*Check against delivery*

**Opening remarks by Ms. Renata Szczęch**

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**Human Rights Council – Universal Periodic Review of Poland**

*Mr. President*

*Excellencies,*

*Ladies and Gentlemen,*

I have the true honour and pleasure of chairing the Polish delegation at the Universal Periodic Review. Poland was one of the first countries to be subject to a review, and is one of the UPR's leading supporters and advocates. We are hoping for a fruitful exchange of opinions, and will listen carefully to all the recommendations proposed by our partners.

Poland, a candidate for the 2020-2022 term of the Human Rights Council, considers human rights to be an issue of utmost importance. Since 2001, we have fully cooperated with all UN special procedures and continue to extend
a standing invitation to visit Poland at their convenience.

*Mr. President,*

You have received a report drafted by the Ministry of Foreign Affairs on the basis of contributions from various governmental agencies responsible for fulfilling human rights-related obligations domestically. In drafting the report, we strove to make the entire process as transparent as possible, duly notifying members of parliament of its course, and organising an information meeting with representatives of non-governmental organisations to listen to any comments and concerns. We also received contributions from the Ombudsman (Human Rights Commissioner) and the Ombudsman for Children.

Since the previous Universal Periodic Report of Poland in 2012, our country has signed and ratified a number of international conventions, including the following:

* Council of Europe Convention on preventing and combating violence against women and domestic violence,
* Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse,
* Convention on the Rights of Persons with Disabilities,
* Second Optional Protocol to the International Covenant on Civil and Political Rights,
* Additional Protocol to the Council of Europe Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems,
* Protocol to Convention 29 (to the Forced Labour Convention of 1930);

Furthermore, in 2013, Poland withdrew her reservations to Articles 7 and 38 of the Convention of the Rights of the Child, and amended the declaration to the Optional Protocol to the Convention of the Rights of the Child on the involvement of children in armed conflict.

All of the above are examples of efforts undertaken by Poland to meet the highest human rights protection standards through the implementation of concrete legal norms.

Poland is particularly concerned with protecting children’s rights. In 2015, major amendments were made to the Polish Family and Guardianship Code, elevating the protection of children’s subjectivity. These changes have served to eliminate automatic decisions to the effect of limiting parental custody rights of one of the parents under conflict circumstances (divorce, separation, etc.). Such decisions have been replaced with the child’s guaranteed right to both parents.

Under such circumstances, decisions to restrict parental custody rights may only be passed as an *in extremis* measure.

The *Family 500+* programme has been introduced to further improve conditions of raising children, in particular in the most deprived families; the *Family 500+* programme was introduced in 2016, providing for the disbursement of parental monthly benefits (PLN 500 approximately USD 125) for the second and each consecutive child in the family, household income notwithstanding, and additionally for the first child for families with household income below a certain threshold. *Family 500+* programme funds are currently provided to 3.8 million children in 2.56 million families. The programme has brought significant improvement to material conditions in families, resulting in a decline in the number of persons collecting social welfare benefits and food assistance. Once the measure was introduced, the relative poverty threat index dropped by 4 percentage points, the overall poverty threat in the community of children under 17 was reduced by one-half.

Poland also considers protecting vulnerable groups to be of particular importance. These include inter alia disabled persons. This is why in December 2016, the Council of Ministers adopted a resolution concerning the so-called
*Za Życiem* (*For Life*) programme of comprehensive support for families. The programme assists families with disabled  members, especially parents raising disabled children. It comprises solutions in the area of assisting pregnant women and their families, early assistance for children and their families, as well as support, rehabilitation, and residential aid. Work is in progress to draft a 2017-2030 Strategy for Disabled Persons.

The purpose is that of providing comprehensive support to disabled individuals at every stage of life, with a focus on rehabilitation, improving options of education, and elevating the social and professional activity  level.

Over the past 4 years, Poland has successfully implemented a number of recommendations submitted during the 2012 Universal Periodic Review Second Cycle. Relevant information concerning the fulfilment of recommendations has been included in our report.

*Mr. President,*

*Distinguished Delegates,*

I wish to thank all the states that have submitted advance questions to the report. I will take the liberty of responding to some of them.

With regards to the questions raised by Mexico and Great Britain, I would like to present an example of the Polish government’s perseverance in securing women’s rights. Between 2013 and 2016, we have implemented the *National Programme of Activities for Equal Treatment*. This was a comprehensive governmental strategy comprising action to support persons discriminated against or threatened with discrimination. A considerable number of initiatives within the programme aimed to improve the wellbeing of women and tackle the problems they face. A decision has already been made to continue the Programme in the years to come. The draft of the new edition ought to be finalised in autumn of 2017. It will include matters vital to equal treatment irrespective of gender. Further improvements to women’s situation on the labour market and assisting women returning to the labour market should be among the priorities of the new Program. Representatives of the Polish delegation will elaborate further on government activities supporting equal treatment of women as these activities are undertaken by various ministries.

I am well aware that the issue of criminalising gender identity-, sexual orientation-, and disability-related hate speech mentioned in the Swedish question triggers considerable interest. I would like to assure you that in the Polish legal system, courts, when determining the type and level of penalty, are always obliged to take into account the perpetrator’s motivation. Pursuant to Article 53 § 2 of the Criminal Code, this includes gender identity, sexual orientation and disabilities.

Article 53 is applicable to all acts criminalised under the Code, such as causing bodily harm or defamation. The provision in question is of a general nature and does not limit the type of motivation that has to be taken into account by the courts. Further provisions are stated in Article 212 of the Code, which criminalizes the slander of a person (or a group of persons) in relation to conduct or traits that may discredit him/her/them in the face of public opinion, or result in a loss of confidence necessary to engage in certain activities (e.g. professional). This provision is also applicable to slander on the grounds of gender identity, sexual orientation and disabilities.

The issue of so-called secret CIA prisons touched upon by Norway is another matter which has given rise to numerous queries. I would like to hereby notify that the Regional Prosecutor’s Office in Cracow is currently handling proceedings concerning the alleged operation of so-called secret CIA prisons on the territory of the Republic of Poland. The subject matter of these proceedings may be specified as the abuse of authority by public servants who had allowed the operation of detention centres on the territory of the Republic of Poland, wherein persons suspected of terrorist activities were kept for periods longer than seven days, in violation of the law. To date, while investigation has yielded extensive evidence, non-classified and classified (the latter of particular importance) alike, the process of evidence gathering has not been closed. Numerous requests for international legal assistance have been filed in the case, inter alia with the United States of America. Given the sensitive nature of the investigation, open proceedings cannot apply. The classified status of a part of the ongoing investigation and the scope of findings to date notwithstanding, plenipotentiaries of victims have been provided with access to case files; they take part in selected proceedings and exercise their procedural rights of the injured persons (victims). In addition, the Polish authorities are actively seeking to obtain appropriate diplomatic assurances from the US authorities for both of the applicants.

All actions taken by Poland to implement the judgments of the ECHR are subject to constant supervision by the Committee of Ministers of the Council of Europe, which has so far assessed them positively.

With regards to the subsequent question raised by Norway and Switzerland concerning media freedom in Poland, I would like to present changes introduced to Polish media-related legislation. The National Media Council Law of June 22nd 2016 appoints the National Media Council as an authority responsible for supervising public media activities. The Law alters the form of managing public media, excluding any influence of the governmental administration over the media or their activities. Under this Law, the management boards and supervisory councils of all public radio and television companies and of the Polish Press Agency are to be appointed by the National Media Council. The Council consists of five members: three appointed by the *Sejm* (Lower House of the Polish Parliament), and two by the President of the Republic of Poland from among candidates proposed by the opposition. Upon initiating its activities, the Council held open and transparent competitions to select Presidents of the Polish TV and Polish Radio . All interviews with candidates taking part in the competition were transmitted on the National Media Council’s website, to the end of guaranteeing transparency. In all probability, the National Media Council will organise similar (open and transparent) competitions to select Presidents of regional radio stations.

I would now like to address the questions raised by the United States concerning the criminalization of the use of the phrase “Polish Death Camps”, as well as a law for the compensation for private property to individuals.

On the criminalization of “Polish Death Camps”: The proposed law contains the following disclaimer:  “A perpetrator of the illicit act (…) shall not commit a crime if that act was committed within the framework of his or her artistic or scientific activity” (proposed art. 55.a.3). Freedom of research and artistic activity is thus explicitly protected in the proposed law. Moreover, criminalization will apply only to claims that are strictly “contrary to historical facts” (proposed art. 55a.1).

Similar provisions already exist in the same law (art. 55) and penalize denial of e.g. German-Nazi crimes. In this case freedom of expression is already constricted to a certain extent, for the sake of combating Holocaust denial. This would now be extended to also encompass ascribing responsibility for the German-Nazi crimes  to Polish Nation or State. This being said, it needs to be stated that the above mentioned amendments are still proposals, not yet law, and as such may be subject to change.

On restitution of private property: Despite no existing specific law on the subject, property restitution has been underway in Poland for well over two decades now. As far as private property is concerned, the existing legal system in Poland makes it perfectly clear that any legal or natural person (or their heir) is entitled to recover pre-war property unlawfully seized by either the Nazi German or the Soviet occupation authorities, or by the post-war communist regime. Claimants may proceed through court and administrative procedures. There is ample legal basis in the Polish system of law that enables owners or their heirs to claim nationalized property. Most importantly, but not exclusively, those legal acts are: the Civil Code, the Code of Administrative Procedure and the Law on management of property.

Following the mentioned court and administrative procedures, damages for unlawful takeover of property are paid out of the Reprivatisation Fund administered by the Minister of Development. Since 2001, i.e. from the date the Reprivatisation Fund was set up, until October 2016, it paid out damages totalling PLN 2.3 billion to 4,792 natural and 77 legal persons. This sum includes damages paid to persons claiming enterprises to whom their property was not returned in kind.

Moreover, the so-called law on private property in the City of Warsaw adopted by the Polish Parliament in 2015 regulates issues concerning complicated cases of some properties claimed by pre-war owners of Warsaw properties. An information campaign has been launched by the City of Warsaw in accordance with the newly amended law.

*Mr. President,*

*Distinguished Delegates,*

Let me conclude by reiterating that the delegation of Poland looks forward to a fruitful dialogue with all of you. We will listen to your comments and recommendations and try to respond to all of them.

I thank you.