadership positions, including the representation of women on company boards and in politics, public service, the judiciary, prosecution service and academia, and assess the results achieved. Please provide information on whether progress in narrowing the gender pay gap has been achieved during the reporting period. Please describe the steps taken to eliminate gender biases and stereotypes.

#### **Violence against women, and domestic violence (arts. 2-3, 6-7 and 26)**

9. In line with the Committee’s most recent concluding observations (para. 20), please report on the concrete measures adopted to ensure that all acts of violence against women, including domestic violence, are thoroughly investigated, that the perpetrators of those acts are prosecuted and punished appropriately, and that the victims receive full redress, effective protection and rehabilitation, including access to sustainably funded specialised support services and, where appropriate, shelters. In this regard, please provide statistics on the number of complaints filed, investigations carried out, prosecutions conducted, judgments handed down and measures of redress granted for victims of violence against women. Please report on the steps taken to adopt a comprehensive strategy to prevent and address gender-

based violence in all its forms and manifestations, including sexual violence, rape, harassment and stalking, and on measures taken to raise awareness among the police, the judiciary, prosecutors and community representatives and among women and men in general about the gravity of domestic violence and its detrimental impact on victims' lives.

**Voluntary termination of pregnancy and sexual and reproductive rights (arts. 2, 3, 6, 7, 8, 17 and 26)**

10. Please report on the progress made in ensuring access to adequate and affordable sexual and reproductive health services for all, particularly women and adolescents, including in rural areas. With reference to the Committee's most recent concluding observations (para. 24) and the evaluation of the information on follow-up to the concluding observations on the report of the State party ([CCPR/C/128/3/Add.3](#)), please describe the steps taken to provide adequate access to safe abortion services for all, ensuring that its legislation does not prompt women to resort to clandestine abortions that put their lives and health at risk, including in the light of the Constitutional Tribunal ruling on 22 October 2020 stating that abortion on grounds of "severe and irreversible fetal defect or incurable illness that threatens the fetus' life" was unconstitutional. Please also report on the efforts taken to remove existing barriers to effective access by women and girls to safe and legal abortion, including by removing criminal sanctions to individuals who assist them and by ensuring that, in practice, the exercise of conscientious objection by medical professionals is not a barrier to safe, legal and effective abortion.

**Liberty and security of the person and treatment of persons deprived of their liberty (arts. 9 and 10)**

11. Please indicate all the measures that are in place to ensure full respect of fundamental procedural safeguards, in particular the rights to have prompt access to a lawyer from the outset of the deprivation of liberty and to have access to a medical assessment, for all detained persons, including for those in remand facilities. Please describe the legislative framework concerning the rules of contact between people deprived of their liberty and their family members, including the amendment to the Executive Penal Code, which entered into force on 1 January 2023. Please provide information on the introduction into the Penal Code, as of 1 October 2023, of the possibility for courts to prohibit conditional early release of prisoners serving a penalty of life imprisonment and describe its compatibility with international standards on the prohibition of cruel and inhuman punishment.

12. In the light of the Committee's most recent concluding observations (para. 30), please discuss the measures -and their impact- taken: (a) to reduce the duration of pretrial detention, including by establishing a defined temporal limitation for pretrial detention; and (b) to increase the use of non-custodial measures and penalties in line with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules). Please provide updated statistical data on the number of pretrial detainees, including those held in police stations and the percentage they represent of the total number of persons deprived of their liberty, and the average and maximum duration of pretrial detention during the reporting period.

**Elimination of slavery, servitude and trafficking in human beings (arts. 2, 7, 8 and 26)**

13. Recalling the previous recommendation of the Committee (para. 28), please provide information on: (a) measures taken to improve the identification of victims and the provision of basic material assistance including shelters, psychosocial support and legal protections to them, including whether any provisions are in place to prevent individuals who are victims of trafficking from being penalized for unlawful acts that traffickers compelled them to commit; (b) whether a mechanism is in place to identify vulnerable persons within the migration flow, including unaccompanied minors who are particularly vulnerable to trafficking; and (c) any legislative measures taken to adequately define forced labour in the criminal code. Please provide up-to-date statistics on the number of allegations of trafficking in human beings, the number of recognized victims, the number of investigations and prosecutions and any convictions, along with any remedies, including compensation, provided to victims.

**Treatment of aliens, including migrants, refugees, asylum seekers and stateless persons (arts. 6, 7, 9, 12, 13 and 24)**

14. Please provide information on the legislative measures adopted since 2021 concerning entry into the territory and access to international protection and discuss the compatibility of such amendments with the State party's obligations under international law, including full respect for the principle of non-refoulement. Please respond to reports of summary returns and ill-treatment, in some cases leading to disappearance or death, of individuals seeking international protection who have been apprehended at the border with Belarus in violation of the principle of non-refoulement, as well as denial of access for providers of humanitarian assistance. Please provide information on safeguards in place to ensure effective access to legal representation and appeal procedures against decisions concerning asylum and deportation, including decisions imposing detention.

15. Please respond to reports of systematic and prolonged detention of migrants and asylum seekers at the State party's border with Belarus and provide information on the implementation of alternatives to detention, especially with regards to persons with specific needs including children, as set out in Art. 317 of the Act on Foreigners and Art. 88 of the Act on Granting International Protection. In the light of the Committee's most recent concluding observations (para.32), please report on the efforts made to ensure that asylum-seeking children are not deprived of liberty except as a measure of last resort and for the shortest appropriate period of time, taking into account their best interests. Please provide data on the number of accompanied asylum-seeking children as well as of unaccompanied children held in detention during the reporting period, also indicating the duration of their detention.

16. Please comment on reports that asylum-seekers are often held in overcrowded closed centres with inadequate access to appropriate medical care or legal assistance and are exposed to psychological ill-treatment by guards. Please provide information on screening measures in place to ensure the identification of vulnerable persons, including victims of trafficking and violence, and ensure appropriate assistance is provided to them. Please provide information on measures taken or envisaged to establish a statelessness determination procedure.

**Access to justice, independence of the judiciary, and the right to a fair trial (arts. 2, 9 and 14)**

17. Recalling the Committee's previous concluding observations (paras. 33 and 34), please explain how the State party guarantees in law and in practice the right to a fair trial without undue delay in full compliance with article 14 of the Covenant and the Committee's general comment No. 32 (2007). Please report on measures adopted to ensure effective access to free legal assistance, from the outset of detention, to all persons who do not have sufficient means and that all communication between counsel and the accused remains confidential. Please respond to reports that lawyers experience obstructions in preparing their clients' defence, particularly that lawyers are denied access to clients and client information, including in cases of arrests and detentions during public protests and during pre-trial detention, and that in pre-trial detention cases they are often not granted sufficient time to prepare first instance court proceedings.

18. Recalling the Committee's most recent concluding observations (paras. 8 and 34) and the evaluation of the information on follow-up to the concluding observations on the report of the State party ([CCPR/C/128/3/Add.3](#)), please describe steps taken to ensure, in law and in practice, the full independence and impartiality of the judiciary and the prosecution service, including of the Constitutional Tribunal. Please provide information on measures to ensure the full implementation the Constitutional Tribunal's judgments and explain how the State party plans to address judgments issued by wrongfully composed benches of the Constitutional Tribunal.

19. Please provide information on the procedures and criteria for the selection, appointment, promotion, transfer, discipline, suspension and dismissal of judges, including judges of the National Council of the Judiciary, and prosecutors. Please describe measures

implemented to ensure the independence of the National Council of the Judiciary from political influence by the government and the parliament.

20. Please comment on reports of harassment and intimidation of lawyers and overall interference in their work, including arbitrary arrests and detentions, searches and seizures, disciplinary proceedings and criminal prosecution, particularly of those lawyers working on politically sensitive cases. With reference to the Committee's prior concluding observations (para. 36), please describe efforts made to ensure that the juvenile justice system conforms with the State party's obligations under articles 9, 10, 14 and 24 of the Covenant.

#### **Right to privacy (art. 17)**

21. In connection with the previous concluding observations (para. 40), please report on the institutional and legal safeguards, including independent oversight, that have been put into place to ensure that all surveillance activities comply with the principles of legality, proportionality and necessity and that any persons who are unlawfully monitored are informed thereof and have access to adequate remedies. Please comment on allegations of targeted surveillance to arbitrarily conduct surveillance on politicians and members of the opposition party, particularly during the parliamentary elections in 2019, including through the use of technology, such as the Pegasus spyware.

#### **Freedom of expression (arts. 19 and 20)**

22. Please provide information on measures taken to ensure the independence of media regulatory bodies and publicly-owned media outlets from influence by the executive branch, as well as measures to ensure a pluralistic media landscape with equal access to state advertising funds. Please respond to reports of harassment, including judicial harassment, smear campaigns, disciplinary proceedings, threats and acts of violence against journalists, judges, prosecutors, and human rights defenders perceived as critical of the government and provide information on measures taken to ensure those responsible are held to account. With reference to the Committee's previous recommendations (para.38), please report on steps taken to review defamation laws and laws on insulting State symbols, senior officials and religion, including steps taken towards decriminalizing defamation as well as measures to protect journalists and media outlets from strategic lawsuits aimed at inhibiting their work.

#### **Freedom of peaceful assembly (art. 21)**

23. In the light of the Committee's General comment No. 37 (2020) on the right of peaceful assembly, please explain the compatibility of the State party's legislation with the right of peaceful assembly as provided under article 21 of the Covenant, including with regard to spontaneous assemblies, and the 2016 amendment to the Law on Assemblies which introduced restrictions on the holding of separate assemblies in proximity to one another and gives priority for "cyclical assemblies." Please respond to reports that participants in peaceful protests held during the reporting period, including those in response to reforms of the Supreme Court and the Constitutional court's ruling on abortion, have increasingly been subjected to arbitrary arrest and fines, and that disproportionate force was used in policing the abortion-related peaceful protests of November 2020, including batons and pepper spray. Please provide information relating to the reporting period on (a) any protests which have not been allowed or which have been dispersed, including details of the legal basis; (b) detention of and judicial proceedings brought against protesters, and (c) information on any complaints received and investigations undertaken in relation to the disproportionate use of force by law enforcement officials during protests, and the outcomes of any such investigations.

#### **Freedom of association (art. 22)**

24. Please indicate steps taken to ensure a safe and enabling environment for human rights defenders, including those providing assistance to migrants and asylum seekers at the border with Belarus. Please provide information on measures taken to ensure that human rights defenders and human rights NGOs are not subject to smear campaigns, threats and judicial harassment designed to inhibit their work, in particular those promoting and defending women's rights, sexual and reproductive health rights and the human rights of LGBTI

persons. Please respond to reports that NGOs that are considered unfavourably by the government have been denied equal and equitable access to public funding.

**Participation in public affairs (arts. 25 and 26)**

25. Please report on the measures taken to ensure the holding of free and fair elections, and with reference to the Committee's most recent concluding observations (para. 42), please describe the measures taken: (a) to facilitate the exercise of electoral rights by all without discrimination, particularly for persons with intellectual and psychosocial disabilities; (b) to ensure full accessibility and comprehensive support for all persons with disabilities; and (c) to provide voters with information about elections and the voting process in accessible formats.

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