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

## **Report of the Special Rapporteur in the field of cultural rights on her visit to Poland**

**Comments by the State\***

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\* The present document is being issued without formal editing.



## Introduction

1. The government of Poland regrets that the UN Special Rapporteur did not take into account the information provided after the completion of her visit in 2018 and at the beginning of 2019 as well as the most recent reply to the advanced version on the final report on the Special Rapporteur's visit to Poland.<sup>1</sup> Thereby the government of Poland provides the following comments.<sup>2</sup>

2. It should be noted that the report often quotes one-sided statements of unspecified interlocutors unsupported by any concrete evidence. On the basis of these inadequate conclusions were drawn by the Special Rapporteur. Many of the comments made in the report are not of a substantive and objective nature. It is very difficult to address such generalized issues, which are not confirmed by any facts, as it limits the scope of discussion.

## Ad part B System of cultural governance, paragraph 18

3. In paragraph 18 Special Rapporteur stated, "There is a need for formalized, detailed and overreaching cultural policy".

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<sup>1</sup> Answers to additional questions of the Special Rapporteur in the field of cultural rights with attachments 1. Information of the Minister of Culture and National Heritage on the Strategy and Changes Planned in the area of Culture and national heritage of 11 October 2016, 2. Expenditure on culture 2013-2019) which had been sent to her (upon her request) after the initial version of the report was drafted. The letter of Prime Minister P. Gliński to Special Rapporteur of 23 January 2019.,

<sup>2</sup> The statement of the Minister of Culture and National Heritage, Piotr Gliński, published on 9 June 2017, regarding the financing of the Festival:

"The Malta Festival in Poznań has been held since 1991 and is an important international cultural event. As Minister of Culture, as well as a participant in the alternative theatre movement of the 1970s, who remembers the performances by Jerzy Grotowski, Peter Schumann and Peter Brook, I fully support artistic events such as the Malta Festival. Therefore, the Ministry of Culture and National Heritage supported the Malta Festival on the basis of a request submitted in 2015 for 3 years, i.e. in the so-called multiannual procedure, which is often used for cyclical events.

The Malta Foundation's request assured that this was an "inclusive social and artistic event, involving the recipient in dialogue and action, opening him/her up to the experience of art". Meanwhile, the achievements and statements made by Oliver Frłjić, the curator of this year's edition, after the conclusion of the agreement, clearly contradict this assumption.

The director has publicly declared that: "art should always exceed social norms" and: "he is interested in the rebellion of this community" (interview for "Gazeta Wyborcza" on 24 February 2017), and with his actions causes deep conflicts and a wave of social protests - from the would-be premiere of "The Un-divine Comedy" in Stary Teatr (still in 2013), through "Our Violence, Your Violence" at the Premier Festival in Bydgoszcz, in September 2016, to "The Curse" in the Powszechny Theatre in Warsaw in 2017.

Frłjić does not "open the audience to the experience of art", on the contrary: he alienates a large part of the society to the institutions of theatre. Thus, Oliver Frłjić's participation in the Malta Festival raises concerns about the course of this event in accordance with the assumption presented in the request of the foundation. Moreover, in my opinion, in the context of the facts quoted above, an event whose real shape is influenced by Oliver Frłjić may also threaten the basic principles of social coexistence, the defense of which, in the cultural dimension is, among other things, an obligation of the Minister of Culture and National Heritage.

A theatrical performance can and should pose difficult questions, provoke reflection and dialogue, but under no circumstances should it function as a detonator of social conflict, as in the case of Frłjić's "works".

Therefore, referring to the declarations formulated in the Malta Foundation's request, I considered that the Festival under the curatorship of Olivier Frłjić does not guarantee "involving the audience in dialogue" and "opening the audience up to the experience of art", but rather conflict a major part of the audience with the theatre and discourage them from participating in the event. Thus, in my opinion, the applicant has violated the terms of the agreement concluded with the Ministry of Culture and National Heritage on the basis of the said request. For the above reasons I refused to finance this year's edition of "Malta Festival Poznań 2017" by the Ministry of Culture and National Heritage".

At the same time, I declare my readiness to make schedule changes in the financing of the event and to grant the indicated funds in future years, provided that the agreement is observed and social, cultural and moral standards are not threatened."

4. The above statement is not true. Extensive assumptions of the overarching cultural policy at the Ministry level can be found in the document “Information of the Minister of Culture and National Heritage concerning the strategy and planned changes in the area of culture and national heritage”, prepared in 2016. It contains a precisely described diagnosis of the state of the country’s cultural policy, a presentation of the mission of the Ministry of Culture and National Heritage, a presentation of the objectives of the cultural policy of the state and a comprehensive description of the activities of the Ministry aimed at achieving the objectives of this policy. This document was sent to the Special Rapporteur on 23 January 2019 (together with answers to numerous additional questions sent to the Ministry of Culture and National Heritage).

5. The cultural policy of the Ministry of Culture and National Heritage and its effects are presented at the Council of Ministers. Cultural issues are also an extremely important element of the Strategy for Responsible Development - a key document of the Polish state in the area of medium and long-term economic policy.

6. It is also worth noting that the significance of cultural policy in the actions of the government is evidenced by figures: between 2015 and 2019, spending on culture from the state budget increased by 34%. Taking into account the budgetary plans for 2020, this will be an increase of 40%.

## **Ad part B System of cultural governance, paragraph 20**

7. The statement on the attribution of points in the evaluation of project has to be rejected in its entirety. Points for proposals submitted in the Minister's Programmes are awarded on the basis of clear and transparent regulations, the content and provisions of which do not differ either from the solutions applied by previous governments in Poland or from the solutions commonly applied in other European countries.

8. The assessment of proposals in the Minister's Programmes consists of three elements: content-related assessment, evaluation of the project's compliance with the strategic objectives of a given programme and organisational assessment. This model has been adopted since the 2013 edition and has not changed until today.

(A) Content-related assessment Proposals submitted to a given programme, after a formal assessment of their correctness carried out by individual Managing Authorities, are directed to the content-related assessment of an expert commission appointed by the Minister of Culture and National Heritage. Expert commissions are appointed annually by the Minister of Culture and National Heritage, on the basis of recommendations created by individual Managing Authorities. When recommending individual experts for the composition of the commissions, the Managing Authorities take into account the thematic scope of the programme concerned, the experts' experience in this field and their competence.

9. The Commission evaluates the proposals submitted to the Minister's Programmes on the basis of the criteria set out in the regulations of a given programme. For example in the Music Programme in the 2018 call for proposals the following assessment criteria were indicated:

### **Criteria for assessing the substantive value**

1. A. Presentation of musical creation in the rich context of Polish and world culture through confrontation of tradition and modernity, as well as interdisciplinary activities and presentation of a wide range of musical genres and performance techniques and practices.

B Presentation of innovative achievements of contemporary music, including premieres and first performances.

C Creative interpretation of the centuries-old heritage of musical culture, through the preservation and popularization of the most outstanding musical achievements, as well as the discovery and presentation of forgotten and rarely performed works.

D The adequacy of the activities carried out within the framework of the task and the costs allocated to their implementation in relation to the expected artistic effects.

The maximum score in the above criterion was 30 points

2. A. Promoting the achievements of Polish composers and performers.

B. Enabling creative dialogue between musicians from Poland and abroad by confronting native achievements with outstanding world music phenomena.

The maximum score in the above criterion was 15 points

3. A. Participation of renowned artists and authority figures or gifted artists from the young generation, including debutants.

B. Professionalism and experience of individuals involved in the substantive part of the project.

The maximum score in the above criterion was 15 points

B. Assessment of the compliance of the project with the strategic objectives of the programme. This evaluation is part of the overall assessment of a given project and is awarded by the Managing Authority of the programme concerned, after approval of the Minister of Culture and National Heritage. The criteria for this assessment, for example in the Music Programme announced for 2018, were as follows:

**Criteria for assessing compliance with the strategic objectives of the programme:**

1. A. The task is comprehensive and has a consistent concept of presentation of the selected issue/issues.

B. The subject matter of the task is unique and distinguishes it from others considered in the program.

C. The task offers a wide range of artistic presentations.

D. The task goes beyond the standard activity of the entity or significantly increases the level of that activity.

E. The task preserves cultural and national identity, in particular by making creative references to anniversaries, jubilees and historical events.

F. Cyclical task with a long (minimum 5 years) tradition.

The maximum score in the above criterion was 15 points

2. A. The task creates a valuable model of participation in culture and/or popularization of a selected issue important for contemporary culture.

B. The task effectively promotes attitudes based on awareness of one's own cultural identity and/or respect and tolerance for other nations and different religious, political and moral views.

C. The task has high image-related benefits in terms of promoting Polish culture on the international arena.

D. The task plays a key role in the cultural life of the region, activating the local community and cooperation at the national/international level. It draws attention to the most valuable projects implemented also outside the cultural and economic centres of Poland.

The maximum score in the above criterion was 10 points

3. A. The Applicant has the necessary experience in organizing cultural events.

B. The Applicant - on the basis of the Synthesis of activities and/or evaluation of the cooperation to date - guarantees the implementation of the adopted substantive assumptions.

The maximum score in the above criterion was 5 points

C. Assessment of the organizational value. This evaluation is part of the overall assessment of a given project and is awarded by the Managing Authority of the programme concerned. The criteria for this assessment in the Music Programme announced for 2018, were as follows:

### Criteria for assessing the organizational value:

1. Assessment of the professionalism of preparation and consistency in the presentation of the proposal,

including a detailed and transparent description of the schedule, estimates and sources of funding - their consistency with the overall proposal.

2. Assessment of the budget presented in the proposal, including in particular the relationship between the requested funding and the other sources of funding for the task.

#### The maximum score in the above criteria was 10 points

10. The maximum total score for each proposal is 100 points. The above mentioned model of proposal assessment is the same for all the Minister's programmes, subject to the differentiation of individual criteria of content-related assessment resulting from the substantive scope of individual programmes (e.g. other assessment criteria must be applied in the National Collections of Modern Art programme, and other in the "Theatre and Dance" programme). It should be noted that the criteria for the assessment of proposals are annexed to the rules of each programme, published on the ministerial website, hence the applicants have a possibility to read them.

11. The scores (with a breakdown into the basic components of the assessment) of all evaluated projects are published on the website of the Ministry of Culture and National Heritage and more detailed components of the scores are also made available to the interested parties (through access to public information).

12. With regard to the general strategic objectives of individual programmes, it should be pointed out that they are specified in the individual programme regulations, depending on the substantive scope of the programme. For example, in the Music Programme announced for 2018, they were as follows:

"The strategic goal of the programme is to support the most valuable phenomena and trends in Polish and world music culture. The aim of the programme is both to support undertakings cultivating tradition and the most outstanding achievements of the centuries-old heritage of Polish and world music culture, as well as projects focused on creating new values and seeking original means of artistic expression."

13. The programme's tasks include supporting complex projects, implemented both outside the standard framework of the applicants' current activities and as part of a consistently implemented development plan that significantly increases the level of such activities. The main objective of the programme is to support tasks of a non-commercial nature. The programme also enables support for tasks which have a high substantive value and commercial potential - provided that the support is within the permissible limits of public aid. Projects important for the achievement of the programme objectives, apart from their high artistic level, should be distinguished by an original, coherent concept taking into account the broadest possible cultural context, introduce new quality into national and international cultural life, and creatively continue the best traditions and achievements of musical culture. The high quality of the task may be determined by the organiser's concentration on a selected issue and presenting it in a way appealing to an elite audience of high cultural competence, as well as by the implementation of popularising ideas based on high communicativeness of the message and addressed to a wide and diverse audience. Taking into account the fact that financial and organisational stability is an important factor for effective implementation of projects with the above described profile, the programme enables financing of tasks on a multiannual basis, and the sum of grants granted under this procedure may amount to up to 40% of the programme budget. At the same time, however, financial support will be directed primarily to tasks with high or at least average budgets, built on the basis of various sources of financing, assuming that the authors of the projects guarantee the stability of the activity and the implementation of the objectives undertaken. An important element taken into account when assessing the potential of the organisers will therefore be their experience and ability to obtain significant funds for the implementation of the task, as well as their ability to establish cooperation with other partners at local, national and international level. Although the rules of the programme also provide for the possibility of supporting tasks whose budgets will be largely based on ministerial co-financing, these

tasks will be supported only in cases justified by the high substantive value and non-commercial character of the task. An important objective of the programme is also to draw attention to the most valuable projects implemented outside the largest cultural and economic centres of Poland, in regions with difficult access to cultural goods. However, this objective does not mean carrying out activities of an ad hoc and interventional nature, but supporting undertakings for which the local perspective becomes an opportunity to develop one's own, original formula of participation in culture.

14. Undertakings implementing the fundamental objectives of the programme should display the full spectrum of musical culture, creating a kind of showcase of contemporary Polish culture, making it a symbol of the fundamental civilisational transformations of contemporary Poland”.

15. Therefore, it is not true that the components of the system of awarding points in the Minister's Programmes are not transparent. All the criteria on the basis of which the assessment of the proposal is formulated are precisely described and publicly available.

16. There have been no changes in this area in recent years. The scoring structure:

- 60 Content-related assessment,
- 30 Strategic assessment,
- 10 Organizational assessment.

### **Ad paragraph 21**

17. The Special Rapporteur regrets not being able to meet with the Minister of Culture and National Heritage despite having requested such a possibility three times and that no representatives of the Ministry of Culture and National Heritage took part in an official meeting with the Government on the conclusions of the visit”.

18. The Minister of Culture and National Heritage also regrets that he did not meet with the Special Rapporteur, as he is aware that this meeting would have been important and necessary. Unfortunately, the proposal for the meeting was not included in the programme of the Special Rapporteur's visit, it was formulated without prior notice and it assumed a very short time to adjust the Minister's calendar. Despite sincere intentions, it was not possible to adapt the Minister's calendar to such an urgent deadline. Putting the Minister in a position of organizing a meeting at such a short notice is all the more surprising because the visit of the Special Rapporteur lasted several days - and there were no obstacles to plan and organise the meeting with the Minister well in advance. Minister P. Gliński, in a letter to the Special Rapporteur of 23 January 2019, explained the situation, expressed his willingness to meet and invited the Special Rapporteur to Poland.

### **Ad Part III The implementation of cultural rights in Poland - paragraph 23 and 24**

#### **Independence of cultural institutions and media**

19. Politicians, like any other participants of public life, have the right to express their opinions on cultural and artistic issues, and have the right to criticize a message that they consider artistically imperfect or detrimental to their value system. However, this does not mean that any political pressure is exerted in Poland on artists, directors or employees of cultural institutions. The allegations of the Special Rapporteur, who expresses her concern, are vague - with no specific arguments or factual references. The accusations of “investigations” and “dismissals” of employees of cultural institutions used in the Report are not true. This is yet another fragment of the report without any evidence-based argumentation - it is therefore impossible to determine which specific events the author has in mind.

20. There is currently no problem of censorship in Poland and no threat to freedom of speech. The current Polish government, appreciates democratic values, including above all

freedom of speech. Therefore, there are no objective grounds for claiming that there is a problem of self-censorship in Poland, which would impoverish Polish cultural life.

### **Ad Part III A. The implementation of cultural rights in Poland - paragraph 25, 26, 27**

21. The Special Rapporteur refers to the Museum of the Second World War in Gdańsk and the Malta Festival.

22. The expiration of Director Machcewicz's contract (World War II museum) is presented in bad, biased light, despite a detailed description included in item 13 of the attachment Answers to additional questions of the UN Special Rapporteur in the field of cultural rights. Once again, the content of explanations that was presented to the Special Rapporteur was ignored.

23. The dissolution of the contract with Paweł Machcewicz followed a merger of two cultural institutions – the legality of such solution was confirmed by courts (despite cassation appeals filed by Commissioner for Human Rights Adam Bodnar and the city of Gdańsk). Museum exhibitions are modified all over the world, especially when important historical facts are being omitted – therefore it is unclear why this fact is turned into an accusation.

24. The Special Rapporteur mentions “other directors” who “experienced similar pressure.” Once again, anonymous accusations are quoted. Therefore, it is difficult to respond to the allegation, which is a clear insinuation

25. The merger of the Museum of the Second World War and the Museum of Westerplatte and the War of 1939 was carried out in accordance with the Act on Organizing and Running Cultural Activity of 25 October 1991. According to the act of the Minister of Culture and National Heritage, who was the founder and organizer of both museum may merge (based on the Polish) any cultural institutions (museums included) but is obliged to provide a public notice of such attempt three months prior to the actual merge taking place (Article 18 of the Act). The Supreme Administrative Court confirmed the legality of the proceedings. This administrative decision was a matter of domestic law and as such, it does not relate to the international obligations.

26. After the merger, the Museum continues its mission. The decision of the merger of two similar museums was justified by the administrative, technical and financial reasons. It was also a common expectation to raise public awareness on the history of Poland and the heroic fight of Polish soldiers in the first hours and days of the World War II.

27. It is necessary to underline that the merger was carried out with respect to the existing effects of work of both institutions, including the immense effort made by the staff of the Museum of the Second World War to open the permanent exhibition, which functions today without any obstacles.

#### **Article 18.<sup>3</sup>**

1. The organiser may merge cultural institutions, including cultural institutions conducting activities in various forms, or divide cultural institutions.

2. In the case of a merger of an artistic institution with a cultural institution other than an artistic institution, the cultural institution resulting from such a merger has the status of an artistic institution.

3. The organiser is obliged to inform the public about the intention and reasons for such a decision 3 months before the issue of the act on the merger or division of cultural institutions. .

<sup>3</sup> Act on Organizing and Running Cultural Activity of 25 October 1991.

**Article 19.**

1. The merger of the cultural institutions consists of the creation of a single institution with staff and property belonging to the merged institutions.

2. The cultural institutions shall be merged by means of an act issued by the organiser and in accordance with the procedure laid down in Article 21.

3. The act on the merger of cultural institutions includes:

(1) the names of the merged cultural institutions;

(2) the name, type, seat and subject matter of the cultural institution resulting from the merger;

(3) the specification of the time of the merger of cultural institutions;

(4) the determination of the rules for the assumption of liabilities and claims by the institution resulting from the merger.

4. The statute of the new cultural institution created by the merger is given by the organizer. The provisions of Article 13 (2) shall apply accordingly.

5. As of the date of entry in the register of a newly established cultural institution, the organiser shall remove, from the register, those cultural institutions which have merged.

28. The case of the Malta festival – the Special Rapporteur repeats opinions from the preliminary report. However, once again the explanations provided by the Ministry of Culture and National Heritage in item 17 of the attachment Answers to additional questions of the UN Special Rapporteur in the field of cultural rights are not taken into consideration.

29. The subsidy was suspended due to failure of festival’s organisers to comply with the conditions of contract with the Ministry of Culture and National Heritage.

30. Comment on the appointment of the director of the POLIN museum: under Polish law, the decision of the commission is just a stage within the process to select a director of a cultural institution. The minister of culture and national heritage has the right to take the decision to appoint the director at a later date.

**Ad Part III A. The implementation of cultural rights in Poland - paragraph 29, 30, 31**

31. Point 29 of the report contains information that requires correction and clarification. The National Media Council is not a body dependent on the government.

32. The amendment to the Broadcasting Act from 30 December 2015 (**for a transitional period of 6 months**) to 30 June 2016 (entered into force on 8 January 2016) authorized the Minister of the State Treasury to appoint and dismiss governing bodies and supervisory boards of public media. At that time, parliamentary procedure was underway on the preparation of the draft act establishing a new state body independent of the government administration, called the National Media Council (Act of 22 June 2016 on the National Media Council). The National Media Council is a collective body appointed by the Sejm (the lower chamber of the Polish parliament), the Senate and the President of the Republic of Poland, so it is not a government body, as it was misspelled in the report. It should be stressed that the five-member composition of the National Media Council includes two representatives of opposition groups against the government administration.

33. The basic competences of this new body in public administration are related to the appointment of management bodies and supervisory boards of public radio and television companies. Therefore, it cannot be written in the report that, as regards the composition of management bodies and supervisory bodies of the public service broadcasters, decision-making powers have been delegated to the government through the National Media Council. Moreover, this oversimplification is directly related to the process of setting up the governing

bodies of public service media, as stated: "a large wave of redundancies in public media, especially in management, press and foreign editors". Neither the National Broadcasting Council nor the National Media Council (apart from the above-mentioned powers regarding company bodies) have any competences related to the employment of public media employees. This is an independent authority of public bodies of media companies.

34. According to the National Broadcasting Council, the different turnover of employees observed in that period did not result solely from the employer's termination of working conditions. The rotations were also largely caused by the decisions of the stakeholders themselves, which can still be observed, and therefore no such generalisation should be made in the report. Moreover, it should be noted that the Minister of Culture and National Heritage, as responsible for the government sphere of audio-visual policy, cooperates with the National Broadcasting Council on the preparation of appropriate legal proposals which will give the National Broadcasting Council powers in the sphere of shaping the governing bodies of public media companies in order to meet the indications contained in the judgment of the Constitutional Tribunal of 13 December 2016. These works are carried out in the Ministry of Culture and National Heritage.

35. Apart from a journalistic debate, conducted mainly by journalists and not politicians, there is no question of the so-called "repolonization of the media". However, the issue of media "deconcentration" is discussed and considered, due to the fact that the Polish media market in terms of capital concentration rules significantly differs from European standards. However, this is a very complex problem in legal terms.

### **Ad Part III The implementation of cultural rights in Poland - paragraph 31**

36. The Ministry of Culture and National Heritage, acting in cooperation with the MFA, constantly monitors the fulfilment of commitments regarding the media made in the UN Universal Periodic Review of Human Rights. The Ministry of Culture and National Heritage has not received any request by Special Rapporteur Karima Bennouna to present updated information.

### **Ad Part III B Cultural heritage - paragraph 35**

37. Monuments and statues are carriers of specific historical content, embedded in the consciousness of the nation, which erected them. They refer to moments and figures whom the nation wants to pay special tribute to - to promote their memory. Using them for political demonstrations (as in the case of dressing them in T-shirts with the inscription "Constitution") is therefore an indisputable act of symbolic provocation. Such acts are undertaken in connection with an exceptionally complex legal dispute concerning the provisions of the Polish Constitution. Such acts inscribe historical heroes in the current, temporary political dispute, and they appropriate the symbolic space belonging to the entire Polish community.

### **Ad Part III B Politics of history - paragraph 38, 39,40**

38. Issues arising from the amended Act on the Institute of National Remembrance and the controversies surrounding it were closed by a joint declaration of the State of Israel and the Republic of Poland signed by Prime Ministers Mateusz Morawiecki and Benjamin Netanyahu, which reads: "We support free and open historical expression and research on all aspects of the Holocaust so that it can be conducted without any fear of legal obstacles, including but not limited to students, teachers, researchers, journalists and – with all certainty the survivors and their families – who will not be subject to any legal charges for using the right to free speech and academic freedom with reference to the Holocaust. No law can and will change that."

39. The amendment issue is closed, and the act in itself no longer stirs any controversies. The amendments adopted in 2018 were not proposed by the Ministry of Culture, were outside

the scope of its activity and did not relate to artistic or academic activity. This is why not even the amendment substantiates the opinion expressed by the Special Rapporteur. Museums and memorial sites fulfil their tasks in full respect for freedom of research and discussion. After withdrawing the disputed articles 55a and 55b, the amended and final text of the Act on the Institute of National Remembrance does not contain provisions that could give rise to any concerns.

40. With reference to the concerns expressed by the United Nations Special Rapporteur in the field of cultural rights about the openness of historical debates in the light of the complaint from voivodeship state officials in Lublin, it should be pointed out that Article 54 of the Constitution of the Republic of Poland guarantees everyone the freedom to express their opinions, to acquire and to disseminate information. Constitutional provisions have also secured the right of Polish citizens of different national and ethnic minorities to the freedom of maintaining and developing their own language, culture and preserving customs and traditions.

41. However, it should be noted that in accordance with Article 32 of the Constitution of the Republic of Poland, everyone is equal before the law. Everyone is entitled to equal treatment by public authorities. This means that representatives of national and ethnic minorities, on an equal footing with other citizens of the Republic of Poland, are obliged to observe the law in force. They are subject to criminal law as well. It is therefore necessary to make a clear distinction between the right of national and ethnic minorities to cultivate their own traditions, including the assessment of historical events, and the behavior of individual representatives of national and ethnic minorities, which must be in compliance with generally applicable laws.

42. Notification of the possibility of committing by the President of the Ukrainian Society in Lublin, during a ceremony in Sahryn, an offence specified in Article 55 of the Act of 18 December 1988 on the Institute of National Remembrance - Commission for the Prosecution of Crimes Against the Polish Nation (Journal of Laws of 2016, item 1575, as amended) and the offence specified in Article 133 of the Act of 6 June 1997 - Criminal Code (Journal of Laws of 2018, item 1600) did not in any case prejudice the fact that the statement exhausted the features of the prohibited offences referred to in the recently cited criminal provisions.

43. On the notification of the Lublin Voivode Przemysław Czarnek, the District Prosecutor's Office in Zamość conducted preparatory proceedings and, by decision of 28 November 2018, discontinued the investigation in the case of public insult of the Republic of Poland and the Nation in the town of Sahryń Naroń „On the basis of the evidence gathered in the case, it was concluded that there are no grounds for assuming that public statements of Grzegorz K. could have insulted the Nation or the Republic of Poland, and thus exhausted the disposition of Article 133 of the Penal Code ”.

44. No reasons were given as to why the Special Rapporteur chose these particular topics. No specific information is available about what the Special Rapporteur learned while in Poland. Neither do we know whether the Special Rapporteur was shown full record of research conducted by historians from the Institute of National Remembrance and institutions taking care of memorial sites.

### **Ad Part III C Identity and nationalism - paragraph 43**

45. The context is unclear and it can be assumed that the Special Rapporteur is thinking about government policy that aims at a “monolithic” image of Polish culture. This is not true because the government cares about the heritage of the multinational Polish Republic - the best example is the donation by the Ministry of Culture and National Heritage of 100 million zlotys to supplement the perpetual capital of the Cultural Heritage Foundation, the proceeds of which will be used to permanently finance the cleaning and conservation works of the Jewish Cemetery at Okopowa Street in Warsaw.

46. The Ministry of Culture and National Heritage also undertakes a number of other activities in the area of Polish-Jewish relations. In the previous term of office, new museums have been established (the Warsaw Ghetto Museum, the Ulma Family Museum of Poles

Saving Jews during World War II in Markowa), work is underway to complete the Museum-Memorial Site on the site of the former German Nazi death camp in Sobibór. Co-running of the POLIN Museum of the History of Polish Jews is continued, which will implement a 10 million Euro project entitled “Jewish Cultural Heritage” within the framework of the “Culture” programme co-financed by the EEA. Between 2016-2017 alone, the sum of grants for institutions run or co-run by the Ministry, whose activities include caring for the memory, culture and heritage of the Jewish people, amounted to over 104 million PLN. A comprehensive presentation of the policy of the Ministry of Culture and National Heritage regarding Polish-Jewish relations is available (also in English) at the following site:<http://www.mkidn.gov.pl/pages/posts/dzialania-mkidn-w-obszarze-stosunkow-polsko-zydowskich-8112.php>

47. The reliable analysis clearly shows that the current Polish government pursues a policy of nurturing Poland's multinational tradition on a much larger scale than that of any of its predecessors.

48. All avant-garde artists in Poland can act freely. It is worth highlighting the examples of Krystian Lupa or Jan Klata, who exhibit their works abroad thanks to the funds received under the “Nipodległa” Multiannual Programme 2017-2021.

### **Ad Part III C Identity and nationalism - paragraph 45, 47**

49. The Special Rapporteur makes serious allegations, unfortunately not supported by any arguments. There is no marginalization and silencing of dissenting voices in culture in Poland, nor is there any form of cultural engineering. The artists are free, and the authorities do not interfere in any way with the content of what they present.

50. The current government, which does not apply regrettable discriminatory practices against anyone, is only restoring balance. It sees that, as the Special Rapporteur rightly points out, Polish culture is not homogeneous - there are also conservative components, which any responsible government should not forget, because they do not deserve the discrimination to which they were consistently subjected over the years.

51. The report also refers to Independence Day Celebrations.

52. The role of the government is to ensure the security of the citizens and the right to legitimately demonstrate their views. The Law and Justice government has fulfilled this role impeccably. Marches on the occasion of Independence Day organized since the time Zjednoczona Prawica (the United Right) took power in Poland are held without major incidents.

53. The Polish Constitution, in Article 13, prohibits the existence of organizations promoting fascism, Nazism, communism, racial and national hatred and violence. Any manifestation of such practices shall be punished and any illegal activities associated with them prosecuted and stigmatized.

### **Ad Part III D Fundamentalism and exterminism- paragraph 48,51, 52**

54. The Special Rapporteur suggests an increase in the importance of “Christian fundamentalists” without giving any examples or explanations, such as the criteria for recognising a Christian as a “fundamentalist”.

#### **Separation of religion and state**

55. The Ministry of National Education agrees with churches and religious associations (by agreement) the requirements for professional qualifications of religious teachers. The rules of employing teachers of all faiths are the same, defined in the Act - Teacher's Charter . Pedagogical supervision over religious instruction is exercised by the headmaster of the school and the territorially competent school educational superintendent.

56. It should be noted that in the report the Special Rapporteur very often quotes statements of unspecified “interlocutors” which contain ready-made thesis, previously not

supported by any concrete evidence. It is very difficult to address such generalized issues, which are not confirmed by any facts, as it limits the scope of discussion.

57. The most important regulations concerning the legal status of religious associations are contained in Article 25 and Article 53 of the Constitution of the Republic of Poland. Article 25 of the Constitution of the Republic of Poland contains regulations concerning the legal situation of religious associations and their relations with the State, specifying the principles: equality of rights of religious associations; impartiality of public authorities in matters of religious, philosophical beliefs and ensuring freedom of expression in public life; respect for the autonomy and mutual independence of the State and churches and other religious associations; cooperation between the State and churches and other religious associations for the benefit of a human being and the common interest and regulation of relations between the State and churches and other religious associations through bilateral agreements. These principles are respected by the Republic of Poland.

58. In particular, it should be emphasized that respect for all faiths is materialized in the cooperation of the state and churches and other religious associations for the benefit of a human being and the common interest. It manifests itself in the creation and functioning of permanent forms of dialogue, the purpose of which is, among other things, to consider problems related to the development of relations between the State and churches and other religious associations. Since 2015, the Joint Commission of Representatives of the Government of the Republic of Poland and the Polish Bishops' Conference, the Joint Team of Representatives of the Government of the Republic of Poland and the Holy Council of Bishops and the Joint Commission of Representatives of the Government of the Republic of Poland and the Polish Ecumenical Council held their meeting. The Polish Ecumenical Council is composed of ordinary members: Baptist Christian Church in the Republic of Poland; Evangelical-Augsburg Church in the Republic of Poland; Evangelical-Methodist Church in the Republic of Poland; Evangelical-Reformed Church in the Republic of Poland; Polish-Catholic Church in the Republic of Poland; Old Catholic Mariavite Church in the Republic of Poland and Polish Autocephalous Orthodox Church.

59. The state supports the activities of various faiths by participating in the protection, conservation, making available and dissemination of architectural monuments, art and religious literature, which are an integral part of cultural heritage. For this purpose, legal entities of churches and other religious associations may obtain, among other things, grants from the Church Fund, operating on the basis of the Act of 20 March 1950 on taking by the State of the mortmain estate "pol. dobra martwej ręki", the guarantee of pastors to own farms and the establishment of the Church Fund, which is a separate item in part 43 of the State budget - religious denominations and national and ethnic minorities.

60. The Church Fund provides benefits such as to support the church's charitable and caring activities, as well as for repairs, conservation and reconstruction of historic sacral buildings. Since 2016, the beneficiaries of grants from the Church Fund were, among others, legal entities of the Catholic Church in the Republic of Poland, the Polish Autocephalous Orthodox Church, the Old Catholic Mariavite Church in the Republic of Poland, the Evangelical-Augsburg Church in the Republic of Poland (in 2016-2017- approx. PLN 26.5 million were disposed for this purpose).

61. Constitution of the Republic of Poland in Article 48 states that parents have the right to raise their children in accordance with their own convictions. This upbringing should take into account the child's degree of maturity, as well as his or her freedom of conscience or religion and belief. Article 53 provides that freedom of religion includes the freedom to profess or accept a religion of one's own choice.

62. Teaching of religion is also regulated by the following acts: the Act on the Education System of 7 September 1991, the Ordinance of the Minister of National Education on the Conditions and Methods of Organizing Religious Lessons in Public Preschools and Schools of 14 April 1992 together with further amendments and the agreement between the Minister of National Education and the Polish Bishops' Conference on the Qualification of Religious Teachers of 6 September 2000.

63. Teaching religion at schools may be carried out by Churches and religious associations registered in Poland. They do so under Article 53 (4) of the Constitution of the

Republic of Poland and inter alia on the basis of the laws on the relationship between the state and the church. It usually says that the Church has the right to conduct catechesis and to teach religion (e.g. Article 15 (1) of the Act of 4 July 1991 on the relations between the State and the Polish Autocephalous Orthodox Church).

64. Currently, in Poland, religion lessons - as well as ethics, upbringing to life in the family and languages of national or ethnic minorities belong to the group of optional subjects. However, the teaching of these subjects becomes compulsory if the student's parents or the student himself, if he is of age, so wish.

65. From the Church's side, the teaching of the Catholic Church's religion is regulated by the provisions of the Canon Law and the Catechetical Directory of the Catholic Church in Poland from 2001. Teachers of religion take up work in school on the same basis as teachers of other subjects and must meet additional conditions. Firstly, they must have a personal referral to a particular institution issued by the diocesan bishop; secondly, their qualifications are specified in an agreement concluded between the Minister of National Education and the Polish Episcopal Conference. Currently, it is required to complete theological studies and obtain pedagogical preparation.

66. Supervision over the teaching of religion in the school is exercised both by church visitors from the diocesan curia and by visitors from the Board of Education. Church visits control the content of teaching and its methodology and compliance with the program, as well as checking the organization of religion lessons. On the other hand, visits from the Board of Education or by the headmaster refer only to the teaching methodology and compliance with the program and not to the catechism.

67. In practice, this means that the catechist is subject to two superiors: the principal of the school and the bishop (for the content of teaching and religious education). Although the headmaster cannot hire a religion teacher without the bishop's consent, in the event of a possible violation of the Labor Code or the Teacher's Charter, the headmaster has the right to give the catechist a warning, reprimand or dismiss him from work. A catechist is then entitled to refer to the Labor Court.

68. The Special Rapporteur's reference to the role of the Catholic Church in Poland in the country's cultural life is positive, yet the appraisal of the Church authorities' actions is beyond the competences of government institutions.

67. Freedom of speech and freedom of expression are safeguarded in Poland and the artistic circles take full advantage of it. However, freedom of speech entails various statements and reactions in the public space, also ones that express disapproval of the dominant trend in a given circle. Criticism by a part of the society is the only repercussion they may face – our cultural institutions enjoy autonomy and their representatives' artistic choices do not translate into ministerial attention.

70. In her statement, the Special Rapporteur does not mention that the film "Kler" (Clergy) was co-financed by the Polish Film Institute. This shows the report's lack of objectivism.

71. The film "The Clergy" is a production, which, because of conscious artistic efforts, presents the Catholic Church and priests in a one-sided. The artists, and this is an undisputed fact, have the right to such an interpretation, but the viewers have the right to perceive the film as an element of an ideological warfare against the Church. Responsible and intelligent artists, taking part in such a controversial and provocative undertaking, have to take into account unfavourable reactions of the audience or local politicians - however, the central authority does not interfere in their undertakings.

72. As far as any acts of violence are concerned - and we strongly condemn them - violence is not an answer, even to a performance such as "The Curse".

### **Ad Part III E Discrimination, equality and inclusion**

73. With respect to the Special Rapporteur statement (par. 58) that not enough is being done to ensure that ethics classes are available as an alternative to religion classes in all

schools it worth to specify that the current organizational and legal solution consisting in free choice (made by parents or adult students) concerning the student's participation in religious and/or ethical education is - in the opinion of the government - optimal. This solution does not imply a choice between the study of religion or ethics. Pupils may take part in both classes, one of them or neither. The allegation of stigmatization of students for this reason is not confirmed in reality.

### **Ad. Paragraph 59 and 60**

74. It should be mentioned that the right to learn a language and in a minority language is one of the fundamental rights of persons belonging to national and ethnic minorities. In Polish legislation, this right is guaranteed by constitutional provisions. The Polish Constitution provides for the legal protection of national and ethnic minorities and the obligations of the state in this area. It contains Article 35 directly dedicated to the protection of minorities. The development of constitutional principles for the protection of national and ethnic minorities, including the law on language protection, was reflected in the Act of 6 January 2005 on National and Ethnic Minorities and Regional Language (Journal of Laws of 2017, item 823).

75. The provisions of the above mentioned Act set out in detail the law on the protection of the language, Article 8 states that: Persons belonging to a minority shall in particular have the right to:

- (1) free use of the minority language in private and public life;
- (2) dissemination and exchange of information in a minority language;
- (3) to place information of a private nature in a minority language;
- (4) learning a minority language or in a minority language.

76. As regards the issue of closing the Kashubian studies course at the University of Gdańsk, it should be noted that the condition for its launch was the registration of a minimum of 25 students.

77. Due to the fact that in 2018, 10 people applied for the first recruitment, the University decided to make an additional recruitment, which ended in early September this year. Eventually, 21 people registered, which resulted in the decision of the university authorities to close the course due to the insufficient number of applicants.

78. It should be mentioned that from the very beginning of the course's establishment, the university faced a problem of lack of interest, and yet each time - after additional recruitment - the university authorities decided to launch the course.

79. Additionally, the Minister of Internal Affairs and Administration in order to maintain the above mentioned direction supports financially the implementation of the task of ensuring the functioning of this major with financial means. It should be stressed that despite the lack of a clear increase in interest in the possibility of studying at Kashubian studies faculty in the following years, it is still available in the teaching offer of the University of Gdańsk.

### **The cultural rights of women**

#### **Ad. Paragraph 65 and 57**

80. Key documents for the functioning of Polish education system, which content is determined by the minister of education, take sufficient account the issue of providing students with appropriate and adequate level of knowledge about human rights and their protection, openness, toleration and anti-discrimination as well as with skills and attitudes in this area.

81. In accordance with the Act of 14 December 2016 – Education Law, Minister of Education determines the core curriculum for preschool education and for general education for particular types of schools which specifies the obligatory learning objectives and teaching

contents, including skills that pupils should master at the end of each level of education. This curriculum also determinates educational and preventive tasks of schools, included during classes with a tutor and enabling the determination of school evaluation criteria and examination requirements, as well as the conditions and manner of implementation.

82. Corresponding general education objectives have been set for secondary schools: acquiring the ability to formulate independent and deliberate judgments, justify one's own and other persons' judgments in the process of dialogue; combining the ability of critical and logical thinking with imaginative and creative skills; developing social, moral and aesthetic sensitivity.

83. The core curriculum also indicates that in the general education process, the school shapes pupil's attitudes that favor their further individual and social development, honesty, reliability, responsibility, perseverance, self-esteem, respect for other persons, cognitive curiosity, creativity, entrepreneurship, personal culture, willingness to participate in culture, taking initiative and teamwork. In social development, it is crucial to develop civic attitude, respect for the traditions and culture of one's own nation and for other cultures and traditions.

84. Additionally core curriculum contains also more specific contents – requirements related to anti-discrimination issues, such as:

A. An elementary school pupil in the field of the following subject gains knowledge of:

- Civic education – human rights: justifies the need to resist the phenomena of intolerance towards various minorities; gives civil virtues (responsibility, concern for the common interest, activity, entrepreneurship, solidarity, prudence, toleration and civic courage); etc.

B. A secondary school pupil in the field of the following subject gains knowledge of:

- Geography – justifies the need to prevent racial discrimination, xenophobia and other forms of intolerance in the world and presents examples of the impact of social group's exclusion on the public and economic life of states;
- Physical education – discusses the causes and effects of stereotypes and stigmatization of people with disabilities, mentally illness and discriminated against;
- Civic education – shows differences between tolerance and acceptance; explains how divisions are created in society into “us” and “strangers”, recognizes the causes, manifestations and effects of intolerance and stigmatization and presents possible ways to oppose these phenomena; lists “general principles” and the catalog of human rights enshrined in the Constitution of the Republic of Poland; human rights: presents court measures to protect rights and freedoms in the Republic of Poland and the methodology of work of Ombudsman, shows the importance of Convention for the Protection of Human Rights and Fundamental Freedoms in the context of the European Court of Human Rights, presents preconditions that must be met in order to considerate a citizen complaint by the Court, examines the selected judgment of this tribunal; etc.

It is also mentioned in the curriculum core that the purpose of the education during civic education classes is to: develop civics activity, engagement in communities' matters, empathy, responsibility towards others, independence of the pupils and theirs ability to function in social groups. It is crucial to implement teaching content so pupils will understand usefulness of this matters in everyday life. This education also aims to shape attitudes of respect for national and global heritage as well as develop cognitive curiosity, openness and tolerance.

In addition to the requirements formulated in the core curriculum, each school is required to implement an educational and preventive program covering

educational content and activities addressed to pupils as well as preventive content and activities targeted at pupils, teachers and parents.

C. Sex education in Polish education system:

The number of lessons of classes called: Education for family life which include the subject of human sexuality (14 hours per year for at least 5 years of education in an elementary school and 3 years in secondary school) is sufficient and enable proper implementation of particular issues – adequate to stage of pupils' psychosexual development.

As part of Education for family life classes sexuality is presented in integral way including biological and physical as well as psychological, emotional, social and spiritual (based on values) side of the issue. This holistic approach gives chance for proper and full development of a young person. Contents of the core curriculum place sexuality of a person in context of love and family values.

The voluntary character of classes Education for family life results from the respect for the constitutional priority of parents in upbringing of their children in accordance with their values and beliefs. School is obliged to support parents in their educational tasks, including sexual education. The teacher must adhere to the principle of subsidiarity, i.e. support parents in raising a child.

Additionally, issues related to development and reproduction of a human (appropriate to their age) pupils study also on biology lessons (the fourth grade of the primary school and throughout the whole period of education in secondary school).

Subject Education for family life has been present in Polish schools since 1999. The legal basis for implementation of this issues to schools curriculums is Article 4 (3) of the Act of 7 January 1993 – law on family planning, human fetus protection and conditions for the termination of pregnancy which stands that knowledge about: sexuality of a man, conscious and responsible parenting principles, family values, life in the prenatal phase as well as methods and means of conscious procreation is introduced to school curriculums.

Adequately to the thematic scope set out in this Act, the ordinances of the Minister of National Education regarding the core curriculum set out the following educational objectives - general requirements of classes on Education for family life.

D. Elementary School - educational objectives – general requirements:

I. Presenting family values in personal life. Contributing positively to one's family life.

II. Respecting other persons, appreciating their effort and work, adopting an attitude of self-respect.

III. Help in preparation to understand of changes of puberty period. Overcoming adolescence difficulties.

IV. Developing the ability to adopt an integral vision of a person. Choosing and adopting values that will contribute to personal development. Managing one's own development, undertaking self-improvement efforts in accordance with recognized norms and values. Learning, analyzing and expressing feelings and resolving problems.

V. Acquiring knowledge about the human body and developmental changes occurring in it in the prenatal and postnatal period and acceptance of one's sexuality. Adopting an integral vision of human sexuality. Developing abilities to defend one's intimacy and sexual integrity and respect for the body of another person.

VI. Awareness and justification of the need to prepare for marriage and starting a family. Orientation in the scope and components of the attitude of responsible parenthood

VII. Using media, including Internet, in a selective way which will allow the defense from their destructive impact.

E. Secondary Schools - educational objectives - general requirements:

I. Deepening the knowledge related to family functions, love, friendship, performing marriage and parental roles, human sexuality, procreation, abilities to take responsible decisions concerning life choices, marriage and family.

II. Developing skills of resolving problems related to puberty, adolescence and life choices; ability to consciously create one's own personality.

III. Getting a better understanding of oneself and one's immediate environment; ability to search for answers for questions about the essence of humanity, sense, goals and life tasks

IV. Adopting a positive attitude towards human life, persons with disabilities and sickness; preparation, based on knowledge and developed skills, to respect the dignity of human life and mature functioning in the family.

V. Knowledge of basic rules of conduct in the sphere of human sexuality and fertility; shaping pro-health, pro-social and family-friendly attitudes.

Teaching contents - the detailed requirements of these classes include 6 thematic sections: Family, Adolescence, Human Sexuality, Life as a Fundamental Value, Fertility, Attitudes.

Education for family life classes in public schools take 14 hours in each school year for students of particular classes. Five of these hours are conducted separately for girls and boys. If a lesson is conducted for joint class groups, it cannot count more than 28 pupils. In private schools on the powers of public schools Education for family life classes, take no less hours than in public schools.

Unlike other school subjects Education for family life classes are conducted on obligatory basis (a principal of a school is responsible for introducing and realization of this classes) however they are not obligatory for pupils. The voluntary character of Education for family life classes results from the respect for the role of parents as first and most important educators of their children and is a consequence of Polish constitutional order which gives priority of parents in upbringing of their children in accordance with their values and beliefs. This is regulated by Article 48 (1) and Article 53 (3) of the Constitution of the Republic of Poland from 2 April 1997. The parent's superior position is also taken into account by international documents, including Art. 26 (3) of the Universal Declaration of Human Rights which stresses that parents have a prior right to choose the education that is offered to their children.

The Minister of National Education guarantees parents respect for their rights by placing in the ordinance of 10 August 2009, amending the ordinance on the method of school teaching and the scope of content regarding knowledge about human sex life, about the principles of conscious and responsible parenthood, about the value of the family, life in phase prenatal, and methods and means of conscious procreation contained in the general education curriculum, the following provision: An underage student does not take part in the classes if his parents (legal guardians) notify the school principal in writing of the resignation from the student's participation in the classes. However, an adult student may report this resignation himself.

Education for family life is a particular activity that also requires teacher to meet parents. The principal is responsible for conducting the meetings according to § 5 (1 and 2) of Regulation of the Minister of National Education of 12 August 1999 on the method of school teaching and the scope of content regarding knowledge about human sex life, the principles of conscious and responsible parenthood, the value of the family, life in the prenatal phase and methods and means of conscious procreation contained in the basis general education program, according to which "(...) before starting the classes, the teacher conducting the classes together with the tutor conducts at least one information meeting with parents of underage students and with adult students. The teacher is obliged to provide full information about the aims and content of the curriculum, school textbooks and teaching aids. The principal is responsible for organizing such meetings.

### **Ad. Paragraph 69**

85. Every textbook admitted to a school use by the minister competent for education and upbringing, received positive substantive and didactic opinions as well as a positive language opinion of appraisers who check and evaluate the compliance of the textbook with the core curriculum and correctness in terms of content, didactic, education and language, in particular:

- taking into account the current state of scientific knowledge, including methodology,
- adaptation to a given level of education, especially in terms of difficulty, form of communication, proper selection of concepts, names, terms and methods of explaining them,
- compliance of the content contained in the handbook with legal provisions, including ratified international agreements.

86. The allegation of homophobic language in the textbooks is unauthorized and cannot be substantiated. Making such an accusation would require at least indicating the specific titles of textbooks to be able to refer to specific cases.

87. The list of textbooks approved for school use is publicly available on the Ministry of National Education website at <https://podreczniki.men.gov.pl/>. The list is constantly updated.

### **Ad Part III E. The right of persons with disabilities - Ad. Paragraph 63**

88. The reply on persons' with disabilities steadily improved access to culture has not been noted. The Ministry of Culture and National Heritage constantly supports the facilitation of access to culture by persons with disabilities with funds that can be obtained by eligible institutions under programs such as "Museums without barriers" or "Accessible culture."

89. Those are systemic actions aiming to achieve specific long-term goals of removing barriers in access to culture in its spatial, economic, social and attitudinal, and competential dimensions with special focus on the needs of people deprived of direct access to the national resources of cultural assets.

90. The Office of the Government Plenipotentiary for Persons with Disabilities would like to emphasize that actions aimed at introducing changes regarding the system of support for persons with disabilities and their families were taken before the start of the protest that took place in the Polish Parliament.

91. Activities aimed at introducing changes to the support system for persons with disabilities took into account the solutions resulting from the Program for comprehensive support for families 'For Life' (with a comprehensive offer of support for families with persons with disabilities, including a child with a disability or threatened with disability) and the "Family 500+" Program, as well as work on the government program "Accessibility Plus".

92. A special institution of the Ministry of Culture and National Heritage, the National Institute of Museums and Monuments Protection, as its statutory task, supports the institution in making the cultural offer available to people with disabilities. The project is called "Barrier-free museums" and includes training for museum staff, the existing cultural offer is adapted to the needs of people with disabilities, architectural solutions which take into account the needs of people with disabilities are implemented, and publications which help other institutions to adapt their exhibitions to the needs of people with disabilities are published. (<https://nimos.pl/baza-wiedzy/muzea-bez-barier>).

93. With a view to meeting, the needs of people excluded, among others because of disability, the Ministry of Culture and National Heritage has been running a special programme "Accessible Culture" since 2015. It is a systemic solution, which serves to eliminate competence and financial barriers, especially for groups at risk of exclusion - due to disability.

94. The strategic objective of the programme is to support tasks aimed at facilitating access to culture, targeting a wide audience and fostering social inclusion. These activities should serve the purpose of achieving real, systemic and long-term effects in eliminating barriers to access to culture in the following dimensions: spatial, economic, socio-mental and competence, with particular emphasis on the needs of people from localities deprived of direct access to national resources of cultural goods, cultural institutions and artistic institutions. An important aspect is to take into account the needs of people with difficult access to culture and not involved in cultural life. The activities undertaken create conditions for the inclusion and cooperation of representatives of various social groups in the cultural life, gaining positive experiences in contact with culture and building the competence of the recipients of culture. The aim of the programme is to support non-commercial tasks, which provide free access to the cultural offer. An important assumption of the programme is to enable the participation and social integration of representatives of various social groups, including: school children and young people, the elderly, people with disabilities, environments which due to strong barriers (e.g. mental, cultural, legal) remain outside cultural and social life or have difficult access to it. An important element of the implemented tasks is establishing cooperation with other entities - schools, cultural institutions, non-governmental organisations or care institutions - which will result in the creation of a coherent educational and cultural offer, contributing to social revitalisation and development of social capital.

95. Matters related to people with disabilities and their participation in cultural life are regulated in Poland by the resolution of the Sejm of the Republic of Poland of 1 August 1997. The Charter of the Rights of Persons with Disabilities (M.P. of 13.08.1997, No. 50, item 475). Every year a report on the implementation of the provisions of the Resolution is drawn up, in which the Ministry of Culture and National Heritage participates. The reports are available in Polish: <http://www.niepelnosprawni.gov.pl/p,121,informacje-o-realizacji-karty-praw-osob-niepelnosprawnych>

96. The Polish government attaches great importance to the needs of people with disabilities not only in terms of access to cultural offerings, but in all aspects of life. The "Accessibility Plus" Programme is one of the five priority government actions. The programme was inaugurated in April 2018.

97. The aim of the Programme is to improve the quality of life and ensure the independence of life of all citizens, including the elderly and those with permanent or temporary restrictions. This is to improve the accessibility of public space, products and services in terms of architecture, information and communication.

98. The programme requires the involvement not only of the government but also of local governments, entrepreneurs, social organisations and residents. It will be implemented until 2025.

### **Ad Part III F Participation in civic space and cultural life - paragraph 85**

99. Opinions on civic space condition in Poland and the Government activities regarding Non-Governmental Organizations presented in the Report are based on false presumptions and do not find any justification in the actual state of affairs.

100. The Report's content is not consistent with the information provided to the special Rapporteur during meetings with diverse government bodies, in particular with the Plenipotentiary of Equal Treatment and Civil Society, Directors of Civil Society Department at the Chancellery of the Prime Minister and the National Institute of Freedom.

101. There is no legal act centralizing distribution of public Non-Governmental Organizations funding. There is no change in public funds distribution. The Act on the National Institute of Freedom transferred the management of public funds of the Civic Initiatives Fund (FIO) from the Department of Social Economy and Public Benefit at the Ministry of Family, Work and Social Policy to the National Institute of Freedom in order to make the FIO a tool that more effectively supports civic organizations involvement in the

fulfillment of public benefit tasks. FIO since the beginning was administered by the Government and the only change is transfer of the fund management to different governmental body. The local governments distribute substantial public funds for Non-Governmental Organizations.

102. There is not any “new body attached to the prime minister's office” in order to change or centralize distribution of European Union grants or the EEA and Norway Grants for Non-Governmental Organizations.

103. Since the entry into force of the Act on the National Institute of Freedom - Centre for the Development of Civil Society there is no evidence of funding denial for civil society organizations that challenge government policy. The Act does not change anything in the procedures applied to public funds distribution in the Act on Public Benefit and Volunteer Work of 2003. The National Institute of Freedom is obliged fully operate in accordance with all the regulations of the Act on Public Benefit and Volunteer Work regarding the procedure of open competition used so far for several years.

104. The Act on the National Institute of Freedom - Centre for the Development of Civil Society does not imply any exclusion but on the opposite, it ensures mutual respect, state neutrality and pluralism so essential to Polish historical identity. The National Institute of Freedom regulations provide equal access to public funds, assuring non-discriminatory criteria for found distribution. These criteria likewise all the programs implemented by the National Institute of Freedom are set in co-operation with representative and pluralistic spectrum of the non-governmental sector.

105. The Chairman of the Committee for Public Benefit becomes the administrator of the Civil Society Support and Development Fund, created on 1 April 2017 under the Act of 15 December 2016 amending the Act on Gambling Games and certain other Acts. The new created fund's revenue is 4% of the proceeds from the game subsidies. The Civil Society Support and Development Fund is used to implement support and development programs run by the National Institute of Freedom.

## **Ad Part IV Conclusions and recommendations**

106. Final report of the Special Rapporteur in many instances does not take into account the extensive documents provided (Answers to additional questions of the UN Special Rapporteur in the field of cultural rights with attachments 1. Information of the Minister of Culture and National Heritage on the Strategy and Changes Planned in the area of Culture and national heritage of 11 October 2016, 2. Expenditure on culture 2013-2019) which had been sent to her (upon her request) after the initial version of the report was drafted. The Special Rapporteur also repeats false information regarding the circumstances of the failed meeting with Prime Minister P. Gliński despite his letter of 23 January 2019, in which he explained that he was unable to meet on the proposed date due to lack of prior notification and insufficient time to adjust a schedule which is prepared many days in advance. Prime Minister P. Gliński expressed his readiness to meet and invited the Special Rapporteur to Poland.

107. Ministry of Culture's manifold actions already provide systemic support for persons with disabilities to access culture. There is still an array of actions to be taken on the local government level, so who should invite the Special Rapporteur to Poland and for what purpose?

108. The recommendation regarding artistic independence of directors of cultural institutions: Special Rapporteur's charges regarding independence of the directors of cultural institutions are vague and non-specific, which had been explained in the Ministry of Culture's comments to the respective paragraphs of the report. Directors of cultural institutions enjoy their autonomy in running the institutions; their artistic and scientific freedom is not a problem in Poland;

109. The recommendation to abolish “prior-censorship”: the charges of censorship, self-censorship or “prior-censorship” are formulated by the Special Rapporteur in a general

manner. There are no examples used and the explanations provided by the Ministry of Culture and National Heritage were not taken into consideration.

110. The core curriculum and school curriculum requiring compliance with it properly address equality / equality culture issues and equality.

111. The Ministry of Education is most concerned about providing students with reliable and comprehensive historical education, the purpose of which is to learn about the history of the Polish nation and key issues from universal history, and to shape:

- attitudes (patriotism, ties with the home country, civic awareness, respect and responsibility for its own state, building respect for other people and achievements of other nations);
- skills (independent search for knowledge and using various sources of information, formulation and expression of own opinions, critical analysis and assessment of information, understanding the complexity of historical processes, etc.).

112. An integral element of historical education of children and youth are:

- out-of-school forms of historical education, in particular trips to memorial sites and museums, and
- various forms of extracurricular historical education (trips, study stays, youth exchanges, projects, competitions, school academies, anniversary celebrations, historical reconstructions, multimedia museum exhibitions, etc.).

113. The history curriculum formulates the following learning objectives – general history requirements (in addition to historical chronology):

II. Historical analysis and interpretation. Pupil:

- (1) analyzes events, phenomena and historical processes in the context of epochs and recognizes the relationship between various areas of social life;
- (2) recognizes the types of sources, assesses the usefulness of the source to explain the historical problem;
- (3) recognizes the multitude of research perspectives and various interpretations of history and their causes;
- (4) strengthens the need to learn about the past for understanding contemporary social and cultural mechanisms.

III. Creating historical narrative. Pupil:

- (1) creates historical narrative in both cross-section and problem-related terms;
- (2) recognizes the problem and builds arguments, taking into account various aspects of the historical process;
- (3) selects and prioritizes as well as integrates information obtained from various sources of knowledge.

114. One of the key objectives of the current education reform was to restore compulsory historical education for all students in the form of a full history course in elementary and secondary education – with particular emphasis on the history of the nineteenth and twentieth centuries.

115. The new general education core curriculum has been implemented in primary schools since the 2017/2018 school year, in secondary schools – from the 2019/2020 school year. In accordance with the spiral (incremental) system of teaching content/educational requirements adopted in the new core curriculum, a 5-year history course in an 8-year primary school is repeated, consolidated and expanded in secondary schools.