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Permanent Mission  
of the Republic of Poland  
to the United Nations Office  
at Geneva

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The Permanent Mission of the Republic of Poland to the United Nations Office at Geneva presents its compliments to the Office of the High Commissioner for Human Rights.

With reference to the OHCHR's note AL POL 1/2020 of 20 January 2021 regarding the joint communication from special procedures on the situation of LGBT people in Poland, the Permanent Mission of the Republic of Poland has the honour to transmit Poland's response to it.

The Permanent Mission of the Republic of Poland to the United Nations Office at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 18 March 2021



**Office of the High Commissioner  
for Human Rights  
Geneva**

**Poland's response**  
**to the Joint Communication from Special Procedures concerning the**  
**situation of LGBT persons in Poland**

(AL POL 1/2020 of 20 January 2021)

*March 2021*

The Government of Poland wishes to provide the following information in reply to the Joint Communication from Special Procedures concerning the situation of LGBT.

Poland is attached to the principle of equal treatment of all people and non-discrimination on any ground, including sex or sexual orientation. Equality before the law and the general ban on discrimination are mandated by Polish Constitution, making them key principles in Poland's legal system. LGBT people are entitled to full protection from hate, violence and discrimination. Domestic legislation guarantees in a systemic manner the equality and dignity of LGBT people in all areas of life and is fully compatible with international human-rights standards. Accompanying the principle of equality and non-discrimination mandated by Polish Constitution is a broad scope of legal guarantees, including the option to seek protection via constitutional complaint.

*Poland is concerned about the allegations suggesting that discrimination or unequal treatment of people identifying with the LGBT community is taking place in the country. Poland's approach to each and every citizen is grounded in the ideal of respect and dignity.*

There is no dispute between Poland and the special procedures as to the fact that LGBT persons have a right to respect for their human dignity and all human rights and fundamental freedoms vested in them by binding instruments of International law. The Polish law also adopts such a stance and guarantees the protection of these rights and freedoms to all persons on equal footing and with no exceptions whatsoever.

It should be strongly emphasized that LGBT persons, identifying with the LGBT movement, are treated in Poland on an equal footing with all other citizens. Polish law protects people who identify with LGBT groups on an equal basis with others through general criminal laws that prohibit violence, defamation or harassment against all citizens and foreigners. The Polish authorities strongly condemn all acts of aggression against any of the citizens or foreigners staying on the territory of the Republic of Poland.

**Ad The prevention and protection from violence and discrimination**

One should distinguish the issue of compliance with the prohibition of discrimination of LGBT persons, which Poland fully supports and guarantees in its law, from the issue of the model of marriage and family to which the domestic law attaches specific rights, but also obligations. Each and every society is entitled to take its sovereign decision as to the latter issue. In Poland the model of marriage as a union between a man and a woman and the model of the family based on such an union, is reflected in the Polish Constitution and was adopted by decision of the majority of the Polish society, as expressed by constitutional referendum in

1997. That model has never been considered to be discriminatory or contrary to international law. Article 23(2) of the International Covenant on Civil and Political Rights recognises (and requires to be recognised) the right of men and women of marriageable age to marry and to found a family. None of the legally binding international conventions concerning the human rights protection contains provisions that would create an obligation for states to recognise same-sex marriages. In addition, such obligations do not transpire from the interpretation of these international instruments by the organs monitoring their implementation. Notably, the jurisprudence of the European Court of Human Rights in Strasbourg explicitly states that there is no such obligation under the European Convention on Human Rights.

In consequence there is no legal basis to consider that the Polish law is incompatible on this point with binding international treaties adopted by Poland, including on the UN forum. Accordingly there is also no legal basis to consider the legally non-binding resolutions adopted by some local self-government authorities on the protection of the family based on the constitutional model (and that reflected in Article 23(2) of the International Covenant on Civil and Political Rights) to be incompatible with these legally-binding standards.

In the same vein, one should also distinguish statements of discriminatory character and those constituting even hate speech directed against LGBT persons from a legitimate public debate that can and should take place in any democratic and pluralist society about the model of marriage and family to which a given society (or a majority of it) wishes to attach special legal effects. Statements in support of the traditional model of marriage and the family – provided that they are made in a manner respectful of the dignity of all persons – should be considered as fully legitimate and must not be treated as an expression of discrimination or prejudice, but as a contribution to a public debate on important issues of public interest.

It should be pointed out that Polish law enforcement services, especially the Police undertake a number of actions aimed at increasing the sense of security, with the simultaneous raising of public awareness of the criminal consequences of violating existing legal norms, which translates into an effective response to signals of suspicion of the commission of criminal acts and immediate remedial and assistance measures. Thus, in accordance with the basic tasks expressed in the Police Act (Journal of Laws of 2020, item 360, as amended), the Police respond to every signal concerning the possibility of violence. It must be stressed that in order to undertake statutory tasks and in view of the realisation of the constitutional principle of equality before the law and the prohibition of discrimination of an individual (Article 32 of the Constitution of the Republic of Poland; Journal of Laws of 1997, No. 78, item 483, as amended), the sex, age, belief, nationality, religion, social affiliation, political opinion, profession, creed or sexual orientation of the victim is irrelevant. The above obligation to respect human rights - irrespective of the indicated characteristics - is also reflected in Article 14 of the Police Act which indicates that "police officers, in the course of their official duties, are obliged to respect human dignity and to observe and protect human rights".

It should be emphasized that the Minister of Health strongly condemns discrimination in all its forms against patients (sexual orientation, obesity, mental health, all kinds of disabilities, pervasive developmental disorder). Also medical community pays particular attention to any form of discrimination and inequalities .

The current scope of education in medical professions ensures that persons admitted to these professions have received adequate preparation, including in the field of equal treatment. It should be noted that the standards of education of health professionals include content concerning the issues of human sexuality and basic disorders associated with it. Representatives of medical professions have the knowledge and skills to take into account in the therapeutic process the subjective needs and expectations of the patient resulting from socio-cultural conditions. They also learn about the social dimension of health and disease, the impact of the social environment (family, network of social relations) and social inequalities and socio-cultural differences on health, as well as the role of social stress in health and self-destructive behaviours. What is more, core curriculum of education for professions health care sector, assumes that the results of training in personal and social competences include the observance of the principles of personal culture and professional ethics. In addition, in accordance with the regulation of the Minister of Science and Higher Education of 26 July 2019 on the standards of education preparing to practice the profession of doctor, dentist, pharmacist, nurse, midwife, laboratory diagnostician, physiotherapist and paramedic, the curriculum assumes that during the course of training the graduate achieves learning outcomes in the field of patient rights as well as the aforementioned principles of professional ethics. In addition, the core vocational curriculum and training as well as the standard of education preparing to practice the medical profession include the aforementioned learning outcomes, the achievement of which is aimed at respecting moral standards and non-discrimination for any reason against patients with whom graduates have contact in their professional work.

The current Code of Medical Ethic sets out the requirements for physicians: they should not discriminate against patients on the basis of race, religion, nationality, political beliefs, socioeconomic status, or any other reason. The healthcare provided by a physician shall be consistent with the principles of: dignity, respect for the patient and proportionality of means to the goals.. The physician's vocation is the protection of human life and health, the prevention of diseases, the treatment of patients and the relief of suffering. The highest ethical imperative for a doctor is the good of the sick person. Market mechanisms, social pressures, and administrative requirements do not exempt the physician from observing this rule. The current legislation, regulations and ethical rules during providing health services forbid to use rules other than those mentioned above. In this respect physicians are subject to professional, civil and criminal liability.

The therapeutic process is supervised by physician, especially specialist in a given field of medicine by cooperation with other medical employees. A patient shall be entitled to obtain from a physician information about their health condition, diagnosis, the proposed and possible methods of diagnosis and treatment. According to the Act of 5 December 1996 on the professions of a doctor and a dental practitioner:

- Article 4 - a doctor shall exercise his/her profession in line with current medical knowledge, available methods and means of prevention, diagnosis and treatment of diseases, in accordance with professional ethics principles and with due diligence.

- Article 36. 1. When providing the health services, the doctor is obliged to respect the intimacy and personal dignity of the patient.

3. The doctor is obliged to take care that other medical employees follow the rule referred to in paragraph 1 when handling the patient.

4. To clinics and hospitals of medical academies, medical research and development units and other entities entitled to educate medical students, doctors and other medical employees to the extent necessary for the education purposes.

- Article 40. 1. The doctor is obliged to keep the confidentiality of the information related to the patient and obtained in relation with practising the profession.

Furthermore, it should be noted that in the curriculum of postgraduate training programs for nurses and midwives, within each type of education, i.e.: specialization, qualification courses and specialized courses, assumes the achievement of the following goal: student respects the dignity and autonomy of the patient regardless of his/her age, gender, disability, sexual orientation and national and ethnic origin".

It is also possible that the discriminatory attitudes of health workers against patients (on the grounds of gender identity) may result from stereotypes and prejudices rather than from lack of adequate knowledge and professional preparation in this area.

The provisions of Polish law remaining within the competence of the Labour Law Department in the Ministry of Development, Labour and Technology guarantee the respect of the principle of non-discrimination in employment. According to Art. 113 of the Labour Code any discrimination in employment, direct or indirect, in particular due to sex, age, disability, race, religion, nationality, political beliefs, trade union membership, ethnic origin, religion, sexual orientation, employment for a fixed or indefinite period, full-time or part-time employment - is unacceptable. The provision cited indicates examples of criteria according to which the differentiation of employees is prohibited (open catalogue of criteria). The principle of non-discrimination prohibits the differentiation of employees or candidates for employees on the basis of their non-professional choices. Thus, it concerns the sphere of public law, constituting an important element of organizing social life.

The provisions of Chapter IIa of the Labour Code, entitled "Equal treatment in employment" (Articles 183a – 183e of the Labour Code), provide more details on the above-mentioned principle. Under Art. 183a of the Labour Code, employees should be treated equally in terms of entering into and terminating employment, terms of employment, promotion and access to training in order to improve professional qualifications, in particular regardless of their sex, age, disability, race, religion, nationality, political beliefs, trade union membership, ethnicity, religion, sexual orientation, employment for a fixed or indefinite period, full-time or part-time employment. Equal treatment in employment means non-discrimination in any way, directly or indirectly, for the above-mentioned reasons (open catalogue of premises). The article also indicates that a manifestation of discrimination within the meaning of this provision is also:

1) action consisting in encouraging another person to violate the principle of equal treatment in employment or ordering him to violate this principle;

2) undesirable behaviour the purpose or effect of which is to violate the dignity of an employee and to create an intimidating, hostile, degrading, humiliating or offensive atmosphere (harassment).

Discrimination on the basis of sex is also any undesirable behaviour of a sexual nature or relating to the sex of an employee, the purpose or effect of which is to violate the dignity of the employee, in particular to create an intimidating, hostile, degrading, humiliating or offensive atmosphere; the behaviour may have physical, verbal or non-verbal elements (sexual harassment).

The provision of art. 183b §1 introduces the so-called inverse burden of proof, according to which the employee is required to present facts from which it may be presumed that there is discrimination, but it is for the employer to prove that he was guided by objective reasons and therefore did not discriminate against the employee.

It is also worth pointing out that under Art. 183d a person against whom the employer has violated the principle of equal treatment in employment has the right to compensation in the amount not lower than the minimum remuneration for work, determined on the basis of separate provisions. Moreover, Art. 183e introduces protection of the employee against the negative consequences of asserting rights due to violation of the principle of equal treatment in employment.

The Ministry of Development Funds and Regional Policy is fully committed to ensuring a comprehensive non-discriminatory projects selection procedures and treatment of the EU funds beneficiaries.

The selection of projects and investments and assessment of their eligibility for EU financing is carried out in accordance with the general principle, prohibiting the exclusion and discrimination of beneficiaries on grounds of sex, race, age, ethnic origin, religion, sexual orientation, political views and disabilities. This general rule stems from the article 10 of the Treaty on the Functioning of the European Union (TFUE) and has to be fully respected in the implementation of the EU funds.

There is an institutional framework for vetting the projects in terms of their non-discriminatory character. The Monitoring Committees, bringing together the representatives of relevant PL ministries, the EC and NGOs, including bodies responsible for promoting social inclusion, gender-equality and non-discrimination are responsible for drawing up a transparent, merits-based and non-discriminatory eligibility criteria for projects, co-financed from the EU funds. They are binding not only upon final beneficiaries but also refer to the project management and the staff employment.

The implementation of the EU funds in Poland is based on the horizontal non-discriminatory rules, foreseen in accordance with the Regulation No 1303/ 2013 of the European Parliament and of the Council of 17 December, 2013, on laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the

European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and laying down general provisions and repealing the Council Regulation (EC) 1083/2006.

The relevant article 7 invoked in this regulation and the article 6a (3) of the draft of the Common Provisions Regulation (CPR), covering the next programming period 2021-27, call for an inclusion of the gender perspective in the preparation and implementation of programs and explicitly request the EU members to prevent any discrimination, based on sex, race, ethnic origin, religion, sexual orientation, age and disability during the preparation and implementation of programs.

Therefore, the above-referred non-discriminatory regulations of the EU law serve as a key reference framework, reflected in preparation, implementation, monitoring, reporting and evaluation of programmes as well as in projects' selecting criteria, for assessing the eligibility of projects for co-financing from national and regional operational programs in Poland.

### **Ad the creation of so-called “LGBT Free” zones by municipalities**

The Constitution of the Republic of Poland granted local government units - as separate public entities - the attribute of independence in the performance of their tasks, which is subject to judicial protection. Local self-government participates in the exercise of public authority, and performs a significant part of public tasks assigned to it under statutes on its own behalf and under its own responsibility. This means that, within the limits of the law, a local government unit independently performs specific functions based on the competences reserved to its organs. The rules and manner of performing tasks by local governments are usually regulated in separate legal acts.

Continuing, in accordance with the constitutional principle of the rule of law, any possibility of taking imperative actions by any public administration body must unquestionably result from the provisions of law, and the basis is always a specific norm of competence. At the same time, it should be noted that the indicated scope of competence may not infringe the powers of public administration bodies resulting from the Constitution and other acts.

The Government is not an authority supervising the activities of local government units. The entities exercising supervision over local government are provided for in Art. 171 sec. 2 of the Constitution of the Republic of Poland, mentioning: the Prime Minister and voivodes, and in the field of financial matters - regional accounting chambers (these issues were specified in specific acts). The catalogue of supervisory authorities is closed, which means that it does not include any other bodies - e.g. ministers, courts, local government appeals boards. The basic law also specifies that the activity of local government is subject to supervision from the point of view of legality, i.e. compliance with the law (see: Article 172 (1) of the Polish Constitution). This is the only criterion determining the supervision over local government. Therefore, the legality criterion applies to all forms of activity of local government units and supervising entities may interfere in it only when the law is violated.

The above-mentioned one of the supervision authorities over local government units, namely the voivode ex officio exercises the statutory supervisory powers, and not at the request of the entities interested in taking a specific decision. This means that the decision to initiate proceedings is made sovereignly by the supervisory authority and is in no way bound by any

kind of requests or complaints addressed to it in order to initiate a specific supervisory procedure.

On the other hand, the supervision of voivodes by the minister competent for public administration takes place within the limits strictly defined by law, based on the criterion of compliance with the law. Thus, it does not mean the general competence of the Minister of Interior and Administration to interfere with the activities of these bodies. Any action may be taken on the basis of the criterion and principles specified in a normative act - see: 8 sec. 3 of the Act of 23 January 2009 on the voivode and government administration in the voivodship (Journal of Laws of 2019, item 1464, as amended). It should be emphasized that the supervisory decisions of voivodes are subject to the exclusive control of administrative courts.

The Ministry of Interior and Administration does not collect information on the number of resolutions of local government units covered by the above-mentioned subject matter. The Ministry also does not monitor the activity of local governments in relation to the aforementioned resolutions or supervisory activities carried out by voivodes in the indicated scope.

Starting from April 2019 several dozen organs of local self-governments have adopted various types of resolutions, declarations and positions emphasizing the family's rights and referring to certain political and ideological demands advanced by part of LGBT circles.

So far, around 40 local governments have adopted the so-called Local Government Charters of the Rights of the Family (SKPRs) containing no LGBT references whatsoever, and others (over 50 local governments) have enacted resolutions objecting to deviations from the traditional perception, confirmed by Polish Constitution, of marriage as the union of a woman and a man. All of the aforementioned resolutions are collectively referred to as 'resolutions on LGBT-free zones' by their opponents.

The resolutions do not contain the expression 'LGBT-free zone'. The use of the expression 'local government free from LGBT ideology', in turn, as the resolutions' sponsors explain, does not mean any intention to restrict the rights of homosexual people in any way but to express a voice in opposition to the politico-ideological activity of part of LGBT circles. Thus, they are a voice of support for the constitutional form of marriage and the internationally recognized right of parents to bring their children up in accordance with their own convictions.

The resolutions are not instruments of local law establishing general rights and obligations of universal binding power addressed to an unspecified number of recipients, nor do they constitute administrative acts. They formulate no commands or prohibitions addressed to any citizens or any specific groups of citizens. They are declarations representing the councillors' views of life and moral matters. They can be regarded as voices in the debate and a manifestation of the freedom of expression, to which, in accordance with Polish Constitution, everyone in Poland has a right when not undermining the rights and freedoms of others. The resolutions' international publicity is based on intentional misinformation by persons holding different views than expressed in the resolutions.



There is an open, free debate going on in Poland about the resolutions, without the participation of state authorities, with any disputes being resolved by free, independent courts. It must be noted that there is no unanimity among the courts adjudicating the resulting cases. The matter of the resolutions has come up before the Supreme Administrative Court for ruling expected soon.

Poland's state authorities condemn the hanging out of 'LGBT-free zone' plaques. The hanging out of 'LGBT-free zone' plaques in towns and villages having adopted the above-described resolutions was a happening organized by an LGBT activist. His actions need to be viewed as constituting misinformation, since they intentionally create the message that the plaques are hanged out by the local-government authorities. Attributing such activities to or associating them with state authorities or local governments misleads the public opinion.

With regard to the mention on the document's p. 6 of the rejection of the applications of six Polish towns for funds from the EU's Europe for Citizens Town Twinning Programme in connection with resolutions on 'LGBT ideology' – in accordance with Poland's statutory framework of administrative division, units of territorial self-government ('local government') are public-law subjects performing public tasks on their own behalf and for their own account, they have legal personality, and their autonomy is protected by courts. The programmes and mechanisms mentioned in the document are directly supervised by the Commission, and the payment institution takes no part in their respective implementation systems.

### **Ad Access to comprehensive sexuality education**

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

#### **Primary school:**

Topics of human anatomy, physiology and health-care are an important element in the teaching of biology.

*Reproduction and development.* The student can:

- identify the elements of the male and the female reproductive systems (on diagram, by description, etc.) and name their functions;
- describe the stages of a woman's menstrual cycle;
- describe the role of gametes in fertilization;
- list the stages of human prenatal development (zygote, embryo, foetus) and explain the various influences on embryonic and foetal development;
- outline the characteristics of human physical, mental and social maturing;
- outline the principles of prevention of sexually transmitted diseases;

- cite reasons for the need for check-ups as a method of early detection of breast cancer, cervical cancer and prostate cancer.

The principal and most general goal of ethics teaching in primary school is to inspire and develop axiological reflection and sensitivity and shape an attitude of respect, openness, co-operation and responsibility.

*Introspection.* The student can explain, *inter alia*:

- what it means to be oneself; the concept of human dignity;
- why one should approach one's own body with respect;
- why sexuality is a value; the student knows that sexual acts are subject to moral judgement.

### Family-life education

*Puberty.* The student can:

- recognize physical and mental changes; note and accept different individual development rate;
- identify the criteria of biological, mental and social maturity;
- understand what physicality and sexuality are;
- identify differences in the psycho-sexual development of girls and boys;
- explain what it means to identify with one's sex;
- identify the dangers faced during the puberty period, such as substance and behavioural addictions, sexual pressure, pornography, cybersex, underage prostitution; enumerate methods of prevention and counteraction;
- discuss the problems of adolescence and methods of dealing with them;
- understand how interpersonal relationships are built and explain their significance in socio-emotional development;
- describe the essential characteristics of camaraderie and friendship, youthful crushes, first infatuations, falling in love, love;
- pay attention to the need for and value of mutual respect, helpfulness, empathy and collaboration;
- participate in the sharing of responsibilities; accept help from and give help to others; divide time between work and leisure; create an atmosphere of celebration;
- discuss the role of role models in human life and enumerate persons regarded as role models by the student and by others.

*Human sexuality.* The student can:

- define concepts relating to sexuality — masculinity, femininity, complementarity, love, value, marriage, parenting, responsibility; explain what sexual integration is and what it refers to;
- understand the importance of responsibility in the living of one's sexuality and building of durable, happy relationships;
- define the main functions of sexuality, such as the expression of love, building of relationships, parenting, mutual assistance and complementation, integral and complementary collaboration between the sexes;

- understand the meaning of the human person’s right to intimacy and the protection of this right;
- explain the responsibility of men and women for the sexual sphere and procreation;
- describe the relationship between sexual activity and love and responsibility; discuss problems relating to the objectification of the human person in the sexual sphere;
- enumerate biomedical, psychological, social and moral arguments speaking in favour of sexual initiation taking place in marriage;
- discuss the causes, consequences and prevention of premature sexual initiation;
- identify sexually transmitted diseases; understand their specificity, development and symptoms; identify the ways of transmission; understand the principles of prevention;
- enumerate the differences between sexual education and sexual formation (*wychowanie*);
- characterize and evaluate different attitudes to sexuality — permissive, relative and normative;
- understand the value of the durability of marriage from the perspective of the good of the family.

*Life as fundamental value.* The student:

- can explain what it means that life is a value;
- understands family planning; knows what aspects should be reflected in the making of decisions on procreation;
- knows the principles of preparation of women and men for the conception of a child and understands what responsible parenting means;
- expresses an attitude of respect and concern for human life and health from conception to natural death;
- knows the stages in human psycho-physical development in the prenatal and the postnatal periods; is familiar with factors facilitating or disrupting mental, physical, spiritual and social development;
- understands preconception care and prenatal care attentive to the father’s, mother’s and child’s health, forms of prevention and therapy;
- has respect for the human body; knows the principles of hygiene; looks after health — proper nutrition, clothing, sleep and physical activity;
- has a positive attitude to people with disabilities, seeing in them valuable partners in socialization, friendship, love and family;
- expresses care for the sick and dying; keeps the memory of the dead; accompanies loved ones in going through mourning.

*Fertility.* The student:

- knows that fertility is the woman’s and the man’s common matter;
- can outline the physiology of fertility, and enumerate the hormones responsible for the fertility of men and women;
- knows methods for determining fertility and their utility in family planning and the diagnostics of disorders;
- can outline the problem of infertility; determine its types, causes and consequences; explain what prevention and treatment involve;

- can define the concept of contraception and enumerate its types; can evaluate the use of the various contraceptives in the medical, psychological, ecological, economic, social and moral aspects;
- knows the differences between contraception and natural family planning, *in-vitro* fertilization and naprotechnology;
- understands pregnancy and birth and how a child should be accepted as a new family member;
- can explain the role and tasks of birthing schools and the value of natural breastfeeding;
- knows how important the readiness of family members to accept a child with disability is in the medical, psychological and social aspects;
- understands the situation of families who encounter difficulties conceiving a child and who experience the death of a child before birth;
- knows what adoption and foster parenting are and their significance to children, parents and society.

### Middle schools (general and technical secondary schools)

Sexual-education contents in middle schools expand and develop on the knowledge obtained by the students in primary school. They are primarily defined by the curriculum for subjects such as: biology, civics, ethics, philosophy, physical education, safety education, family-life education.

### Biology

*Reproduction and development.* The student can:

- outline the essence of sexual reproduction;
- outline the structure and function of male and female reproductive systems;
- outline the stages of the menstrual cycle;
- outline the stages of pregnancy;
- analyse the impact of internal and external factors on pregnancy; explain the essence and significance of prenatal examinations; discuss selected reproductive diseases and the importance of their early diagnosis;
- discuss select sexually transmitted diseases (syphilis, gonorrhoea, chlamydia, trichomoniasis, HPV infections, genital mycotic infections) and respective methods of prevention.

### Family-life education

*Puberty.* The student:

- can identify and accept the criteria of biological, mental and social maturity;
- knows the basics of puberty hygiene;
- understands what physicality, sexuality and sexual integration are;
- can identify differences in the psycho-sexual development of girls and boys;
- knows the dangers faced during the puberty period: chemical and behavioural addictions, sexual pressure, pornography, underage prostitution as well exhibitionism, also on the Internet;

- the first infatuations, falling in love, love, mutual respect, mutual assistance, co-operation, empathy.

*Human sexuality.* The student:

- can define terms relating to human sexuality;
- can define the principal functions of sexuality;
- understands what responsibility for the sexual sphere and procreation means;
- has basic knowledge of the structure and functioning of the human reproductive system;
- understands the relationship between sexual activity and love and responsibility;
- can discuss problems relating to the objectification of a human being in the sexual sphere;
- understands the meaning of the human person's right to intimacy and the protection of this right;
- can discuss the causes, consequences and prevention of premature sexual initiation;
- is aware of sexually transmitted diseases.

*Fertility.* The student:

- understands that fertility is the woman's and the man's shared matter;
- can explain the physiology of fertility and its neurohormonal conditions;
- knows methods for determining fertility; can define the problems of infertility — types, causes, consequences, prevention and treatment;
- knows what pregnancy and birth are as well as the acceptance of a child as a new family member;
- can discuss contraception and identify its types and consequences in the medical, psychological and moral aspects.

In schools, topics in widely understood human sexuality are dealt with in family-life education, in accordance with the provisions of the Regulation of the Minister of National Education of 12 August 1999 *concerning the method and contents of the teaching in schools of knowledge about human sexual life, principles of informed and responsible parenting, family values, the value of life in its prenatal stage, and methods and means of informed procreation contained in the core curriculum for general education.*<sup>1</sup>

Students who are minors do not participate in family-life education if their parents submit a written resignation to the school's head teacher. Adult students can tender the same resignation on their own.

Every school year, prior to commencing the delivery of family-life education, the subject teacher together with the class's head teacher will hold at least one information meeting with minor students' parents and adult students. In accordance with § 5(1) and § 5(2) of the aforementioned Regulation, the teacher must provide full information about the goals and contents of the teaching programme to be pursued, as well as the course-books and teaching aids. The school's head teacher is responsible for holding the meetings and approving teaching programmes for the school.

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<sup>1</sup> Dz.U.2014.395 and Dz.U.2017.1117.

It has not been proven so far that the teaching in the context of this subject is incompatible with scientific knowledge or that it is inappropriate for achieving the declared aims of sexuality education such as disseminating reliable knowledge and information, supporting health or preventing underage pregnancies. At the same time, the model of teaching of this subject in Poland is implemented in a manner respecting the parents' liberty to ensure the religious and moral education of their children in conformity with their own convictions, as guaranteed by Article 18(4) of the International Covenant on Civil and Political Rights and the Polish Constitution. It is regrettable that the need to respect this liberty has not been taken into account in the joint communication which seeks rather to impose on the Polish authorities (and indirectly on parents) one single model of sexuality education. The Polish education authorities are not however authorised to impose on parents the religious and moral education of their children. Neither do the international bodies have a competence to interfere in the school curricula in a manner infringing on the rights protected by Article 18(4) of the Covenant. It should also be recalled that the promotion of respect for LGBT persons and their rights, and likewise for all other persons, does not rely and is not dependent on introducing in a given State the sexuality education in the form proposed by the WHO or other UN bodies. Indeed and first and foremost, shaping civic and social attitudes of pupils based on respect for other persons can take place and does take place in Poland in the context of many other school subjects, among them the Civic Education.

The qualifications of teachers to teach *family-life education* are regulated by the provisions of the Act of 26 January 1982 — Teacher's Charter<sup>2</sup> and the Regulation of the Minister of National Education of 1 August 2017 *concerning the detailed qualifications required of teachers*.<sup>3</sup>

In line with the provisions of Article 6(3a) of Teacher's Charter Act, the teachers have an obligation of continued professional development in a scope corresponding to the school's needs. Professional-development centres for teachers are created for this purpose (Article 183 of Education Law Act). Support for public professional-development centres for teachers is provided by the Centre for Education Development (*Ośrodek Rozwoju Edukacji*), which is a professional-development centre operating on the national level, managed and supervised by the Minister of National Education. Teachers of *family-life education*, on the same terms as other teachers, have access to professional-development opportunities allowing them to expand and enrich their professional competences.

The school's head teacher is responsible for the employment of teachers according to appropriate qualifications and assurance of safe and healthy conditions of stay at the school or facility, as well as safe and healthy conditions of participation in the school or facility's off-premises activities.

Schools enjoy legally guaranteed autonomy in the making of a large scope of decisions relating to work organization at the school, and the teachers select the methods and forms used in education and formation and may also incorporate teaching aids, course-books and

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<sup>2</sup> Dz.U.2018.967

<sup>3</sup> Dz.U.2017.575

publications in line with the contents of the core curriculum and the provisions of Article 12(2) of Teacher's Charter.<sup>4</sup>

### **Ad The measures available to human rights defenders, including those taking part in Pride marches**

It should also be noted that the Polish law provides for a number of guarantees protecting LGBT persons in case of breach or attempted breach of their rights. The information indicated in the communication itself confirm that the domestic legal remedies and mechanisms available in Poland function effectively. This is proven for instance by the fact, as mentioned in the joint communication itself, that two persons were convicted for an attempt to use violence against participants of one of the equality parades, as well as by the fact that proceedings are pending before administrative courts concerning resolutions adopted by some local self-government units (in some instances those proceedings have already led to the annulment of the resolutions at stake). One should also stress that the police takes steps in order to protect the participants of the equality parades.

Contrary to the negative opinions and perceptions, the number of equality parades and marches held in Poland has significantly increased over the recent years. Setting aside 2020 (when the possibility of holding public assemblies was in general significantly restricted for the whole society without exceptions due to the COVID-19 pandemics), in 2018-2019 the number of public gatherings organised by LGBT community greatly increased. In 2019 such marches and parades took place in 30 towns throughout Poland, in 14 of which for the first time.

The freedom of assembly is guaranteed in Art. 57 of the Polish Constitution, according to which everyone is guaranteed the freedom to organize and participate in peaceful assemblies. This freedom may be restricted by statute.

Detailed issues related to the organization of assemblies, including the so-called "Equality parades", were regulated in the Act of 24 July 2015 - Law on Assemblies (Journal of Laws of 2019, item 631). The most important provisions of this act, guaranteeing the freedom of public assembly, include the following provisions:

1. providing the feasibility of the appeal procedure against the decision banning the assembly (the appeal is considered before the planned date of the assembly),
2. introducing court control of the decision to prohibit the assembly - an appeal against the decision to prohibit the assembly is submitted directly to the district court competent for the seat of the voivode within 24 hours of its publication in the Information Bulletin,
3. governing the procedure for the so-called crossing assemblies (Articles 12-13 of the Act),
4. in detail, specifying the premises and the deadline for issuing the decision banning the assembly (Article 14 of the Act), i.e. the commune authority shall issue a decision banning the assembly no later than 96 hours before the planned date of the assembly, if:

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<sup>4</sup> Dz.U.2018.967

a) its purpose violates the freedom of peaceful assembly, its holding violates Art. 4 [1] or the rules of organizing assemblies or the purpose of an assembly or its holding violate the penal provisions;

b) its holding may threaten the life or health of people or property to a significant extent, including when the threat could not be removed in the cases referred to in art. 12 or article. 13 (i.e. in the case of the so-called intersecting assemblies);

c) the assembly is to be held at the place and time where the cyclical assemblies referred to in art. 26a of the Act.

5.introducing simplified proceedings in matters of assemblies (Articles 21-26 of the Act):

a) the possibility of reporting an assembly in a simplified manner - such a possibility occurs when the organizer of the assembly decides that the planned assembly will not cause any difficulties in road traffic, and in particular cause changes in its organization (Article 21 of the Act),

b) a different time limit for notifying an assembly in a simplified manner and a different authority to which the notification should be submitted than in the case of the so-called ordinary assemblies - the organizer of the assembly notifies about the intention to organize an assembly the competent communal (municipal) crisis management center, and if it has not been established in a given commune - the voivodship crisis management center, not earlier than 30 days and not later than 2 days before the planned date of the assembly (Article 22 (1) of the Act),

c) reasons for dissolving an assembly notified in a simplified manner:

- the organizer of the meeting dissolves it if the participants of the meeting do not obey its instructions or if the course of the meeting violates the provisions of this Act or the penal provisions (Article 24 of the Act),

- the assembly may be dissolved by a representative of a commune authority, if its course is a threat to human life or health or property to a significant extent, causes a significant threat to the safety or order of road traffic on public roads or violates the provisions of this Act or penal regulations, and the assembly organizer, informed by representative of the commune authority about the need to dissolve the assembly, it does not dissolve it. In the event of the indicated circumstances, also a Police officer may request a representative of a commune authority to dissolve the assembly (Article 25 (1-2) of the Act).

Taking the above into account, it should be stated that the regulations in force regarding assemblies fully guarantee the respect of the principle of freedom of assembly in Poland. Each entity, provided that it fulfils the conditions for issuing the consent for the organization of an assembly by the commune authority, may conduct such an assembly. In the event of refusal to grant such consent, the entity has the right to file a complaint to the court, which also guarantees the proper implementation of the above-mentioned law (pursuant to Article 16 (1) of the Act - Law on Assemblies, an appeal against a decision prohibiting an assembly shall be submitted directly to the district court having jurisdiction over the seat of the commune



authority within 24 hours of its publication in the Public Information Bulletin. implementation of the decision prohibiting the assembly.).

Nevertheless, data on gatherings held in Poland is collected and processed in the Police Register of Mass Events (PRIM), which is part of the National Police Information System (KSIP). The scope of data collected includes, inter alia, the mode of the gathering, the number of forces and resources allocated for security, the form of activities carried out by the Police and the number of offences occurring during the gathering. However, the PRIM does not generate data on the purpose of holding a given assembly, so the lists and statistics kept by the Police do not allow for the identification of data on incidents with police participation at specific types of assemblies, such as the so-called "equality parades".

### **Ad Protection of the LGBT youth from violence and discrimination in the school environment**

Poland's education system ensures equal treatment and non-discrimination and above all the shaping, in young people, of an attitude of respect for the dignity of all human persons. The right to education, equality and respect is explicitly mentioned in the preamble and certain provisions of Education Law Act along with the executive legislation. They guarantee the right of children and young people to receive education and care appropriate to their age and development level.

Schools and educational facilities respect human rights and assist with the educational and formative role of the family. It is the school's task to create an environment that is friendly to the development of each and every student and his or her preparation for family and civic duties on the foundation of the principles of solidarity, democracy, tolerance, justice and freedom.<sup>5</sup> Article 48 of Polish Constitution guarantees parents' right to educate their children in keeping with their own convictions. The provisions of Education Law Act, on the other hand, vest the parents' council — an organ representing all parents — with specific competences and options to exert influence.

The dignified and equal treatment of all children and students, regardless of origin or social status, sex, region or minority language, is a mandatory task of schools and educational facilities. The shaping of tolerant attitudes in students, mutual respect, achievement of the goals and teaching contents specified in the core curricula and the effective conduct of formative and preventive activities are all important. Preventive activities at school are according to the annual diagnosis of the needs contained in the school's formative and preventive programme adopted by the parents' council in consultation with the teachers' council.

In the event of inappropriate behaviour from a student, or the fact of violence, aggression or discrimination, whatever the cause, it is the duty of the various persons responsible for education and formation, *viz.* teachers, the head teacher or the superintendent of education, to provide the appropriate response and to programme the corrective process.

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<sup>5</sup> Preamble of the Act of 14 December 2016 — Education Law (Dz. U.2020.910, as amended).

In Polish schools students, parents and teachers alike have guaranteed access to psychological and pedagogical assistance.<sup>6</sup> The organization of the appropriate forms of assistance is one of the tasks of the head teacher, who, in consultation with the conducting organ, makes the decisions according to diagnosed needs, including staffing decisions.

It is also necessary to bear in mind that one of the obligations of a teacher, as defined in the Act,<sup>7</sup> is the care of the shaping of moral and civil attitudes in the students in keeping with the idea of democracy, peace and amity among the people of the various nations, races and worldviews. In pursuit of the fullness of their own personal development as part of continued professional development, teachers update their knowledge and refine their skills according to the school's needs.<sup>8</sup>

The above provisions guarantee the individual treatment of each and every student, as a subject and not an object.

The provisions of the core curriculum for middle schools applicable from the school year 2019/2020 onward specify that, in the process of general education, it is the school's duty to shape in the students attitudes conducive to their individual and social development, among which mentioned are honesty, credibility, responsibility, self-esteem, respect for others, good manners, readiness to participate in culture, initiative and teamwork. It is emphasized that in social development it is very important to shape in the students a civic attitude, an attitude of respect for the tradition and culture of their own nation, as well as an attitude of respect for other cultures and traditions.

Moreover, the core curriculum explicitly mentions the following among the school's tasks: preparing the students to undertake activities for the benefit of the school environment and the local environment (e.g. through volunteering) and providing formation in a spirit of acceptance and respect to the other.

The school provides education and formation for its students in line with the core curriculum, which clearly defines the mandatory requirements concerning the knowledge, skills and attitudes with which each and every student finishing the relevant education stage should be equipped. The educational goals and contents as well as the school's formative and preventive tasks defined in the core curriculum are reflected in teaching programmes and in class with the class head teacher (roughly: home-room, form class).<sup>9</sup>

The core curriculum for preschool education and general education for primary school,<sup>10</sup> as well as for middle school,<sup>11</sup> emphasizes the shaping and strengthening of social and civic competences in the students, as well as introducing them to the world of values (individual

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<sup>6</sup> Article 1(5) of Education Law Act.

<sup>7</sup> Article 6(5) of the Act of 26 January 1982 — Teacher's Charter (Dz.U.2019.2215).

<sup>8</sup> Articles 6(3) and 6(3a) of Teacher's Charter Act

<sup>9</sup> Article 4(24) of Education Law Act.

<sup>10</sup> Regulation of the Minister of National Education of 14 February 2017 concerning the core curriculum for preschool education and the core curriculum for general education in primary school, including for students with moderate or significant intellectual disability, general education for first-tier vocational school, general education for special school preparing for work, and general education for post-middle school (Dz.U.356).

<sup>11</sup> Regulation of the Minister of National Education of 30 January 2018 concerning the core curriculum for general education for general and technical secondary schools and for the second-tier vocational school (Dz.U.467).

identity, own dignity, respect for and openness to others). Their development is based mainly on the implementation of the teaching contents for the relevant subjects, though it must be emphasized that the process ought to incorporate all teachers at the school, whatever subject they may teach.

The core curriculum for general education contains both topics in human development and topics referring to human social competence through the prism of the principles of solidarity, democracy, tolerance, justice and freedom. Teaching and formative contents in human rights delivered as part of the core curriculum refer to the shaping of an attitude of opposing and counteracting discrimination, xenophobia and other forms of intolerance. Teaching contents in the scope of social and civic education are included, in particular, in the core curriculum for Polish, philosophy, history, civics, ethics, family-life education, and physical education.

For example the core curriculum for civics, in the sections titled *Understanding oneself and Identifying problems and resolving them*, specifies teaching contents relating to human dignity and rights held by everyone, civic attitudes, activity in social life, identification of violations of human rights, as well as socio-political problems on a local, state, European and global level, along with possible solutions. During the implementation of such sections as *Human rights* and *Minors and the law*, the students learn that human dignity is the foundation of the various moral systems and the source of universal, innate, inviolable and inalienable human rights and freedoms; they learn about the provisions of the Universal Declaration of Human Rights, they discuss behaviours involving physical and mental violence, including verbal violence, against either themselves or others, and they learn which persons and institutions to contact in such situations. The *Communication and co-operation* section, in turn, provides for the development of the skill of debating, taking and expounding a position in a public forum, showing respect to different views, collaborating in a group, taking advantage of the procedures and possibilities opened to the citizens by the institutions of public life.

The structure of the core curriculum for family-life education contains a separate subchapter titled *Family*, widely discussing the topics of family in relation to such matters as the maturity to get married and start a family; criteria to choose the spouse, motivations for marrying, and factors affecting the durability and success of the married and family relationship; the place of the family in society; the place of the child in the family; communication of feelings and building of healthy family relationships; responsibility of all members for the atmosphere in the family; family education to love, truth, honesty; values and traditions important in the family.

The school's tasks in delivering family-life education include especially:

- support for the family's formative role;
- co-operation with the parents in respect of healthy relationships between them and the child;
- identification of the norms of social life, assistance with interiorizing them and respecting them together;
- assistance with the appropriate living through of puberty;

- strengthening of the process of identification with one’s sex; appreciating the complementarity and collaboration between the sexes;
- assistance with moral development and with the shaping of a hierarchy of values;
- promotion of an integral vision of human sexuality; showing the unity among sexual activity, love and responsibility;
- pointing to the right to life from conception to natural death, the need for preparation for motherhood and fatherhood and accompaniment in illness and death;
- creation of a climate for camaraderie, friendship and respect for the human being;
- assistance with seeking answers to basic existential questions;
- providing information about assistance options — a system of counselling for children and young people;
- demonstrating the need for responsible use of the mass-media (including the Internet), in respect of content selection, critical evaluation of the form of the message and time spent;
- assistance with finding and developing talents, discovering possible ways of personal and professional fulfilment, offering preparation for the responsible discharge of tasks on each such path.

In principle, the teaching contents in the core curriculum are formulated according to the criterion of generality. They are expanded on and fleshed out in more detail by the teacher in the teaching programme<sup>12</sup>, to be admitted to the school’s use by the head teacher.<sup>13</sup>The programme must include the contents defined in the core curriculum. Contents falling outside the scope of the core curriculum can also be included but always in keeping with the educational goals defined in the core curriculum and adapted to the students’ capabilities and needs. The teaching programme reflects the teacher’s teaching educational and formative design. It is the most important tool in working with students.

In reference to any initiatives by organizations or individuals whose activities could in effect fall short of the established legal order, we clarify as follows:

The education superintendent conducts *ad-hoc* inspections in response to interventions and complaints. The purpose of such inspections is to assess the level of compliance with the provisions of the law. Any such assessment must necessarily be preceded by fact-finding. The inspectors have a right of access to the school. Recommendations are issued to the head teacher if the pedagogical supervision reveals irregularities.

Hence, the expectation of including such events in the scope of *ad-hoc* inspections could not be fulfilled if it had not previously been the subject of interventions or complaints lodged with education superintendents. The situation relating to the scope of inspections conducted during the last couple of years attests to the abundant inflow of complaints and interventions concerning the ‘Rainbow Friday’ lodged with education superintendents.

Concerning the status and role of the parents in the process of education and formation, it is necessary to note that international and domestic legislation is uniform in following the

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<sup>12</sup>Article 3(13b) of the Act of 7 September 1991 on the Education System (Dz.U.2020.1327, as amended).

<sup>13</sup>Article 22a of the same Act.

natural order in this regard.<sup>14</sup> Without disputing the existence of an overarching interest and consequent possibility of interference into parent autonomy in the sphere of education and formation, it must be emphasized that any such interference is not supposed to and cannot be unlimited. Any discussion of the rights arising from Article 48 of Polish Constitution would be incomplete without consulting the guidelines for the determination of the extent and scope of interference with parent rights, e.g. *formation should reflect the child's maturity level and freedom of conscience and belief; education until the age of 18 shall be compulsory*).<sup>15</sup>

In keeping with the principles of a democratic state ruled by law, the lawmaker ordained the appropriate extent of public involvement in education and formation by establishing the education system along with a legal framework, on the appropriate statutory level, for its functioning. The aforesaid provisions relate to education and formation in areas justified by the need to place the child in a specific social space and involve the child's future role in society (core curriculum, framework teaching programmes; educational and formative programme).

The education system and the institutional-education concept must not compete with the process of education and formation by parents and the child's needs but must supplement and expand on them to the extent that is justified. The existence of an ordered education system puts the parents and the school in the positions of partners, and it does not foresee the exclusion of the parents from the institutional education process. On the contrary, in educational law the legislature identifies the parent as a partner and participant at each stage of education. In this way the education system strives to achieve the fullest possible implementation of parental rights and eliminates possible aspirations of its own to abrogate to itself excessive powers in this regard.

It is beyond any question that the nature of the exercise of parental rights in the process of education and formation is absolutely individual. In this process no parent may ever be substituted for by a different subject (outside of cases specified in the provisions of Family and Guardianship Code — limitation or termination of parent responsibility, or alternative care.)

Against the above background it must be noted that the option for the parents to elect their own representatives (parents' councils) is a wholly different matter.<sup>16</sup> The establishment of

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<sup>14</sup>– Article 26 of the Universal Declaration of Human Rights — 'Parents have a prior right to choose the kind of education that shall be given to their children';

– Articles 5 of the Convention on the Rights of the Child: 'States Parties shall respect the responsibilities, rights and duties of parents (...) to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.' Article 18: 'Parents (...) have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.' Article 18(2): '(...) States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.'

Also: European Charter of Parents' Rights and Obligations; Article 14 of the Charter of Fundamental Rights of the European Union (OJ EU C no. 303 item 1);

– Article 53 of Polish Constitution: 'Parents shall have the right to ensure their children a moral and religious upbringing and teaching in accordance with their convictions.' Article 70: 'Parents shall have the right to choose schools other than public for their children.'

<sup>15</sup>Articles 48(1) and 70(1) of Polish Constitution.

<sup>16</sup>Articles 83 and 84 of Education Law Act.

such an organ at a school is not intended to and cannot serve to ‘*establish the appropriate balance between the parents’ rights and the school’s formative function.*’ For, as demonstrated above, the rights concerned do not exist in a collective dimension, nor can their exercise accordingly take place by transferring parent rights into any collective body (parents’ councils). The creation and operation of councils at schools must be assessed strictly in the context of the literal reading of the pertinent provisions. The council is a consulting and petitioning organ entitled to take positions on matters relating solely to the parents’ collective interest (and not the interests of the various individual parents).

Article 86 of Education Law Act also must be understood in the context of the inviolable individual rights of each and every parent with regard to his or her child. The latter provision only establishes a certain procedure the execution of which (with the participation of the parents’ council) can *potentially enrich (expand on)* the particular school’s educational, formative, caretaking and innovative offering. Being only activity in support of the school (and its educational standards), it cannot be made part of the student’s mandatory task load and thus operate to remove the parental right to object to participation in such classes.

Concerning the matter of the attempt to introduce teaching contents incompatible with the parents’ values, it must be emphasized that mayors and communal chief executives as organs managing schools lack the powers to impose on the parents the values selected to underpin the children’s formation and education. The statutory duty of such an organ is to build, renovate and equip schools to the extent allowing the fullest possible implementation of the educational and formative tasks defined in the core curriculum. The organ is required to act in accordance with the law. The provisions of the Act on Communal Self-Government mandate that the supervision for a commune’s activities is provided by the voivode (provincial governor) on the basis of the criterion of legality.<sup>17</sup>

Article 58 of Educational Law clearly provides that the managing organ and the supervising organ may intervene in the school’s educational and formative activities to the extent and on terms set out by statute.

Providing children and young people with formation in the spirit of acceptance and respect for another human being, of respecting the Christian value system and honing civil and social attitudes in the students is the school’s permanent task and an integral element of general education delivered on an ongoing basis as part of the school’s educational and formative activities. The school’s tasks in this area are grounded in the educational-law system — the aforementioned Education Law Act and executive legislation for it, especially the regulations of the Minister of National Education concerning the core curricula for general education in the various types of schools. It is the school’s basic duty to ensure the safety of all of its students. This is the care of the superintendents of education, who are statutorily empowered to respond to dangerous situations. In accordance with § 3(1) of the Regulation of the Minister of National Education of 25 August 2017 on Pedagogical Supervision,<sup>18</sup> superintendents of education exercise such supervision by carrying out the tasks and activities

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<sup>17</sup> Articles 85–88 of the Act of 8 March 1900 on Communal Self-Government (Dz.U.2019.506).

<sup>18</sup> Dz.U.2017.1658

set out in Article 55 of the Act, either as planned or as *ad-hoc* activities. The latter must ensue if there is a need for action not foreseen in the plan for pedagogical supervision.

It must be emphasized that each school follows a formative and preventive programme enacted by the parents' council based on the outcome of diagnoses of needs. The school or facility's formative and preventive activities should always comply with this programme. Its goal is to support the student in comprehensive development directed towards the achievement of full physical, emotional, intellectual, spiritual and social maturity. Hence, it is also the school's environment making the decisions on the formative activities to be pursued by the relevant school.

NGOs can conduct their activities in schools upon the head teacher's prior consent given after agreeing on the conditions of such activity and obtaining a positive response from the parents' council. The above is possible if the chartered goal of associations and organizations is formative activity or expansion and enrichment of forms of educational, formative and caretaking activities of a school or facility (Articles 86(1) and 86(2) of Educational Law Act).

Information for school head teachers about the statutory provisions in force in this regard has been made available on the website of the Ministry of Education and Science (previously Ministry of National Education). Emphasis was laid on the head teacher's obligation to obtain the parents' consent for the activities of associations and organizations on the school's premises. If parents know that their child participates, at school, in an event inconsistent with their values, they have the right to voice their determined objection to the school or facility's head teacher. Where such an intervention is futile, they have the right to address the territorially competent education superintendent, who is to take on supervisory activities adequately to the problem being reported.

It must be emphasized that pedagogical supervision in schools is provided by the head teacher and the territorially competent education superintendent for the relevant voivodeship (top-level province).

The school-year calendar does not include an event titled 'Rainbow Friday'. It will be expedient to underscore that the titular initiative, organized annually by an NGO, is marginal and does not have the scale reported by its organizers.

The parents, in accordance with Education Law Act, are entitled to decide what formative contents are going to be taught to their children at school. The contents are provided in the formative-preventive programme adopted by the parents' council in consultation with the teachers' council. All other educational projects and initiatives with formative contents should reflect the directions of intervention provided for in the aforementioned programme, which includes the implementation of the mutual arrangements made between parents and teachers. The head teacher has the obligation to obtain the parents' consent for the activities of associations and organizations on the school's premises. If parents know that their child participates, at school, in an event inconsistent with their values, they have the right to voice their determined objection to the school or facility's head teacher providing pedagogical supervision. Where the intervention fails to achieve its intended effect, they may address the

territorially competent education superintendent, who will initiate supervisory activities adequate to the reported problem.

**Ad Information on the procedures for registering children from same-sex unions in Poland and the recognition of procedures for children registered in countries where marriage of one-sex couples is allowed**

With regard to the procedures for the registration of children from same-sex unions in Poland, I point out that the rules of the child's origin are regulated in the Act of February 25, 1964, Family Code and caring (Journal of Laws of 2020, item 1359, hereinafter referred to as "KRiO"). The provisions of the above-mentioned legal act clearly show that the mother of the child is the woman who gave birth to it. On the other hand, the provisions on paternity, regardless of how it is established, always mention a man as the child's father. The provisions of the Act of 28 November 2014, Law on civil status records (Journal of Laws of 2020, item 463, as amended, hereinafter referred to as "KRiO") are correlated with these material and legal solutions concerning the child's origin provided for in KRiO. Prasc”), which define technical and organizational solutions.

Referring to the information on the procedures for registering children from same-sex unions in Poland, it should be clarified that the above may only apply to a situation where the child was born abroad. According to the Polish legal system, a child cannot have parents of the same sex, and thus in the current birth registration of the child, the birth certificate will be drawn up in accordance with the above-mentioned family law and the Prasc Act.

With regard to the recognition of the procedures related to the registration of children in countries where single-sex marriages are allowed, it should be noted that the foreign birth may be reflected in the Polish system of marital status registration in one of the special procedures provided for in Prasc, o how many conditions are met in the above-mentioned the law. In this context, I point out that, for example, the provisions of Art. 104 sec. 1 Prasc, as a rule, enable the transfer of a foreign civil status document, which is evidence of the event and its registration, by means of transcription. Transcription consists in a faithful and literal transfer of the content of a foreign civil status document, both linguistically and formally, without any interference in the spelling of the names and surnames of the persons indicated in the foreign civil status document (Art. 104 (2) Prasc).

The binding provisions of law, however, give the head of the civil registry office, which is the body appointed to conduct the registration of civil status, the possibility of refusing to transcribe a birth certificate if the same-sex parents are listed in the foreign marital status document. According to Art. 107 point 3 Prasc, the head of the registry office refuses to make a transcription if it would be contrary to the fundamental principles of the legal order of the Republic of Poland. In this context, it should also be noted that pursuant to Art. 7 of the Act of February 4, 2011, International Private Law (Journal of Laws of 2015, item 1792), foreign law shall not apply if its application would be contrary to the fundamental principles of the legal order of the Republic of Poland.

It should be emphasized that the above is supported by the resolution of the Supreme Administrative Court of 2 December 2019 on the transcription of a foreign child's birth



certificate, according to which "The provision of art. 104 sec. 5 and art. 107 point 3 of the Act of November 28, 2014, Law on civil status records (Journal of Laws of 2014, item 1741, as amended) in connection with Art. 7 of the Act of February 4, 2011, Private International Law (Journal of Laws of 2015, item 1792) does not allow the transcription of a foreign birth certificate of a child with same-sex persons entered as parents ”.

#### **Ad New legislation to isolate perpetrators of domestic violence**

From the 30 of November 2020 the police were equipped with a new legal instrument to increase the protection of persons affected by family violence. In order to create an effective system of protection of persons affected by family violence, on the basis of Article 15aa of the Police Act, police officers have been granted a new power in the form of the right to issue an order to immediately leave a jointly occupied flat and its immediate vicinity or a prohibition on approaching the flat and its immediate vicinity to a person who, by his/her behaviour poses a threat to the life or health of a person affected by such violence (as defined in the provisions on Act on Counteracting Domestic Violence).

The aim of this solution is to quickly isolate a violent person from the person affected by violence. The priority is to ensure the safety of the person affected by violence, for whom the most important thing in a threatening situation is to be separated from the person doing the violence as quickly and efficiently as possible, but in such a way that the person affected by family violence does not have to leave the home.

The injunction or prohibition is valid for a period of 14 days, which may be extended by the court. During this period (14 days), the person affected by family violence may decide on a further course of action, including filing a request that the court obliges the person using family violence to leave the jointly occupied flat and its surroundings or prohibits the person using family violence from approaching the flat and its immediate vicinity (referred to in the provisions of the Act on Counteracting Domestic Violence).

Pursuant to the provisions of the Act, a police officer has the right to issue an order or prohibition during an intervention undertaken in a jointly occupied flat or its immediate vicinity, as well as in connection with obtaining information on the use of violence in the family (e.g. as a result of a report by a person affected by family violence, a probation officer or an employee of a social welfare organisational unit). The order or prohibition may be issued jointly and are immediately enforceable. The police officer shall determine, inter alia, the area or distance from the flat which the violent person is obliged to keep. During the period of validity of the order or prohibition, the police are obliged to check at least three times whether the order or prohibition is being violated, with the first check taking place on the day following the issuance of the order or prohibition.

#### **Ad Statistics on "Hate crimes" for 2018-2020 and the activities and procedures undertaken by the Government to counteract this phenomenon**

The Government of Poland has for many years undertaken actions aimed at ensuring effective counteracting hate crimes. Especially, periodic actions within capacity building of law enforcement officers on combating hate crimes should be indicated.

The main action in this field is the realization within the police of training program on counteracting hate crimes called *Training Against Hate Crimes for Law Enforcement* (TAHCLE). The program has been implemented in cooperation with Office for Democratic Institutions and Human Rights of the Organization of Security and Cooperation in Europe (ODIHR OSCE). Ministry of the Interior and Administration acts as program coordinator.

The Program is based on a system of vocational, obligatory trainings on counteracting and combating hate crimes carried out in the police which have been provided since 2009 in the whole country. The aim of those trainings is to teach Police officers the competence of identifying hate crimes, investigating them properly, reacting adequately and preventing hate crimes. Till the end of 2020 about 106 thousand police officers have been trained within the program.

Since 2015 the workshops called *Counteracting racist and xenophobic crimes* have been carried out. The workshops are addressed to police officers – investigators to improve their capacities in investigating hate crimes. The trainings are organised by General Police Headquarters in cooperation with Ministry of the Interior and Administration.

Also the periodic meetings for hate crime coordinators on counteracting hate crimes are organised by General Police Headquarters. Apart from police officers the meetings gather representatives of public institutions and civil society organizations active in the field of human rights protection and counteracting hate crimes. During such meetings hate crimes coordinators take part in lectures and they exchange the information on hate crimes cases in their regions.

Ministry of the Interior and Administration, in cooperation with General Police Headquarters, monitors all sorts of incidents motivated by hostility based on prejudices. It contains data on investigations in hate crime cases led by the police within the whole country. Those data are supplemented by MoIA with information about the way of finishing cases in courts (for cases prosecuted). Therefore, cases are being monitored from the moment the incidents are detected until the end of actions of relevant bodies.

The database contains all sorts of incidents motivated by hostility based on prejudices connected e.g. with national origin, race, ethnicity, religion, sexual orientation, gender identity and other factors. These incidents may involve physical attacks, verbal abuse including hostile contents in the Internet, graffiti, damage to property, threats, grave and memorials devastation, attacks on places of worship.

The system was launched in 2015. It allows to analyze data to elaborate the characteristics of hate crimes phenomena in Poland, regarding the types of motivation, types of crimes or types of place of the incident. Therefore it is possible to generate data also on homophobic and transphobic hate crimes.

Below, the statistics on investigations in hate crime cases can be found. It concerns preliminary proceedings initiated by the police in particular years:

<b>Year</b>	<b>The total number of investigation initiated in</b>	<b>The number of investigations initiated in homophobic and</b>
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	<b>hate crime cases</b>	<b>transphobic cases</b>
2018	1124	4
2019	1003	16
2020	811	40

**2018:**

<b>The number of investigations initiated in homophobic and transphobic cases*</b>	<b>Physical violence</b>	<b>Hostile Internet comment</b>	<b>Insulting</b>
4	1	3	1

\* one investigation can concern more than one act.

**2019:**

<b>The number of investigations initiated in homophobic and transphobic cases*</b>	<b>Physical violence</b>	<b>Threads</b>	<b>Hostile Internet comment</b>	<b>Articles/publications</b>	<b>Graffiti</b>
16	2	1	11	2	1

\* one investigation can concern more than one act.

**2020:**

<b>The number of investigations initiated in homophobic and transphobic cases*</b>	<b>Physical violence</b>	<b>Hostile Internet comment</b>	<b>Disturbing legal manifestation</b>	<b>Graffiti</b>
40	2	35	1	2

Moreover, the statutory tasks of the Police include, among others, the task aimed at preventing the development of various types of social threats, the implementation of which consequently translates into the level of citizens' sense of security. In accordance with the Act on the Police its tasks include, among others, "initiating and organising activities aimed at

preventing offences as well as criminogenic phenomena and cooperating in this area with state and local government bodies and social organisations". Police officers undertake a number of preventive and educational undertakings, which include prevention programmes and actions, information campaigns, prevention picnics, information stands, thematic workshops, lectures, knowledge competitions (arts and sports), films, theatre performances, etc.

The tasks related to the prevention of hate crimes realised by the Police were in line with the 1st Priority of the Police Commander in Chief for the years 2019-2020, which was *Increasing the effectiveness of Police activities to strengthen cooperation with the society*. The tasks assigned to this Priority include consisting in adjusting the activity of the Police to the diagnosed needs in the area of prevention of social threats. It is important that from 2019, priority areas of concern (diagnosed social needs), such as: road traffic safety; drugs, designer drugs, intoxicants; cyber threats; safety in public places and place of residence; safety of children and youth - education for safety; violence in the family; safety of seniors; have been extended to the area of hate crime. This fact entails the obligation to plan and implement tasks in this area by all units of the Police, adequately to the type and scale of the diagnosed threats.

Due to the essence of the problem, the area of hate crimes was included in Priority 3 of the Police Commander in Chief for the years 2021-2023 *Increasing the effectiveness of the Police in order to meet social expectations*. Among the tasks related to the implementation of the aforementioned priority, there was an activity consisting in adjusting preventive activities of the Police to the diagnosed social threads in the following areas: addiction: drugs, new drugs, alcohol; cyber threat; human trafficking; hate speech, including hate speech, hate crimes; safety of seniors.

Bearing in mind the essence of crimes motivated by hatred and prejudice and the protection of the rights of representatives of minorities in Poland, in the Prevention Bureau of the National Police Headquarters, in close cooperation with the Plenipotentiary of the Commander in Chief of the Police for Human Rights Protection, the *Police Action Plan for 2018-2021 in the field of counteracting the promotion of fascism and other totalitarian regimes and crimes of incitement to hatred on the basis of national, ethnic, racial, religious differences or due to non-religion*, was developed (hereinafter *the Action Plan*).

According to *The Action Plan*, new and continued police preventive actions are to lead to the promotion of a life free from discriminatory behavior, as well as to reduce the occurrence of all forms of totalitarian regimes promotion and violation of human dignity. The idea of *The Action Plan* (...) is to intensify the Police activities aimed at preventing hate-motivated crime with the participation of preventive coordinators for social prevention, with the active support of plenipotentiaries of Regional/Metropolitan Police HQ commanders for human rights protection. The groups involved in activities in this area include children, youth, parents, authorities, teachers and journalists, people active in unions and associations representing minorities, working for equality and social assimilation.

Among planned actions there are such forms of preventive actions as: informational and educational projects (meetings in schools with children and youth, parents, teachers, dealing with issues of equality and tolerance), training for police officers, workshops and conferences

(in cooperation with various entities, including local authorities, education offices, representatives of churches and religious associations, universities). Cooperation with associations of national and ethnic minorities is established, media messages on hate crimes are developed, information in different languages on assistance and support points for foreigners as well as on safety rules in our country are placed on websites.

It is worth mentioning that *The Action Plan* provides for regular meetings of coordinators from Regional/Metropolitan Police headquarters responsible for its implementation. They are organized by the Prevention Bureau of the Police Headquarters, at least once a year to discuss possible problems, exchange practices and experiences related to the implementation of preventive measures in the area in question. The Plenipotentiary of the Commander in Chief of the Police for Human Rights Protection and lecturers from non-police entities are invited to participate in the seminar. The issues discussed during such meetings concern both the issues of equality, discrimination, tolerance, hate speech and hate crimes, as well as the tasks resulting from *The Action Plan*. Examples of initiatives in the area of hate crime prevention are presented below:

Examples of initiatives in the area of preventing hate crimes and hate speech  
to be implemented by Police organizational units in 2021.

1. Actions under the preventive program entitled *Cyber-aware, Cyber-safe* on counteracting cyberbullying, hate speech and hate.
2. Educational classes and workshops on tolerance towards others, the effects of prejudices and stereotypes as well as appropriate behavior towards dissimilarities, targeted at students of older grades of primary schools and senior high school students.
3. Training entitled *Fighting and preventing negative stereotypes and violence motivated by prejudice and hatred*, aimed at showing diversity, the impact of stereotypes and anti-discrimination activities.
4. Preventive meetings with children and youth devoted to the issues of tolerance and non-discrimination, prevention of hate crimes.
5. Information meetings with youth students on the legal responsibility of minors, including for acts motivated by hatred.
6. Meetings and lectures with parents and guardians on crimes related to national, ethnic, racial, religious and non-denominational crimes.
7. Training for police officers, e.g. *Equal treatment and counteracting discrimination, Anti-discrimination issues, Anti-discrimination activities in Police units. Shaping particular sensitivity among police officers to respect human rights, Creating the image of a police officer in terms of respecting human rights and preventing hate speech crimes*, as well as other matters related to improving the professional competences of officers in this area.
8. Preventive competition for children and adolescents on tolerance, non-discrimination and social exclusion, for example for the performance of a multimedia presentation, poster, comic book, photo or short film.
9. Projects aimed at reducing hate in social media.
10. Organisation of the conference on preventing discrimination and promoting tolerance among young people.

11. The project entitled *A living library* - participation in meetings with representatives of national, religious and racial minorities, which is aimed at reducing barriers and teaching tolerance.
12. Publishing information stigmatizing racist, discriminatory behavior and hate speech on the websites of Police organizational units. Cooperation in the above-mentioned scope with local media.
13. Counteracting illegal graffiti referring to the content of hatred and conducting joint activities aimed at limiting this phenomenon, with the participation of local government, non-governmental organizations and facility administration.
14. Educational project involving the employees of the *Museum at Majdanek*, dedicated mainly to the management of organizational units of the Police. Its aim is to shape in individuals and professional groups the desired behaviors that make people sensitive to cultural and ethnic differences, supporting openness and tolerance.
15. Training entitled *Hate speech - events motivated by prejudice for teachers, educators, school principals under the project entitled Teach, inform, prevent. Open schools - open Police units.*
16. Trainings conducted by the Plenipotentiary of the Regional Police HQ Commander for Human Rights Protection in Poznań, aimed at police officers participating in the safeguards of public gatherings - in terms of hate speech.
17. Cooperation with local media (press, radio, Internet services) on topics related to the essence of hate speech and its prevention.
18. Workshops on *We learn tolerance* addressed to students of various types of educational institutions.
19. Development of a preventative comic book for children with content in the field of, inter alia, hate speech.

### **Ad The Istanbul Convention**

Poland has been a party to the Council of Europe Convention on preventing and combating violence against women and domestic violence since 2015. The Polish Prime Minister has on many occasions stressed that the protection of women and victims of domestic violence is one of the priorities of the current Polish government. At the same time, on 30 July 2020 the Prime Minister decided to submit the Convention to the scrutiny of the Constitutional Court. He emphasised that the provisions of the Convention provoked serious doubts: “many persons address serious reservations in respect of the Istanbul Convention in the public discourse, and namely that it violates our legal order, is ideologically based, incorrectly defines the real sources of violence against women and does not provide for effective tools to combat domestic violence. These are serious doubts which we cannot ignore. The government partly shares these concerns and has a rights to consider that the document in question may be incompatible with the Constitution *inter alia* as regards the State’s impartiality in matters of worldviews and the parents’ right to educate their children in conformity with their own convictions”.

There is no dispute about those among the Convention's goals which prohibit domestic violence and violence against women and require the signatories to fight violence, protect its victims and prosecute the offenders.

### **Ad The alleged application of “conversion therapy” and the views of the Catholic Church in Poland**

Standards of both International law (notably Article 18 of the International Covenant on Civil and Political Rights) and of the Polish Constitution provide for the protection of the freedom of religion. This right includes freedom to have or to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. No one shall be subject to coercion which would impair one's freedom to have or to adopt a religion or belief of one's choice. A crucial element of exercising of the freedom of religion and to manifest it, is the freedom of members of a given religious community to proclaim the tenets of their faith and to express their opinions on moral issues considered important from the point of view of their religion. Actually, the freedom of religion without which this aspect would practically be devoid of its meaning. In essence, the right of members of a given religious community to receive information on the tenets of their religion and teaching from their clergy is a key element of the freedom of religion. The expression of opinions by the Catholic Church in Poland on the postulates of LGBT groups from the point of view of the religious doctrine is therefore a form of exercising the aforementioned right to manifest one's religion or beliefs, both by the Church's representatives and by other members of that Church. At the same time, the State authorities are obligated to respect the principle of the autonomy of the religious community and to refrain from interfering in the contents of its doctrine and teaching. As clearly provided for in the jurisprudence of the European Court of Human Rights and in the opinions of the Venice Commission, the requirement of neutrality and impartiality excludes any assessment by the State of the legitimacy of religious beliefs and the ways in which they are expressed:

“In exercising their regulatory power authorities in relations with various religions, denominations and beliefs, have a duty to remain neutral and impartial. The neutrality requirement co-exists with the principle of equality and non-discrimination making it mandatory for authorities not to make the exercise of freedom of religion under domestic law subject to strict criteria which is tantamount to prior authorization. In legislation dealing with the structuring of religious communities, the neutrality requirement “excludes assessment by the State of the legitimacy of religious beliefs or the ways in which those beliefs are expressed”<sup>19</sup>.

The Polish society, which has a particularly painful past experience of persecution of members of the Catholic Church for preaching their religion during the Nazi and Communist totalitarianisms, is particularly sensitive to any attempts to possibly restrict the freedom of religious communities by the State authorities.

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<sup>19</sup> CDL-PI(2014)005 Compilation of the Venice Commission opinions and reports concerning freedom of religion and belief (revised July 2014), p. 15.

For the above reasons, the Polish authorities are of the view that it is not their role to restrict the opinions, activity and autonomy of the Catholic Church in Poland. In their view, it is sufficient that both within the Catholic Church itself and in general in the Polish society there is a free debate and exchange of opinions on the postulates of the LGBT community. As far as the question of whether the postulates of the Catholic Church's representatives will or will not be taken on board, for instance those regarding the "conversion therapy", the decision belongs to the State and medical authorities acting on the basis of medical considerations.

Basic rules for relations between Republic of Poland and Churches and religious organisations are set in Article 25 of the Constitution of the Republic of Poland from April the 2nd 1997.

1. Churches and other religious organizations shall have equal rights.
2. Public authorities in the Republic of Poland shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, and shall ensure their freedom of expression within public life.
3. The relationship between the State and churches and other religious organizations shall be based on the principle of respect for their autonomy and the mutual independence of each in its own sphere, as well as on the principle of cooperation for the individual and the common good.
4. The relations between the Republic of Poland and the Roman Catholic Church shall be determined by international treaty concluded with the Holy See, and by statute.
5. The relations between the Republic of Poland and other churches and religious organizations shall be determined by statutes adopted pursuant to agreements concluded between their appropriate representatives and the Council of Ministers.

The international treaty mentioned in point 4 is the Concordat between Holy See and Republic of Poland from July the 29th 1993. The relevant statute is Act on relations between State and Roman Catholic Church from May the 17<sup>th</sup> 1989 augmented by the Act on guarantees of freedom of faith and religion from May the 17th 1989.

Guarantees for freedom of faith and religion in relationships between the State and churches and other religious organizations and are set in the Act on guarantees of freedom of faith and religion from May the 17th 1989 and defined as:

1. separation between the State and churches and other religious organizations;
2. freedom of churches and other religious organizations in fulfilling their religious roles;
3. equality between churches and other religious organizations, independent of form of their regulation or legal position.

Making use of their freedom of thought and religion all citizens may in particular:

- 1) create religious communities - churches and other religious organizations created with the aim of the religious worship and spreading of faith. The churches and other religious organizations shall have their structure, doctrine and religious rituals;



- 2) participate in religious activities and rituals according to rules of their faith, observe religious plights and holidays;
- 3) to be or not to be members of churches and other religious organizations;
- 4) to raise their children according to their religious beliefs or worldview;
- 5) to remain silent on their religious beliefs or worldview;
- 6) cultivate contacts with coreligionists, also take part in religious organization of international scope;
- 7) make use of the sources of information on religion;
- 8) create and buy objects necessary for religious worship and rituals and make use of them;
- 9) create, buy and possess objects necessary for observation of religious plights;
- 10) become members of clergy;
- 11) to associate in the lay organizations created with the aim of fulfilling tasks coming from their religious beliefs or worldview;
- 12) be buried with observation of rituals coming from their religious beliefs or worldview.

According to Article 32 paragraph 2 of the Constitution of the Republic of Poland No one shall be discriminated against in political, social or economic life for any reason whatsoever. Also according to article 6 of Act on guarantees of freedom of faith and religion from May the 17th 1989 no one shall be discriminated against or privileged on ground of religion or worldview. No citizen can be compelled to take part or not take part in religious rituals.

As to the allegation that the Polish Episcopate is calling for the creation of ‘conversion therapy’ clinics, it must be noted that the Communication referred to the Polish Bishops’ Conference as a three-day meeting — ‘three-day Polish Episcopal Conference’ — whereas in reality the Conference is an institution bringing together the country’s Catholic bishops. The latter is a principle arising from Canon 447 of Code of Canon Law [*Codex Iuris Canonici auctoritate Ioannis Pauli PP.II promulgatus* (25/01/1983), AAS 75 (1983); hereinafter ‘CIC’] and followed throughout the world. In the context of deliberations Canon 457 CIC mentions ‘plenary sessions’. Hence, it has to be surmised that the Communication was probably referring to a plenary session of the Polish Bishops’ Conference. Here, one must note that conferences of bishops (including Polish Bishops’ Conference) are not political constructs, and the separation between state and ecclesiastical authorities is very clear and solid in this regard (Concordat between the Holy See and the Republic of Poland of 28 July 1993).

In their position, the bishops in the Polish Bishops’ Conference expressed willingness to offer assistance to those people who, due to the frequently aggressive propaganda activities engaged in by some LGBT groups, may experience agitation in their psycho-physical or sexual spheres, translating into anxiety impeding their ability to function properly in society. For this reason, the creation of various forms of assistance appears to be a wholly justified way of reaching out to those who are in need of help and, which is of supreme importance, willing to accept it. The bishops clearly stated their intention of providing help to those who need it but first of all freely want it. That is a fundamental difference, ignored when formulating the Communication’s critical conclusion alleging that calls are made for the

establishment of ‘conversion therapy’ clinics. The bishops’ text makes no mention of any clinics. It only references advice centres and medical centres, which is a large difference. The position taken by Polish Bishops’ Conference contains an exceptionally gentle expression of willingness of to provide advice and aid, or more precisely to ‘serve’ those desiring to recover their sexual health and natural sexual identity. LGBT organizations cannot forbid persons who identify as LGBT from making their own (completely free) decision to change their life by regulating the matter of their sexual identification. Otherwise serious concerns would have to be expressed about the use of a coercion tactic against members of the LGBT community by various ideologues and organizations, meaning members of the community themselves.. Additionally, a manipulation of sorts of the contents of the bishop’s position in the Communication cannot escape notice. Indeed, as the Communication observes, the bishops decided that the above-described form of assistance remains in opposition to circles regarded as being scientific, as well as so-called political correctness. There are still numerous doubts as to the correct methodology of the centres and people dealing with the broadly understood LGBT sphere or other forms leading to cultural changes. The uncertainties also attach to the objectivity and the foundations of the analyses and to something which could be referred to as the root of scientificity. The reference to so-called political correctness, on the other hand, is a form of vague colloquial expression pointing to the artificiality of such correctness, which finds support in empirical reality, for example the exertion of pressure to adopt imposed legal, axiological, ethical and moral solutions that are frequently at odds with freedom and with the rationality of self-determination.

It is also worth emphasizing the impossibility of negating the correctness of documents issued within certain specific institutions and closely linked to their mission. This is a manifestation of the principle that could be termed the autonomy of every institution, including the Catholic Church, which concentrates its activities around, *inter alia*, the good of all of its faithful in general and each of them in particular, along with the recognition of the dignity of every human being. The bishops’ recognition of respect for and dignity of all people, thus including people identifying with the LGBT community, is explicitly emphasized in the communication, for which reason the negation of the same thesis in the later part of the document is surprising.

Regarding the issue of „conversion therapies” and the recommendations for Poland issued in September 2018 by the UN Committee on the Rights of Persons with Disabilities, which included the recommendation to ban on all conversion practices, and the recommendation of the *Ombudsman for Patient Rights* to achieve this objectives through legislative actions based on scientific knowledge, it is important to highlight that homosexuality by itself is not a disease and is not considered as disorder.

The Ministry of Health received the above-mentioned recommendations of the UN Committee on the Rights of Persons with Disabilities, which include a call to end conversion therapies, along with comments on the application of Article 17 of the Convention on the Rights of Persons with Disabilities.

It should be noted that the Ministry of Health does not have information confirming in a reliable way the scale of such practices, and the publications in the media and reports or

studies, created mainly by foundations and associations dedicated to LGBTQ+ are only sources of information on the use of conversion therapies. It should be emphasized, however, that most of these reports describe individual cases of "therapy", which does not allow neither to clearly define the frequency of such practices nor to identify all, or even most of the entities conducting such activities. This situation is confirmed by the "Information from the Ombudsman for Patient Right on the actions taken by the Republic of Poland to implement the provisions of the Convention on the Rights of Persons with Disabilities, including the List of Issues (CRPD/C/POL-Q/1). Recommendations for further State action", in which the Ombudsman indicates that there is no official data on the number and functioning of centres providing "conversion therapy".

"Conversion therapies", are usually performed by professions that the Minister of Health does not supervise (psychologist, psychotherapist). Given the lack of specific information about the centres conducting such "therapies" and about their performance, contrary to the current legislation and current medical knowledge, within the health care system or by medical professionals supervised by the Minister of Health, there is currently no basis for the introduction of the ban of such therapies in health care regulations.

At this point, it should also be emphasized that the main goal of the Ministry of Health is to ensure access to health care benefits that are consistent with the current medical knowledge, international classifications, as well as recommendations of scientific societies. "Conversion therapies" are not consistent with the current medical knowledge, therefore there are no such services as part of health care benefits, and thus - they are not financed from the public funds under contracts with the National Health Fund. It should also be noted that article 2 of the Act of 27 August 2004 on health care benefits financed from public funds, defines the subjective scope of the Act and it does not result in any form of discrimination of non-heteronormative and transgender persons in terms of their right to health protection. Moreover, pursuant to article 15 of the above mentioned act, which defines the scope of provided health care benefits, beneficiaries have the right to health care benefits, under the terms of the Act, the purpose of which is to maintain health, prevent diseases and injuries, early disease detection, treatment, care and prevention and reduction of disability, which also does not imply any form of discrimination. At the same time, guaranteed services are provided on an equal footing, in line with the current medical knowledge.

In conclusion, in the Polish health care system, no medical procedures under the name of "conversion therapies" are carried out, nor are such therapies financed from public funds, while the medical staff is educated to respect the intimacy and personal dignity of patients and to provide health services in accordance with current medical knowledge recommended by European and world scientific societies.

The scope of "conversion therapies" (assessed on the basis of available information) does not relate to the health care system functioning in Poland and is not reflected in legal regulations, thus there is no justification for the verification of any regulations in this regard, which remain in scope of responsibility of the Minister of Health.