

**Security Council**

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**Security Council Committee established pursuant to  
resolution [1718 \(2006\)](#)****Note verbale dated 19 March 2019 from the Permanent Mission of  
Poland to the United Nations addressed to the Chair of  
the Committee**

The Permanent Mission of the Republic of Poland to the United Nations in New York presents its compliments to the Chair of the Security Council Committee established pursuant to resolution [1718 \(2006\)](#) and has the honour to submit herewith the midterm report on measures undertaken by Poland to implement the provisions of Security Council resolution [2397 \(2017\)](#) (see annex).



**Annex to the note verbale dated 19 March 2019 from the Permanent Mission of Poland to the United Nations addressed to the Chair of the Committee**

**Report of Poland on the implementation of paragraph 8 of Security Council resolution [2397 \(2017\)](#)**

Pursuant to paragraph 8 of Security Council resolution [2397 \(2017\)](#) of 22 December 2017, Member States are required to repatriate to the Democratic People's Republic of Korea all nationals of the Democratic People's Republic of Korea earning income in the jurisdiction of States Members of the United Nations and all government safety oversight attachés of the Democratic People's Republic of Korea monitoring workers of the Democratic People's Republic of Korea abroad immediately, but no later than 24 months from the date of adoption of that resolution, unless the Member State in question determines that a national of the Democratic People's Republic of Korea is a national of that Member State or is a national of the Democratic People's Republic of Korea whose repatriation is prohibited, subject to applicable national and international law, including international refugee law and international human rights law, the United Nations Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations. In accordance with the decision of the Security Council in paragraph 8 of its resolution [2397 \(2017\)](#), all Member States shall provide a midterm report, by 15 months from the date of adoption of the resolution, on all nationals of the Democratic People's Republic of Korea earning income within their jurisdiction who were repatriated over the 12-month period starting from the date of adoption of the resolution, including an explanation of why less than half of such nationals were repatriated by the end of that 12-month period, if applicable, and all Member States shall provide final reports by 27 months from the date of adoption of the resolution.

**Common legislative framework**

Poland and the other Member States of the European Union have jointly implemented restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution [2397 \(2017\)](#). The system of sanctions imposed by the Council is implemented by the European Union (EU) in a uniform manner by adopting relevant legislation, such as decisions and regulations issued on the basis of article 29 of the Treaty on European Union and article 215 of the Treaty on the Functioning of the European Union, respectively. It should be noted that, from the legal perspective, "decision" defines the approach of the Union to a particular matter of a geographical or thematic nature and member States of the Union are required to ensure that their national policies conform to Union positions. The regulation has direct binding effect for all persons and entities, without the requirement that it be implemented in national legislation.

The common measures setting out the commitment of the European Union to the implementation of the measures set out in paragraph 8 of Security Council resolution [2397 \(2017\)](#) are provided for in the Council Decision (CFSP) 2018/293 of 26 February 2018 amending Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea.

In order to enshrine the restriction as provided for in paragraph 8 of Security Council resolution [2397 \(2017\)](#), article 26a of Council Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea was amended by Council Decision (CFSP) 2018/293 by the insertion of a paragraph 5, setting forth the requirement that member States of the European Union shall

repatriate nationals of the Democratic People's Republic of Korea immediately, but no later than 21 December 2019. This requirement does not apply to cases where a member State of the European Union determines that a national of the Democratic People's Republic of Korea is a national of a member State or a national of the Democratic People's Republic of Korea whose repatriation is prohibited, subject to applicable national and international law, including international refugee law and international human rights law, as well as the United Nations Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations.

### **National measures**

As has been indicated, the Council decision specifies the approach of the European Union to a specific issue, whereas member States are obliged to ensure that their national policies are in line with the positions of the Union. Therefore, States are given latitude to adopt adequate national measures to ensure full implementation of international obligations.

To meet the requirements deriving from paragraph 8 of Security Council resolution [2397 \(2017\)](#), the national legislative framework has been amended accordingly. What is more, inter-agency meetings to address the issues related to the activities of the Democratic People's Republic of Korea took place on a regular basis; in 2018 meetings were specifically aimed at discussing the state of play and progress in the application of measures undertaken to meet the requirements of paragraph 8 of resolution [2397 \(2017\)](#).

The amended Act on Foreigners (Official Journal of Laws 2018, item 2094), lays down rules and conditions for the entry of foreigners into the territory of the Republic of Poland, their passage through that territory, their stay in and departure from it, relevant procedures and competent authorities.

The Act on Foreigners explicitly provides in article 100, paragraph 1, point 4, that a temporary residence permit shall be refused if it is justified by the defence or the security of the state or the protection of security and public order or obligations arising from the provisions of ratified international agreements applicable to the Republic of Poland. The inserted amendment, which entered into force on 12 February 2018, specifies the prerequisites for refusal to grant a temporary residence permit. Moreover, article 101, point 3, of the Act on Foreigners directly refers to enumerated categories that constitute the legal ground for the withdrawal of a temporary residence permit granted to a foreigner. One of the statutory prerequisites is the aforesaid criteria, as stipulated in article 100, paragraph 1, point 4, such as obligations arising from the provisions of the ratified international agreements applicable to the Republic of Poland. Consequently, as a result of either a negative decision on the granting a temporary residence permit or a decision on the withdrawal of a temporary residence permit granted to a foreigner, a foreigner concerned will be required by virtue of law to leave the territory of Poland within 30 days. Should this requirement be breached in any way, the Border Guard shall instigate relevant proceedings in accordance with statutory provisions.

The Act on Foreigners also provides, in section II, rules on the register of foreigners whose stay in the territory of the Republic of Poland is undesirable, enumerating circumstances when the foreigner's data are entered and kept in the register. One of the mandatory prerequisites for the insertion of the data of specific foreigners into the register is when the entry or stay of a foreigner in the territory of the Republic of Poland is undesirable due to obligations resulting from the provisions of the ratified international agreements binding on the Republic of Poland. There is also a mandatory prerequisite to insert data of a specific foreigner when the entry or

stay of such a foreigner in the territory of the Republic of Poland is undesirable due to the reasons of state defence or security or the protection of public safety and order or the interest of the Republic of Poland. The said measures have been adequately applied by competent authorities on a case-by-case basis, in order to enhance the existing legal framework in terms of paragraph 8 of Security Council resolution [2397 \(2017\)](#).

Additionally, taking into account the wording of resolution [2397 \(2017\)](#), as well as national legislation indicated above, in January 2018 the Ministry of Foreign Affairs decided to inform all companies employing nationals of the Democratic People's Republic of Korea of these international obligations and national legal provisions. It was explicitly underlined that an economic activity cannot be based on a workforce from the Democratic People's Republic of Korea and that companies should therefore in due time terminate existing contracts and cease any business relations with companies offering the work services of nationals of the Democratic People's Republic of Korea.

According to data provided by competent authorities such as the Border Guard and the Office for Foreigners with regard to the number of workers of the Democratic People's Republic of Korea at the time of the adoption of resolution [2397 \(2017\)](#) in December 2017, there were no more than 451 citizens of the Democratic People's Republic of Korea whose purpose of stay in Poland was to perform work. The number of 445 citizens of the Democratic People's Republic of Korea, as provided in the previous report ([S/AC.49/2018/44](#)), should therefore be corrected.

As stated by the Border Guard, as of 22 December 2018, 12 months after the adoption of the resolution, there were no more than 37 nationals of the Democratic People's Republic of Korea to which paragraph 8 of resolution [2397 \(2017\)](#) pertains. However, the Border Guard does not rule out that some of those nationals may have already left the territory of Poland, crossing the external border of the European Union outside Poland. This shows that we have already reduced the number of citizens of the Democratic People's Republic of Korea in Poland by 90 per cent. We will continue to strive to ensure that an effective implementation of the provisions of resolution [2397 \(2017\)](#) takes into account the humanitarian aspect and the human rights of nationals of the Democratic People's Republic of Korea.

Considering the robust legal framework as indicated above, supported by relevant guidelines submitted to the competent voivodeships, we firmly believe that Poland will meet the obligation to repatriate nationals of the Democratic People's Republic of Korea within the time frame required by the Security Council in its resolution [2397 \(2017\)](#).

We would also like to assure you that, considering the gravity of violation of international obligations by the Democratic People's Republic of Korea, all issues pertinent to activities of the Democratic People's Republic of Korea are given the highest consideration and are subject to enhanced vigilance by the competent authorities.

Taking into consideration above-mentioned, we firmly believe that Poland acts fully in line with its international obligations.