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**Promotion et protection de tous les droits de l'homme,
civils, politiques, économiques, sociaux et culturels,
y compris le droit au développement**

Visite en Pologne

Rapport de l'Expert indépendant chargé de la question de la protection contre la violence et la discrimination liées à l'orientation sexuelle et à l'identité de genre, Graeme Reid*

Résumé

Dans le présent rapport, l'Expert indépendant chargé de la question de la protection contre la violence et la discrimination liées à l'orientation sexuelle et à l'identité de genre, Graeme Reid, fait part des conclusions tirées de la visite qu'il a effectuée en Pologne du 18 au 29 novembre 2024. S'appuyant sur les informations recueillies avant, pendant et après cette visite, il évalue le degré d'application des normes nationales et internationales relatives aux droits de l'homme visant à lutter contre la violence et la discrimination fondées sur l'orientation sexuelle et l'identité de genre. Il procède à une analyse complète de la situation des droits humains des personnes lesbiennes, gays, bisexuelles et transgenres et des personnes de genre variant en Pologne, mettant en évidence à la fois les bonnes pratiques et les difficultés persistantes. Il formule en outre des recommandations visant à renforcer la protection contre la violence et la discrimination fondées sur les motifs susmentionnés.

* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original seulement.



Annexe

Rapport de l'Expert indépendant chargé de la question de la protection contre la violence et la discrimination liées à l'orientation sexuelle et à l'identité de genre, Graeme Reid, sur sa visite en Pologne

I. Introduction

A. Visit

1. The Human Rights Council established the mandate of Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity in its resolution 32/2, and subsequently extended it in its resolutions 41/18 and 50/10. The mandate reflects the Council's recognition that, in all regions, violence and discrimination based on sexual orientation and gender identity are pervasive and systemic, yet remain insufficiently addressed. Country visits serve to identify and assess good practices and protection gaps and to provide States with recommendations to prevent and remedy patterns of violence and discrimination.

2. At the invitation of the Government, the Independent Expert, Graeme Reid, undertook a visit to Poland from 18 to 29 November 2024. The visit was aimed at assessing the implementation of national and international human rights standards concerning protection against violence and discrimination based on sexual orientation and gender identity.

3. In 2022, Poland accepted the recommendation from Uruguay during its universal periodic review to consider inviting the Independent Expert "to visit the country, in order to have timely technical advice to strengthen national policies and counter disinformation".¹

4. During the visit, the Independent Expert spent time in Warsaw, where meetings were held with State officials and national equality bodies, as well as in Krakow, Lublin, Wrocław and Poznań, where he engaged with municipal and regional authorities – except in Lublin, where regional authorities were unavailable. In total, the Independent Expert met with 130 individuals (53 civil society representatives, 45 representatives of central-level authorities, 30 regional and municipal officials and 2 representatives of the national human rights institution).

5. The Independent Expert expresses his appreciation to the Government of Poland for its invitation and for the high level of cooperation in the preparation and conduct of the visit. A visit of this nature requires significant coordination, and the Independent Expert is particularly grateful to the Ministry of Foreign Affairs for organizing State engagement at the national, regional and municipal levels. Appreciation is also extended to the many officials who dedicated their time and expertise, engaging candidly on substantive issues related to sexual orientation and gender identity.

6. The Independent Expert met with numerous lesbian, gay, bisexual, transgender and other gender-diverse (LGBT) individuals² and civil society representatives, including women's rights advocates, who shared detailed insights on recent developments, the current situation and prospects for rights protections in Poland. Experts also provided background and contextualized the situation within broader political and regional dynamics.

7. The Independent Expert expresses gratitude to representatives of the Office of the United Nations High Commissioner for Refugees in Poland for their hospitality, practical assistance and engagement, as well as for their contributions within their respective areas of expertise on issues falling within the Office's mandate.

¹ [A/HRC/52/15](#), para. 114.23.

² Throughout the present report, the acronym "LGBT" should be read as inclusive of all gender-diverse persons.

B. Context and background

8. The Independent Expert visited Poland during a period of significant transition. Following eight years of rule by the United Right coalition led by the Law and Justice Party (PiS) (2015–2023) – which was marked by high-profile anti-LGBT rhetoric and a decline in democratic standards that distanced Poland from European Union norms – three opposition parties won 54 per cent of the vote and formed a coalition Government. The new administration has pledged to restore democratic standards, address protection gaps and align national legislation with international human rights norms.

9. Between 2015 and 2023, without sufficient legal protections, LGBT individuals were exposed to harmful State-sponsored rhetoric that fostered an environment in which discrimination and even violence thrived. LGBT people also faced restrictions on freedoms of expression, peaceful assembly and association. In a context in which scapegoating and inadequate legal safeguards rendered LGBT people vulnerable to human rights abuses, the Independent Expert examines, in the present report, both the symbolic and the practical dimensions of LGBT individuals' experiences in their pursuit of freedom from violence and discrimination. He highlights the measures taken by authorities to support this goal and offers recommendations for further progress.

10. The current coalition Government's reform efforts face both inherited and ongoing political obstacles. The coalition includes socially conservative members with differing views on the nature and pace of legal reforms, requiring compromises on the timing and content of bills aimed at reducing discrimination and advancing equality based on sexual orientation and gender identity, such as the civil union bill, expanded provisions on hate crime and provisions on legal gender recognition. However, many civil society representatives expressed disappointment and frustration at the slow pace of change.

11. The President, from the PiS party – which made open hostility towards the rights of LGBT people a pillar of its tenure – holds veto power, further limiting progress. Moreover, the previous Government's undermining of the rule of law, including ignoring Constitutional Tribunal rulings and unlawfully appointing judges, has left key institutions politicized. As a result, legal reforms are constrained by an opposition-aligned President, a politicized Constitutional Tribunal and internal divisions within the coalition.

12. Notwithstanding these constraints, the Government has made a decisive break with the past. Hostile rhetoric from State-aligned media has come to an end, "LGBT ideology-free zones" have been rescinded, a civil union bill has been drafted and the expansion of hate crime laws is under way. Beyond legislation, practical measures have been advanced, including ensuring safe housing and healthcare for transgender prisoners, fast-tracking legal gender-recognition cases, updating school curricula to strengthen education on gender, sexuality and non-discrimination, taking steps to tackle bullying in schools and improving data collection on hate crimes based on sexual orientation and gender identity. Some local authorities support equality marches and have developed innovative programmes to remove offensive graffiti through a restorative justice programme.

13. While in Government, PiS passed media laws allowing it to replace public media leadership and create the National Media Council, which it staffed with political appointees. This undermined media independence and fuelled State-sponsored anti-LGBT rhetoric. In December 2023, the Ministry of Justice publicly apologized to LGBT people for past mistreatment by State actors and media. Interviewees described this as a turning point, marking a decline in inflammatory discourse, improved civil society access to officials and the prospect of legislative reform. Recent surveys also show a notable shift in public attitudes on social issues, including LGBT rights.

14. Despite a shift away from hostile rhetoric by State authorities, Poland still lags in legal protections for LGBT people. It ranks last in the European Union and 41st out of 45 in Europe, according to the annual report on human rights of the annual report of the European Region of the International Lesbian and Gay Association.³ Public officials at the national and

³ See <https://rainbowmap.ilga-europe.org/countries/poland/>.

local levels cited these rankings in meetings with the Independent Expert, highlighting the issue's prominence within government and local communities.

15. Although accurate comparative data beyond Europe are difficult to obtain, Equaldex provides a comparative ranking based on crowdsourced data compiled into a knowledge base, considering both legal frameworks and public attitudes. Poland ranked 50 out of 100 (average of the two scores, 45 and 55 respectively); and 68 out of all countries surveyed.⁴

16. A 2023 survey by the Agency for Fundamental Rights of the European Union indicated ongoing experiences of discrimination based on sexual orientation and gender identity in various spheres in Poland.⁵

17. As interlocutors noted, resistance often emerges in response to opposition, and the LGBT movement in Poland grew in resilience and prominence during the period marked by sustained hostility from both State and non-State actors, including public media. During the visit, civil society representatives frequently cited the rise of "LGBT ideology-free zones" and a statement made by the President during the 2020 presidential campaign, which framed LGBT persons as "an ideology," as defining moments of that era.

18. During this time, nearly 100 local councils adopted resolutions declaring their jurisdictions "LGBT ideology-free zones". While lacking legal effect, these declarations carried a powerful symbolic weight, signalling to LGBT persons that they were unwelcome in their own communities. One individual in Kraków described the resolutions as "a formal call to informal discrimination". Some local authorities adopted "family rights charters" with exclusionary provisions, including limiting access to municipal funding for LGBT organizations or initiatives focused on the protection of LGBT human rights.

19. In response, the national human rights institution, the Commissioner for Human Rights, alongside grass-roots activists and international pressure – including the threat of European Union funding cuts – challenged the "LGBT ideology" resolutions, leading to their eventual repeal. The Commissioner has also requested local authorities in Odrzywół, Dębica, and Łańcut to eliminate discriminatory provisions from the "family rights charters". In March 2025, the District Governor of Łańcut shared an updated wording of the charter, which is currently under review by the Commissioner. However, the legacy of this period endures, with lasting symbolic and practical consequences, including ongoing mental health impacts on those who experienced the effects of such institutionalized marginalization.

20. In Poland, where until 1989 a socialist system based on communist ideology was in place, the term "ideology" carries particularly negative connotations, a sentiment reinforced in public discourse by senior officials who equated "LGBT ideology" with communism and Nazism. This framing served to further marginalize LGBT persons and delegitimize their claims to equal rights. Despite this hostile environment at the national and regional levels, some cities emerged as strongholds of resistance, providing a counterbalance to State-sponsored hostility and offering spaces of protection and support for LGBT communities.

21. During this period, several peaceful demonstrations encountered significant obstacles and inconsistent police protection.⁶ Organizers of LGBT equality marches faced additional challenges, including requirements that lacked a clear legal basis. For example, in Częstochowa, municipal authorities deemed a standard event notification insufficient and instead required organizers to submit an application for special road usage – a requirement not ordinarily imposed on other demonstrations. Furthermore, in 2018 and 2019, arbitrary and discriminatory preventive bans were imposed on equality marches in several cities, including Gniezno (2019), Gorzów Wielkopolski (2019), Kielce (2019), Lublin (2018 and 2019), Nowy Sącz (2019) and Rzeszów (2019).⁷

22. In 2019, three activists were charged with offending religious beliefs for distributing posters and stickers depicting the Virgin Mary with a rainbow halo. They were acquitted by

⁴ See <https://www.equaldex.com/region/poland>.

⁵ See https://fra.europa.eu/sites/default/files/fra_uploads/lgbtiq_survey-2024-country_sheet-poland.pdf.

⁶ See <https://www.amnesty.org.pl/wp-content/uploads/2020/11/Zgromadzenia-ENG.pdf>.

⁷ Submission from Amnesty International Poland.

the Płock Regional Court in January 2022, but the prosecutor appealed. On 28 March 2024, the Supreme Court dismissed the appeal, ruling that the activists had not offended religious beliefs.

23. LGBT human rights defenders have consistently faced legal actions. In January 2022, during a trial involving an activist who had been arbitrarily detained for 24 hours after the so-called Rainbow Night protest in 2020, the arresting officer admitted that officers had been instructed to stop all persons displaying the colours of LGBT, regardless of how they behaved.⁸

24. It was encouraging that interviewees spoke of this period in the past tense. However, the lasting effects of years of hostile rhetoric and discriminatory practices remain evident, underscoring the urgent need for robust legal protections against discrimination and violence to prevent their recurrence.

25. This moment presents a critical opportunity shaped by political and geopolitical realities. Poland faces significant security concerns following the full-scale invasion of Ukraine by the Russian Federation and is hosting large numbers of refugees from Belarus and Ukraine, including many LGBT persons. Meanwhile, the ruling coalition – comprising the Civic Coalition (Koalicja Obywatelska), the Third Way (Trzecia Droga) and the Left (Nowa Lewica) – encompasses a range of perspectives on social issues, including issues related to sexual orientation and gender identity. Presidential elections are due to be held in May 2025. Against this backdrop, the Government has the responsibility to ensure that Poland upholds its human rights obligations.

26. In the fourth cycle of the universal periodic review, Poland received some 21 recommendations from States suggesting that it consider enhancing protections against discrimination and violence based on sexual orientation and gender identity, of which it rejected 12 and “noted” 7, without commitment, while accepting only 2. This is not surprising as, in that same year, the Independent Expert and the Special Rapporteur on the situation of human rights defenders reported that LGBT human rights defenders in Poland faced regular physical attacks, arbitrary arrests, detentions and intense smear campaigns. “We deserve to be listened to”, said Polish human rights defender Bart Staszewski at that time. Mr. Staszewski had faced multiple court cases and official smear campaigns for leading an art project that highlighted the creation of “LGBT ideology-free zones” in Poland.⁹ A case against him in Zakrzówek was dismissed by the Lublin Court of Appeal in December 2024; another case, in Tuszów Narodowy, is ongoing and is scheduled to be heard by the Court of Appeal in Rzeszów in 2025.¹⁰ Activists behind the interactive map “Atlas of Hatred” have been targeted with strategic lawsuits against public participation by the Government.¹¹

27. While noting the information provided by the State party regarding the constitutional guarantee of non-discrimination on any ground, the Committee on Economic, Social and Cultural Rights, in its concluding observations on the seventh periodic report of Poland, in 2024, noted that it remained concerned about “the absence of comprehensive anti-discrimination legislation, the fact that legislation on hate crimes and incitement to hatred does not specifically mention sexual orientation and/or gender identity and the lack of legal recognition of same-sex couples”.¹²

28. As a measure of progress, it is apt to refer to observations from a 2018 visit undertaken by the Special Rapporteur in the field of cultural rights: “The Special Rapporteur remains concerned about the lack of specific legal protection for lesbian, gay, bisexual and transgender persons under Polish law, a gap that must be filled promptly. There are no specific policies and standards ensuring equal treatment and safety of lesbian, gay, bisexual and transgender persons in schools Many schools have denied the existence of lesbian, gay, bisexual and transgender students, who report experiencing homophobic behaviour not only from other students but also from teachers and educators, and in particular in the context

⁸ Ibid.

⁹ See <https://www.ohchr.org/en/statements/2022/03/defenders-human-rights-lgbt-persons-constantly-risk-warn-un-experts>.

¹⁰ Case No. X1.564.18.2020.AS.

¹¹ See <https://srdefenders.org/poland-atlas-of-hate-battling-multiple-legal-cases-joint-communication/>.

¹² E/C.12/POL/CO/7, para. 22.

of religion classes. ... There are also no laws specifically prohibiting homophobic hate speech or hate crimes. Acts of hate and hate speech against lesbian, gay, bisexual and transgender persons and their cultural events continue. Sometimes the hate speech emanates from those in official positions, which is especially worrying.” The Special Rapporteur recommended that Poland review the legal framework so as to enable same-sex couples to enter into civil unions and enjoy equality.¹³

29. Notably, steps have been taken towards improving the legal and policy frameworks pertaining to civil unions and explicit protection against hate crimes and hate speech, as well as improved sexuality education in schools. Some interim remedial actions have been taken to mitigate the most egregious aspects of the current legal gender-recognition process. To date, only the Labour Code contains an explicit provision against discrimination based on sexual orientation.

II. Legal, institutional and public policy framework

A. Legal framework

30. Since regaining independence in 1918, Poland has not criminalized consensual same-sex conduct. However, during the German occupation in the Second World War, German law – which did criminalize such conduct – was enforced. Between 1985 and 1987, the communist Government initiated “Operation Hiacynt” through the Security Service of the Ministry of Internal Affairs. Under this surveillance programme, a database was compiled of approximately 11,000 persons known to be or suspected of being homosexual, leaving them vulnerable to blackmail and other forms of targeting.

31. The Labour Code (arts. 11-3 and 18-3 (a), as amended in 2003) prohibits both direct and indirect discrimination based on sexual orientation in employment. Moreover, article 94 (2) (b) mandates that employers actively prevent such discrimination. The Act on Equal Treatment (2010) reinforces these protections by extending the prohibition to discrimination in accessing labour market services. In 2023, the Court of Justice of the European Union confirmed that freelance workers were also covered under European Union law against employment discrimination based on sexual orientation.¹⁴

32. Polish law does not impose enhanced penalties for crimes motivated by discrimination on the basis of sexual orientation or gender identity, nor does it explicitly classify such offences as hate crimes. Currently, the Penal Code mandates imprisonment from three months to five years for violence or threats based on a person’s national, ethnic, racial, political or religious affiliation (or irreligiousness) and up to three years for public insults or violations of bodily integrity on those grounds. In November 2024, the Council of Ministers adopted a draft bill amending the Penal Code to extend legal protections against hate crimes to include the grounds of disability, age, sex and sexual orientation.

33. As of April 2025, Poland does not legally recognize same-sex marriages or civil unions. Article 18 of the Constitution defines marriage as a union between a man and a woman, effectively barring same-sex marriages. In the cases of *Przybyszewska and Others v. Poland*¹⁵ and *Szypuła v. Poland*, examined jointly with *Urbanik & Alonso Rodriguez v. Poland*,¹⁶ the European Court of Human Rights ruled that Poland had violated article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), which guarantees the right to private and family life. In *Formela and Others v. Poland*,¹⁷ the Court reaffirmed the obligation of Poland to legalize same-sex unions through legislative reform. It found that by refusing to register same-sex marriages conducted abroad or to provide a legal framework for recognition and protection, Polish authorities left same-sex couples in legal limbo and failed to meet their core needs. In

¹³ A/HRC/43/50/Add.1, paras. 69, 70 and 93 (f).

¹⁴ *J.K. v. TP S.A.*, Case No. C-356/21, Judgment, 12 January 2023.

¹⁵ Application No. 11454/17, Judgment, 12 December 2023.

¹⁶ Applications No. 78030/14 and No. 23669/16, Judgment, 27 February 2025.

¹⁷ Application No. 58828/12, Judgment, 19 September 2024.

October 2024, the Government proposed a draft law to legalize civil partnerships for same-sex couples, granting rights such as inheritance and access to medical information. The bill still needs to be approved by the parliament and signed by the President.

34. A law regulating legal gender recognition was passed shortly before parliamentary elections in 2015 but was vetoed by the President. Currently, legal gender recognition requires initiating an “assessment suit”, a legal process involving several proceedings with applicants and their families. During the process, applicants must file a lawsuit against their parents and, if applicable, their spouses and children. The procedure originates from a Supreme Court decision of 22 March 1991, in which the court defined gender identity as a personal good under article 23 of the Code of Civil Procedure and permitted lawsuits under article 189. A subsequent ruling in September 1995 designated the applicant’s parents or guardians as the proper defendants, and further Supreme Court decisions in 2013 and 2019 confirmed the process. In addition, applicants may need to complete a “real-life test”, publicly living as their identified gender for about two years, usually without medical intervention, before their gender can be legally amended. In March 2025, the Supreme Court of Poland issued a decision that may simplify the legal gender recognition process for transgender individuals. The ruling removed the requirement to involve parents in such proceedings, allowing individuals to directly petition the court to amend their gender designation on birth certificates in non-contentious proceedings.

B. Institutional framework

35. The Commissioner for Human Rights is responsible for safeguarding civil rights and liberties. Its mandate includes overseeing the implementation of equal treatment principles, fighting discrimination against women and LGBT persons and promoting measures to combat violence and discrimination. The Commissioner conducts research, surveys and awareness-raising activities and provides recommendations to policymakers. Its independent oversight of government actions and participation in international human rights processes adds significant value.

36. The Commissioner handles complaints from individuals, may initiate legal actions to address breaches and provides opinions to guide legislative and legal interpretations of civil rights. Appointed by parliament for a five-year term, the Commissioner’s work encompasses various areas, including employment, education, housing, social protection, healthcare and addressing hate crimes. It also monitors hate speech, violence against women and other related issues. The Commissioner is a multi-mandate body that serves as the national human rights institution, the office of the ombudsperson and the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

C. Public policy framework

37. The only nationwide, government-supported anti-discrimination policy in Poland is the National Programme for Equal Treatment 2022–2030, adopted in 2022. While still in effect, the programme lacks specific measures to address discrimination based on sexual orientation and gender identity. It contains eight priorities – including anti-discrimination, employment, education, health, awareness-building and data collection – but, to date, dedicated funding is rarely allocated under it, and it contains only a brief mention of workplace discrimination based on sexual orientation. Other forms of discrimination based on sexual orientation and gender identity remain largely unaddressed, and the programme has yet to be updated by the new Government.

D. Data

38. On 26 November 2024, the Council of Ministers approved draft amendments to the Penal Code to expand the list of discriminatory grounds to include disability, age, sex and sexual orientation. This would help address the existing protection gap, and likely improve

the currently limited official data collection in relation to hate crimes based on sexual orientation or gender identity. In addition to a change in the Penal Code, public awareness campaigns and ongoing training for law enforcement officials would facilitate more accurate data collection by raising awareness about hate crimes based on sexual orientation and gender identity, encouraging victims to report and ensuring that victims receive an informed reception from law enforcement officials. As things stand, due to insufficient legal protection, the burden of data collection rests mainly on academia and civil society organizations.

39. Similarly, while legal protection against discrimination in the workplace is enshrined in law, there is a gap between civil society reports on discrimination in employment and official statistics, which suggest that little to no discrimination occurs at work or during the recruitment process.

40. Accurate data are also unavailable in other areas, such as education. The Educational Information System does not collect data on violence, discrimination or abuse in education based on sexual orientation or gender identity. It also does not record hate crimes or prejudice-driven incidents that affect LGBT persons.

E. Safety and security

41. The draft amendments to the Penal Code (see para. 38 above) are aimed at expanding legal protections against hate crimes to include disability, age, sex¹⁸ and sexual orientation. Given the recent history of anti-LGBT rhetoric, the draft bill would also expand hate speech provisions while ensuring respect for freedom of expression. The bill passed the parliament in March 2025 and awaits debate in the Senate.¹⁹ A police human rights adviser, in a meeting with the Independent Expert, put it simply: “Once the criminal code is updated, then bias-motivated crimes can be written down and recorded as such.”

42. A point of contention is the exclusion of explicit reference to “gender identity” from the revisions, raising concerns that transgender individuals – who frequently face hate crimes – may not receive adequate protection. However, the Ministry of Justice asserts that the draft bill offers broad safeguards under the category of “sex”, which, it argues, implicitly includes gender identity. The Minister of Justice is working to ensure that the bill’s accompanying memorandum explicitly clarifies that “sex” should be read to include “gender identity”.

43. While the amended law would be an important step forward, it would not be a panacea without adequate training, public awareness and effective enforcement. Nonetheless, the absence of explicit provisions should not prevent authorities from addressing hate crime and hate speech. Several initiatives are already under way, notwithstanding the lag in lawmaking, including in data collection, training and public awareness.

44. Officials who met with the Independent Expert emphasized a focus on preventive measures to combat hate speech, including public engagement and awareness campaigns, which are supported and subsidized at the local level.

45. In the report on her visit to Poland in 2023, the Special Rapporteur on violence against women and girls, its causes and consequences, noted that: “Women and girls that are lesbian, bisexual, transgender or intersex face multiple and intersecting forms of discrimination. Reports of harassment, workplace retaliation, discrimination and bullying on the grounds of sexual orientation are of concern, as are reports of technology-facilitated violence. The absence of legal standards recognizing sexual orientation and gender identity and the fact that these grounds are not recognized as grounds of discrimination means that victims do not feel safe reporting violence.”²⁰

46. Notably, even before the draft bill expanding hate speech and hate crime provisions was adopted, some local authorities took proactive steps to address offensive public speech. In Wrocław, a unique programme uses community involvement and restorative justice to

¹⁸ The same word is used in Polish (płeć) for both “sex” and “gender”; however, it encompasses both biological and social dimensions.

¹⁹ See <https://www.sejm.gov.pl/sejm10.nsf/PrzebiegProc.xsp?nr=876>.

²⁰ A/HRC/56/48/Add.1, para. 35.

remove offensive graffiti. Residents report graffiti by submitting photos, and individuals performing community service are responsible for its removal. “Our goal is to make people really react, and to see that their reaction has consequences and results in change”, said a spokesperson for the Wrocław Office for Equality Policy.

47. Official statistics indicate that hate crimes based on sexual orientation and gender identity are rare in Poland. The collection of data disaggregated by sexual orientation and gender identity started in 2022, and the Ministry of the Interior and Administration recorded only 11 such cases in that year. Civil society organizations, using different criteria, reported 47 incidents to the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe during the same period. In 2023, only two cases were reported.

48. Written submissions²¹ received ahead of the Independent Expert’s visit suggest that the low official figures do not accurately reflect the lived experiences of LGBT persons, as documented by civil society organizations, human rights institutions and academic research centres.²² A 2023 survey by the Agency for Fundamental Rights of the European Union found that 16 per cent of LGBT respondents in Poland had experienced physical or sexual violence in the preceding five years – one of the highest rates among the European Union countries surveyed. Almost half of the respondents (49 per cent) declared that they had experienced violence more than once.²³ While violence against LGBT persons in Poland is neither systemic nor ubiquitous and varies by region, the discrepancies between official statistics and civil society reports highlight persistent challenges in recognizing, reporting and effectively addressing such incidents. To put this into perspective, a police representative said that out of about 700,000 crimes per year, fewer than 1,000 were classified as hate crimes.

49. The police representative attributed the data gap to the fact that “sexual orientation” was not recognized as a protected status under the relevant articles of the Penal Code.²⁴ Authorities acknowledge the issue of underreporting. A police spokesperson stated: “We have been looking also at the social situation, and there is this ‘grey area’ where the crimes are not reported. And as the police, we are doing our utmost to address this grey area and make sure these crimes are reported as much as possible.” A 2017 study by the Commissioner for Human Rights found that low reporting rates stemmed from fear of further discrimination and distrust in law enforcement. Moreover, seeking legal redress is often costly and complex: since hate crime laws lack explicit protections for LGBT individuals, they must file private complaints and bear the expenses themselves.

50. In 2022, the Minister of the Interior and Administration appointed an Inspector of the Central Cybercrime Bureau.²⁵ The Bureau was established within the structure of the National Police Headquarters. It is an independent organizational unit reporting to the Chief of Police. Its mandate is to identify, prevent and investigate crimes committed by means of information and telecommunications systems, including hate crimes. The mandate covers cybercrime directed against individuals based on sexual orientation and gender identity.

51. Authorities who met with the Independent Expert emphasized a focus on preventive measures to combat hate speech, including public engagement and awareness campaigns, which are supported and subsidized at the local level. “Preventive action is very important. Currently we are working on the next episode of a government programme, called ‘Safer Together’, and one of the objectives is to combat hate speech”, said a representative from the Department for Public Order. While legislative reforms are still under discussion, these localized initiatives demonstrate that innovative and creative approaches can help address

²¹ Submissions from Campaign Against Homophobia; Helsinki Foundation for Human Rights; Lambda Warsaw Association; Love Does Not Exclude Association; niebinarnosc.pl; Our Group Of Perpetual Help (Grupa Nieustającej Pomocy); Save the Children and Queer Without Borders; Trans-Fuzja Foundation; tranzycja.pl; and Równość.org.pl.

²² See <https://le.ac.uk/-/media/uol/docs/research-centres/hate-studies/research-reports/hatecrime-report-poland.pdf>.

²³ See <https://fra.europa.eu/en/publications-and-resources/data-and-maps/2024/eu-lgbtiq-survey-iii#>.

²⁴ Penal Code (1997), arts. 119 (1), 256 (1) and (2) and 257.

²⁵ See <https://www.gov.pl/web/primeminister/prime-minister-we-are-establishing-a-dedicated-service-to-counteract-cyber-threats--the-central-cybercrime-bureau>.

hate speech and promote inclusivity. The Central Cybercrime Bureau was established to recognize, prevent and combat crimes committed using an information technology system or information and communications technology system or network, as well as to detect and prosecute the perpetrators of these crimes, including hate crimes.

52. Police representatives acknowledged internal challenges, noting that initiatives introduced at higher levels did not always lead to concrete action by front-line officers.

F. Partnership recognition and family

53. Same-sex partnerships remain unrecognized under Polish law, and marriages or civil unions conducted abroad are neither registered nor acknowledged. This legal vacuum has left same-sex couples without essential rights and protections. However, three recent rulings from the European Court of Human Rights (see para. 33 above) have increased momentum for legislative change.

54. The Minister of Equality has drafted a civil union bill that has received extensive public comment. According to the Department for Equal Treatment of the Chancellery of the Prime Minister, the bill requires extensive legislative alignment, affecting approximately 243 related laws. It is aimed at regulating key legal matters such as inheritance, taxation, visitation rights and access to a partner's health information. However, it does not permit joint adoption, offers only limited recognition of shared parental responsibilities and provides no legal protection for a non-biological parent in a same-sex couple where one partner is the biological parent. Civil unions would be available to both same-sex and opposite-sex couples and, while registration may be followed by a ceremony, it is neither routine nor required.

55. Civil society groups acknowledged the proposed legislation as groundbreaking, though still falling short of full equality. Opinion polls indicate strong public support for civil unions and protections for children in same-sex families. The real-life consequences of inadequate legal protections were highlighted by a civil society legal officer, who cited the case of a lesbian couple raising an 8-year-old boy. When the couple separated, the non-biological mother lost access to her son, despite holding power of attorney – the only legal safeguard available to her.

56. According to the Campaign Against Homophobia, an estimated 50,000 children in Poland have same-sex parents. Same-sex couples with children born abroad face additional challenges in transcribing birth certificates, confirming citizenship and obtaining identity documents. Polish law does not recognize both parents in a same-sex couple, creating bureaucratic obstacles when a foreign birth certificate lists both parents. In *Rzecznik Praw Obywatelskich v. K.S. and Others*, the Court of Justice of the European Union ruled that Poland must issue a passport to a child with two mothers, one of whom was Polish, despite national law failing to recognize both as parents.²⁶ To comply with European Union regulations and ensure that minor Polish citizens born abroad can travel with either parent, the Human Rights Commissioner recommended processing applications using only one parent's data to remove unnecessary bureaucratic barriers to obtaining essential documents.

G. Legal gender recognition

57. The legal process for legally changing gender on official documents is outlined above (see para. 34). The process also includes extensive medical evaluations – both psychological and physical. Many courts require a medical opinion from a court-appointed expert, in addition to documentation from private medical practitioners. This has resulted in ad hoc strategies and piecemeal approaches, with transgender individuals seeking out courts where judges are known to be more knowledgeable and sympathetic.

58. The Independent Expert heard from transgender individuals, mothers of transgender children and a lawyer representing several transgender clients seeking legal gender recognition. Those with firsthand experience described the process as protracted, costly and

²⁶ Case No. C-2/21, Judgment, 24 June 2022.

undignified. When parents are supportive, it is humiliating for children to sue their own parents; when parents are unsupportive, the procedure also becomes legally complex and emotionally taxing.

59. One particularly troubling account came from a transgender woman who recounted: “I had to sue my own dad, but my mother had passed away. Instead of involving just my father, the court appointed a guardian to represent my deceased mother.”

60. According to one lawyer, the shortest legal gender-recognition case that she had handled had taken three weeks, while the longest, in which the parents had opposed the process, had lasted five years.

61. To mitigate delays, the Minister of Justice has taken steps to ensure that legal gender-recognition cases are marked as urgent and prioritized in court scheduling.

62. In 2024, the Commissioner for Human Rights published a guidebook to legal gender reassignment proceedings. The guidebook serves as a resource, compiling case law and practical guidance on the gender reassignment procedure under current legislation. In the guidebook, the Commissioner recommends more sensitive court procedures that consider the parent-child relationship and outlines legal proceedings for changing gender assigned at birth, addressing both transgender and intersex individuals. Between 2021 and 2024, the Commissioner received 19 individual complaints related to legal gender recognition proceedings, intervened in five judicial cases and filed one extraordinary complaint on behalf of a plaintiff.

63. While these measures provide some relief, they remain temporary solutions to a fundamental legislative gap. A comprehensive legal framework is needed to establish an efficient, accessible and affordable process that respects privacy and dignity. As one transgender individual put it: “We need a new law about [gender] transition, that is the most important part, since now we need to go to the court to sue the parents. And that is the most traumatic part for trans people.”

64. In her report on her visit to Poland in 2023, the Special Rapporteur on violence against women and girls, its causes and consequences, noted the limitations of the current legal gender recognition procedure and recommended that Poland enact legislation establishing a legal gender recognition process aligned with international standards of non-discrimination, equal protection before the law, privacy, identity and freedom of expression, while incorporating necessary safeguards, risk assessments and considerations for the best interests of the child.²⁷

H. Right to health

65. LGBT individuals face significant mental health challenges due to persistent discrimination, violence or the threat of violence, along with social ostracism and stigma. According to officials, service providers, civil society representatives and LGBT individuals themselves, these issues are particularly severe in Poland, with individuals in former “LGBT ideology-free zones” experiencing the worst impacts. This is exacerbated by a lack of adequate mental health services.

66. Social service providers and civil society groups offering emergency care for LGBT individuals reported severe mental health issues and suicide attempts to the Independent Expert. Children, who are especially vulnerable, often experience ostracism and bullying at home and in school. Several city officials acknowledged that specialized mental health support for LGBT youth remained insufficient.

67. The law guarantees equal access to healthcare for all; however, discrimination in medical settings highlights broader protection gaps. Same-sex partners should have the same rights to visitation and medical information as others. While individuals in informal partnerships can designate a close contact for medical access, the lack of legal recognition for same-sex relationships limits their options. For instance, if one partner becomes

²⁷ A/HRC/56/48/Add.1, paras. 37 and 104 (s).

unconscious, prior official recognition is required. As a result, these rights, although legally established, are often denied to same-sex partners.

68. The Ministry of Health reports that the Commissioner for Patients' Rights has documented such cases. A medical doctor and psychologist in Krakow shared a poignant example: "I recently had a situation in a hospital where a partner of a deceased patient was not given the opportunity to say goodbye to his partner, which I do not think would have happened if it were not a same-sex relationship." A spokesperson for the Department of Equality in Health stated that the Ministry of Health had taken steps to address this issue by informing healthcare institutions about the rights of loved ones to access medical records.

69. The Ministry of Health noted significant barriers for transgender people, in particular regarding access to public funding for sex reassignment procedures and necessary medication. A civil society representative highlighted inconsistencies across hospitals in determining which procedures qualified for public funding and gaps in coverage, with difference in whether equivalent surgeries were funded, depending on how the procedure was classified.

70. Moreover, there are no regulations requiring that transgender individuals be treated according to their gender identity. A civil society group recently recounted a case in which a transgender man, after attempting suicide, was admitted to a psychiatric hospital. Due to a discrepancy between the gender marker on his official documents and his gender identity, he was placed in the female ward and was only transferred to the male ward after the advocacy group threatened legal action.

71. Advocates have expressed concern over the lack of a clear legal framework protecting transgender rights in healthcare settings. In discussions with the Ministry of Health, advocacy groups have proposed regulations or guidelines to ensure that patients are treated in accordance with their gender identity.

72. Other obstacles identified by the Ministry of Health include continuity of care following legal recognition of gender transition and privacy concerns regarding who has access to medical data. The Ministry of Health informed the Independent Expert that, having identified those issues, it was analysing possible solutions.

73. The Bureau of the Commissioner for Patients' Rights noted that a few complaints of discrimination based on sexual orientation or gender identity had been lodged. However, officials acknowledged that such cases were likely underreported.

I. Right to housing

74. European Union member States have pledged to uphold the right to adequate housing for all under the Sustainable Development Goals and the New Urban Agenda. In March 2021, the European Commission launched the European Platform on Combating Homelessness as part of the European Pillar of Social Rights Action Plan. In the Lisbon Declaration on the European Platform on Combating Homelessness, members, including Poland, reaffirmed their commitment to working collaboratively towards ending homelessness by 2030.²⁸

75. The housing situation in Poland is characterized by rapidly increasing rent prices (averaging 62 per cent since 2015, compared with a European Union average of 17.2 per cent), which means that many young people live with their parents (52.9 per cent of persons between the ages of 25 and 34). For LGBT youth and young adults, this situation can present unique difficulties when living with unaccepting families. The Implementing Act that governs the use of European Union funds includes "sex" as a protected ground in accessing social services. However, there are no specific policies in place to address the problem of homelessness among LGBT people. According to a survey covering the period 2019–2020, 16.5 per cent of LGBT respondents had experienced a situation of lack of access to a safe shelter.²⁹

²⁸ See https://employment-social-affairs.ec.europa.eu/policies-and-activities/social-protection-social-inclusion/addressing-poverty-and-supporting-social-inclusion/homelessness_en.

²⁹ Submission from Campaign Against Homophobia and others.

76. Discrimination at home, school and work creates economic precarity for some LGBT people, in particular transgender individuals and youth. Civil society representatives highlighted to the Independent Expert the struggles of teenagers expelled from their homes due to their sexual orientation or gender identity, sometimes leading to homelessness or temporary living arrangements at friends' homes.

77. A member of Krakow City Council noted that family violence was a factor that could force LGBT people onto the streets, increasing the need for safe shelters. In Warsaw, a group providing temporary housing highlighted how employment discrimination, coupled with rising costs, could make rent unaffordable, with a disproportionate impact on the socially marginalized. Transgender tenants face the greatest marginalization, struggling with both housing market exclusion and bureaucratic barriers, sometimes compounded by mental health challenges arising from the experience of social exclusion.

78. Older same-sex couples face challenges, such as in inheriting a lease after a partner's death. Without legal recognition, the surviving partner must prove their relationship in court to access the tenant protections granted to married heterosexual couples.

79. A Member of Parliament for the Legislative Committee stated that the Government was addressing funding shortages for protective custody and shelters for children and young people. She highlighted positive changes, including housing policy shifts and increased municipal investment in social housing, backed by government funding.

J. Right to education

80. As in other spheres, the legacy of the past remains an obstacle to removing barriers to education based on sexual orientation and gender identity. In 2023, the parliament approved a controversial bill, nicknamed "Lex Czarnek 3.0", which was aimed at limiting the sexuality education provided by non-governmental organizations in schools, following two prior vetoes of similar bills by the President. Led by the then PiS Minister for Education, Przemysław Czarnek, the initiative was accompanied by inflammatory remarks that blamed LGBT "ideology" for rising youth suicides, with Mr. Czarnek promoting the measure as a safeguard against the "moral corruption" and "sexualization" of children.³⁰ While these measures never passed into law, the public rhetoric that accompanied them contributed to a hostile environment for LGBT students. Also in 2023, the then Ombudsperson for Children's Rights ordered an inspection of some schools known for their LGBT-friendly environment, justifying the action as a means to protect children from "criminals".³¹

81. With this legacy of hostile rhetoric and its impact as backdrop, government and city officials, social service providers, civil society representatives and parents of LGBT youth reported that school discrimination, peer bullying, cyberbullying and violence were widespread and required urgent, well-resourced interventions. The Ministry of National Education plans to launch a peer mental health support programme in 2025, coordinated with psychologists and educators, to improve the school environment.

82. To address mental health issues, the Ministry of National Education, in collaboration with the Foundation for the Development of the Education System and the Ministry of Development Funds and Regional Policy, has launched the peer support project on youth mental health. The project is aimed at developing and testing a peer support method in secondary schools to assist students facing mental health crises.

83. Sexual orientation and gender identity are not expressly included as protected grounds under the Equal Treatment Act (2010),³² which also applies to educational institutions. In a

³⁰ See <https://www.hrw.org/world-report/2024/country-chapters/poland#e81181>.

³¹ See <https://notesfrompoland.com/2023/05/24/polands-childrens-rights-commissioner-orders-inspection-of-lgbt-friendly-schools/>.

³² See <https://www.migpolgroup.com/wp-content/uploads/2024/01/Poland-country-report-non-discrimination-DSBB23029ENN.pdf>.

report covering the period 2019–2020, some 26 per cent of school-going respondents reported sexual violence, and 18 per cent other forms of physical violence.³³

84. Civil society organizations raised concerns that Polish schools lacked adequate anti-discrimination and sexuality education. However, in 2024, the Minister of National Education appointed a team to develop the health education curriculum and, in March 2025, she signed a regulation on the introduction of health education.³⁴ The team, coordinated by a pedagogue and sexologist, includes representatives from the Ministry of National Education and the Ministry of Health. Reportedly, the new health education curriculum is to cover a range of topics, including mental health, physical health, nutrition, addiction prevention and sex education. The curriculum is to take a holistic approach to interpersonal relationships and problem-solving and is to be aimed at reducing stigma while promoting tolerance. Starting in September 2025, health education is scheduled to replace family life education classes.

85. The Educational Information System provided for by the Act on School Education permits schools to collaborate with civil society groups that can provide specialized expertise, and such partnerships are reportedly highly effective. Under the previous administration, non-governmental organizations (NGOs) working on LGBT issues were completely excluded from working in schools. An elected official in Krakow emphasized the importance of working with NGOs in the education sector: “What I try to do myself is bring NGOs dealing with human rights into contact with headteachers and teachers. ... Since there is lots of violence, this is very connected to the mental health situation.”

86. The rate and severity of school bullying varies across regions. It is perhaps not surprising that localities that were subject to “LGBT ideology-free” declarations have been experienced as the least welcoming. A senior municipal official in Krakow highlighted the severe challenges that LGBT children face in schools: “What I’ve been seeing, especially after the last eight years that were very difficult in Poland, is that violence is on the rise and, also, peer violence is on the rise in schools. Among teenagers, adolescents, there are more suicide attempts and actual suicides. ... These are a response to various social conditions, including being rejected as someone who is different.” According to the Regional Marshal: “In the Małopolska Region, in schools for the third year running, we have a programme called Preventing Peer Violence in Schools, which is very well appreciated by the local government. It covers 20 schools each year, three classes each, so 60 classes each year, and next year we will be applying for EU funding to expand this programme throughout the region. The point of the programme is to provide psychologists that can work with children and students to prevent bullying.” A city official in Lublin said that the city cooperated with NGOs through the Department of National Education on an anti-bullying initiative there.

87. However, also in Lublin, both an educator and the parent of a transgender student expressed concerns that teachers and school administrators lacked the training necessary to ensure inclusion and protection for LGBT students. The educator stated that, “when homophobia and transphobia happen, teachers are not trained on how to respond to discrimination”. The parent added that, “unfortunately, the schools are full of people who don’t have any knowledge about LGBT rights. Even if a child goes to school and has supportive parents, the school administrators and teachers still don’t listen to them”.

88. Given the history of hostile rhetoric, sometimes small gestures go a long way, such as an open letter on the International Day for Tolerance from the Wielkopolska Education Superintendent in Poznan, addressed to teachers, students and parents, in which it was stated that: “Tolerance is the warmth of a human hand extended to someone who feels different. It is a look that does not judge but sees. It is a heart that asks, ‘who are you?’ instead of saying ‘you don’t fit in’.”³⁵

89. An innovative initiative launched in 2018 by an activist and continued since then by the GrowSPACE Foundation, with recent support from the Minister for Equality and the

³³ Submission from Campaign Against Homophobia and others. See also <https://kph.org.pl/en/polish-governments-policies-are-ruining-the-lives-of-lgbt-people-we-are-publishing-the-report-on-the-social-situation-of-lgbt-people-in-poland-in-the-years-2019-2020/>.

³⁴ See <https://www.gov.pl/web/edukacja/podstawy-programowe-do-przedmiotow-edukacja-obywatelska-i-edukacja-zdrowotna-podpisane-przez-minister-edukacji> (in Polish).

³⁵ Submission from the Equality Inspector.

Ministry of National Education, is to rank secondary schools in terms of being friendly, safe and open to LGBT students. An activist from a community centre in Wroclaw said that “it is very easy to find schools that are top-ranking in terms of being LGBT-friendly” in his city, underscoring the uneven nature of bullying in schools. On 6 February 2024, just after the new Government was formed, a news conference was held with the Ministry of Equality, the Ombudsperson for Children’s Rights and GrowSPACE to roll out the study of LGBT-safe school rankings. The official launch of the programme by the Minister for Equality meant that the Government was encouraging schools to facilitate and support surveys. However, the most important thing, according to GrowSPACE, is that young people are responding to surveys in their own schools and ranking them based on their lived experience. “We always publish the ranking before school recruitment starts, so that students can look at the rankings and see which schools are friendly”, said a GrowSPACE representative.

90. An associated development in the education sector is the Rainbow Friday annual campaign, initiated in 2015 by the Campaign Against Homophobia (and now run by GrowSPACE) and aimed at promoting acceptance across the school community and safe spaces for LGBT students in school. Participating schools host discussions about sexual orientation and gender identity and promote the visibility of LGBT issues, usually on the first or second Friday at the beginning of the school year. Ranking varies across regions, as a city council member in Krakow observed: “Research showed that, in the Małopolska Region, not a single school was named as tolerant.” Recently, the Minister for Equality and the Ministry of National Education indicated their support for the initiative, marking a significant change from the previous era. The main organizer of Rainbow Friday said in 2024 that “schools are now taking part in this campaign more boldly. No one is afraid anymore, especially since we have the green light from the education authority”. This is in contrast to the comments of a deputy prime minister under the previous Government, who said: “Indoctrination should not be allowed, especially in schools.”³⁶

K. Employment

91. The Labour Code and the Anti-Discrimination Act protect against discrimination based on sexual orientation and gender identity in the workplace. Two court cases in 2020, one concerning sexual orientation and another gender identity, were decided in favour of the plaintiffs. One employee who had complained of discrimination in the workplace and found remedy said: “The system works, but it is not rosy.”

92. According to the labour inspectorate, out of 600 to 800 annual complaints over the past few years, only 3 to 6 complaints related to employment discrimination based on sexual orientation. However, according to academic research data, some 25 per cent of LGBT employees felt it necessary to hide their identity at work, for fear of discrimination.

93. The Ministry of Family, Labour and Social Policy confirmed that employers must inform employees about labour law, including non-discrimination provisions, but that there were reportedly no additional government efforts to raise awareness of sexual orientation as a prohibited ground of discrimination to remedy the apparent underreporting of workplace discrimination.

94. In response to those concerns, the Ministry of Family, Labour and Social Policy provided additional information that would help to raise awareness of discrimination in the workplace. In terms of the Labour Code, employers have an obligation to prevent discrimination in employment based on, among other attributes, sexual orientation. The implementation of this obligation should involve refraining from discrimination, taking preventive measures and responding promptly and appropriately to legitimate reports from employees that discrimination may have occurred. Although the provision is worded in general terms, it allows the employer to tailor preventive measures to the specifics of a particular establishment, such as conducting systematic training for employees or creating a

³⁶ See <https://notesfrompoland.com/2024/10/25/lgbt-rainbow-friday-takes-place-in-polish-schools-with-support-of-authorities-for-first-time/>.

quick and safe way for employees to inform the employer of irregularities observed or experienced by them.

L. Incarcerated persons

95. Poland lacks specific regulations or guidelines addressing the treatment of LGBT individuals in detention facilities, including prisons, and while in police custody. While the general legal framework mandates humane treatment and prohibits torture and inhumane conditions, it fails to explicitly recognize the needs of LGBT detainees, leaving them vulnerable to systemic neglect and mistreatment.

96. Transgender prisoners face significant challenges. They are assigned to facilities on the basis of their legally recognized gender, meaning that they remain in prisons corresponding to their sex assigned at birth until they obtain a final court ruling on gender recognition. In 2024, the European Court of Human Rights ruled that Poland had violated article 8 of the European Convention on Human Rights by denying a transgender woman access to hormone therapy while she was incarcerated in a men's prison.³⁷

97. Reports from the national preventive mechanism have documented similarly dire conditions in other facilities. In Barczewo Prison, a transgender woman was held in a high-security unit despite not meeting the criteria for such placement. She had been isolated since the beginning of her transition and subjected to degrading treatment, including searches conducted by male officers, intentional misgendering and discouragement from transitioning.

98. Another case in Potulice Prison involved a transgender woman who requested the right to wear women's clothing and use female pronouns. Instead of accommodating her request, prison authorities placed her in a unit for inmates with mental health conditions, framing her gender identity as an "adaptation problem". Over the course of a year, she underwent repeated psychiatric evaluations, karyotype tests and hormonal exams, only to be denied recognition as a transgender person. She remained in a male facility in which any attempt to express her gender identity – whether by wearing female clothing or growing her hair – was met with disciplinary punishment. Requests for a referral to an endocrinologist to begin hormone therapy were consistently denied on administrative grounds.

99. The Helsinki Foundation for Human Rights has found that the Polish Prison Service does not track the number of transgender inmates. The Commissioner for Human Rights registered six cases involving transgender detainees, highlighting concerns over their long-term isolation, lack of access to medical care and frequent mistreatment by prison staff. Despite these documented issues, prison authorities have not introduced any formal policies addressing the needs of LGBT detainees, asserting that such measures could have a "negative stigmatizing effect".

100. The current Director General of the Prison Service announced plans to form an interdisciplinary team to draft guidelines for transgender persons in detention and has also announced measures to supplement the existing training programmes of Prison Service officers and staff on preventing sexual and gender-based violence.³⁸

M. Forcibly displaced persons

101. Poland has borne a disproportionate burden of accommodating forcibly displaced persons. Three distinct migration routes emerged between 2021 and 2024: individuals fleeing intensified persecution in Belarus and the Russian Federation; asylum-seekers from countries known for their hostility towards LGBT people crossing from Belarus; and refugees escaping the full-scale invasion of Ukraine by the Russian Federation, many of whom face additional challenges in accessing essential services. Across all routes, LGBT refugees encounter severe limitations in accessing specialized humanitarian support, health services and safe housing.

³⁷ *W.W. v. Poland*, Application No. 31842/20, Judgment, 11 July 2024.

³⁸ See <https://bip.brpo.gov.pl/pl/content/rpo-przemoc-seksualna-ze-wzgledu-na-plec-szkolenia-sw-odpowiedz> (in Polish).

102. Recent policy shifts, including a 2025 law that further restricts asylum access, threaten to worsen these conditions, leaving local organizations – already strained by dwindling international support – to shoulder the burden of addressing these critical humanitarian needs.

103. Concerns were raised as early as 2019 by the Commissioner for Human Rights regarding the failure to address the specific needs of LGBT individuals seeking protection – a gap that remains unfilled, despite recommendations for specialized training of border guards and notwithstanding some progress regarding improved procedures for strip-searches of transgender and non-binary persons.

III. Conclusion

104. **Poland stands at a crossroads in its efforts to combat violence and discrimination based on sexual orientation and gender identity. The marginalization of LGBT people, a legacy of past policies, continues to foster insecurity and distrust. While symbolic gestures, such as a government apology, mark progress, they remain insufficient. Civil society, government officials and individuals have expressed frustration at the slow pace of legislative reform. That said, there have been many noteworthy recent initiatives, especially at the local and regional levels, that are already in place, notwithstanding the constrained legislative environment.**

105. **Concrete measures signal a commitment to lasting protections beyond political cycles. The approval by the parliament and the Council of Ministers of a bill expanding hate crime provisions in the Penal Code is a notable step. The Minister of Equality is advancing a civil union bill alongside other legislative initiatives to address protection gaps.**

106. **A regional official from Lower Silesia observed: “The Equality March has grown, with thousands of joyful young participants. Change is palpable in society – politicians are not keeping up.”**

107. **This sentiment of optimism, frustration and anticipation encapsulates the prevailing mood during the visit of the Independent Expert.**

IV. Recommendations

108. The recommendations set out below are designed to be practical and aspirational, realistic and achievable, while also reflecting a long-term vision of equal enjoyment of human rights by all. Even small steps taken by line ministries and other authorities can significantly contribute to combating violence and discrimination based on sexual orientation and gender identity. Some recommendations contain ambitious goals, serving as a guide for future progress.

109. **The Independent Expert recommends that the Chancellery of the Prime Minister (including the Minister for Equality and Department for Equal Treatment):**

(a) **Update the Government’s non-discrimination strategy and action plan to be more inclusive with respect to sexual orientation and gender identity;**

(b) **Ensure that sufficient resources are allocated to develop, monitor and report on the effective implementation of laws and policies guaranteeing equality and non-discrimination based on sexual orientation and gender identity;**

(c) **Ensure robust civil society inputs and consideration thereof in the development of laws and policies that affect them, including by providing adequate time for substantive input.**

110. **The Independent Expert recommends that the parliament:**

(a) **Amend the Act on Equal Treatment or introduce new legislation to prohibit discrimination in all areas of life, explicitly including the grounds of sex, sexual orientation, gender identity, gender expression and sex characteristics;**

- (b) Amend or introduce legislation to enable compensation and damages for violations of equal treatment in education based on sexual orientation and gender identity;
- (c) Ensure that existing legislation prevents harmful conversion practices and develop and adopt any new laws necessary to clearly define and prohibit such practices;
- (d) Broaden public health insurance to cover gender-affirming care, including surgeries and hormone therapies;
- (e) Enact legislation ensuring that transgender patients receive appropriate, identity-respecting care and access to designated wards;
- (f) Enact legislation including regulations on legal gender recognition processes based on self-identification that are fast, transparent, accessible and available to minors;
- (g) Simplify the process of legal gender recognition for minors by removing unnecessary legal barriers and reducing reliance on parental consent to better protect their right to gender identity;
- (h) Ensure that a transgender person's new identity is recognized in all spheres, including updating pre-transition documents and personal identity numbers without revealing past gender;
- (i) Allow the use of temporary documents during the period of transition;
- (j) Automatically merge State databases following legal gender recognition to prevent transgender individuals from having to update each institution separately, thereby preserving their privacy;
- (k) Introduce legislation to ensure that Poland is in line with European Union standards in relation to the recognition of same-sex families, the adoption of children and other areas of family law;
- (l) Recognize joint parenthood rights for same-sex couples;
- (m) Regulate the legal status of children born after transgender parents undergo legal gender recognition;
- (n) Update existing legislation to explicitly protect LGBT individuals from violence by recognizing sexual orientation and gender identity as protected characteristics in hate crime legislation, treating hate crimes based on sexual orientation or gender identity as aggravating factors and ensuring ex officio prosecution of such crimes;
- (o) Include gender identity as a separate prohibited ground of discrimination.

111. The Independent Expert recommends that the Ministry of National Education:

- (a) Integrate age-appropriate content on gender equality, sexual diversity and gender identity into the core curriculum for all schools;
- (b) Incorporate anti-discrimination topics that include protected grounds such as gender, sexual orientation and gender identity – into the core curriculum;
- (c) Issue guidelines to support transgender students, including on:
 - (i) Using chosen names and preferred pronouns in all communications (e.g. exams, assignments and student council elections);
 - (ii) Recording chosen names and pronouns in paper and electronic records, either as annotations or in dedicated fields;
- (d) Create data overlays in electronic records and allowing changes to displayed names on learning and remote communication platforms;
- (e) Ensure that toilets and cloakrooms are available based on students' gender identity or offer gender-neutral options;

(f) **Revise regulations on record-keeping in public schools and institutions to allow for specifying the name used and its grammatical forms;**

(g) **Adapt school dress codes to accommodate students' personal preferences where uniforms are required;**

(h) **Amend certificate, State diploma and printed form regulations to permit changes to the personal identification (PESEL) number on issued documents in cases of legal gender recognition.**

112. The Independent Expert recommends that the Ministry of Family, Labour and Social Policy:

(a) **Launch campaigns to raise awareness about discrimination on the basis of sexual orientation and gender identity;**

(b) **Enhance data collection by requiring authorities to clearly document and report cases of workplace discrimination based on sexual orientation and gender identity;**

(c) **Update and implement inclusive shelter policies, ensuring that housing services adopt anti-discrimination measures to provide safe, affirming environments for LGBT individuals;**

(d) **Increase funding for inclusive shelters to guarantee safe, discrimination-free spaces for LGBT persons;**

(e) **Allocate resources for staff training and infrastructure improvements to enhance overall support at shelter facilities.**

113. The Independent Expert recommends that the Ministry of Health:

(a) **Develop targeted healthcare policies to address LGBT patients' needs and combat discrimination;**

(b) **Integrate LGBT health into national health plans, surveys and medical training programmes to enhance awareness and inclusivity;**

(c) **Mandate anti-discrimination training for healthcare professionals to reduce bias and improve treatment for LGBT individuals;**

(d) **Standardize and expand access to gender-affirming care in public healthcare, including surgeries and hormone therapies;**

(e) **Ensure that gender-affirming medical interventions are accessible through decentralized pathways in regular health clinics and standard mental health, endocrinological and surgical care;**

(f) **Ensure wide accessibility without putting undue burden on transgender patients and also ensure that new pathways to accessing care do not require undergoing an assessment in any specific, specialized centre ("gender clinic").**

114. The Independent Expert recommends that the Ministry of the Interior and Administration ensure that law enforcement authorities respect, protect and fulfil the right to freedom of peaceful assembly without discrimination on the basis of sexual orientation and gender identity, or any other prohibited grounds.

115. The Independent Expert recommends that the Ministry of Justice:

(a) **Enhance data collection on hate crimes motivated by sexual orientation and gender identity;**

(b) **Revise, together with the Police and the Ministry of the Interior and Administration, prosecutorial and police guidelines and provide additional training to ensure proper investigations;**

(c) **Offer comprehensive, State-funded support to hate crime victims;**

(d) **Update existing legislation to explicitly protect LGBT individuals from violence by recognizing sexual orientation and gender identity as protected**

characteristics in hate crimes, treating hate crimes based on sexual orientation and gender identity as aggravating factors and ensuring ex officio prosecution;

(e) Include gender identity as a separate prohibited ground of hate crimes;

(f) Adopt and effectively implement guidelines for transgender persons in prisons, in line with the European Committee on the Prevention of Torture recommendations, in which the heightened vulnerability of transgender persons to torture and inhuman or degrading treatment is recognized, while placing emphasis on their agency and decision-making;

(g) Develop and implement mandatory, effective training for judges, prosecutors and other legal professionals on national and international anti-discrimination legal standards.

116. The Independent Expert recommends that the Polish Border Guard and the Office for Foreigners:

(a) Guarantee forcibly displaced persons' access to international protection in full accordance with legal standards;

(b) End pushbacks and ensure that Poland complies with international and national laws governing international protection procedures;

(c) Reform the immigration detention system to improve access to essential services and enhance safety standards;

(d) Ensure that asylum-seekers applying for protection based on sexual orientation and gender identity criteria are not placed in closed immigration detention and ensure that, if they are, for example for security reasons, they are protected from discrimination or ill-treatment on the basis of sexual orientation and gender identity;

(e) Conduct workshops and implement internal regulations for border guards and staff of the Office for Foreigners, focusing on LGBT issues and the specific needs of LGBT asylum-seekers;

(f) Provide training for interpreters in LGBT- and gender-sensitive interpretation to support proceeding related to sexual orientation and gender identity.

117. The Independent Expert recommends that the labour inspectorate launch campaigns to raise awareness about sexual orientation and gender identity-based discrimination and empower individuals to assert their rights when they experience unequal treatment.

118. The Independent Expert recommends that the international diplomatic community in Poland:

(a) Allocate and ensure the equitable and nonpartisan distribution of financial resources to support marginalized communities without political interference;

(b) Avoid including onerous reporting requirements in due-diligence requirements.
