Annex to Poland's position on the Recommendations presented in the 41st session of the Working Group on the Universal Periodic Review (UPR) on 15 November 2022

Recommendations 114.1-114.2:

There are no plans to ratify the Convention. Amendment of Polish statutory framework to adapt it to the Convention would mean a significant change in the approach to the matter of labour migration into Poland.

Recommendation 114.3:

As for the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families — same rationale as in the case of Recommendations 114.1 and 114.2.

As for the Convention for the Protection of All Persons from Enforced Disappearance, Poland is of the position that the ratification of the Convention is not necessary in order to protect the rights guaranteed by the Convention. In principle, Polish law is consistent with the Convention and stipulates severe criminal penalties for enforced disappearance or aiding or abetting in it, whether the individual act constitutes a crime against humanity or falls short of the definition. Polish law also protects a right that has for decades been denied to Polish families, i.e. the right to truth about persons who have been secretly imprisoned or murdered, including without limitation as a result of the criminal actions of the authorities of non-democratic states. The role of the Institute of National Remembrance and its investigative wing in the protection of this right could not possibly be overestimated. The ratification of the Convention would not increase the level of this protection.

Recommendations 114.4-114.6:

As for the Convention for the Protection of All Persons from Enforced Disappearance — same rationale as in the case of Recommendation 114.3.

Recommendation 114.16:

As for the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families — same rationale as in the case of Recommendations 114.1 and 114.2.

Recommendation 114.20:

As for the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families — same rationale as in the case of Recommendations 114.1 and 114.2.

As for the Convention No. 189 of the International Labour Organization — the ratification of this Convention would require too far-reaching legal amendments, which are not currently in the plans.

Recommendation 114.21:

It ought to be noted that Poland ratified the Convention on preventing and combating violence against women and domestic violence (so-called Istanbul Convention) in 2015. The first review of Poland's compliance with the Convention — GREVIO report of 2021 — was positive for the Government's conduct and practice of application of the provisions.

The suggestion of a need to modify the legal definition of the criminal offence of rape in the Criminal Code to include the lack of consent as a main element of the offence must be rejected. This criticism levied against Polish legislation lacks any foundation in the light of the system of Polish criminal law. The lack of consent is a semantic and legal element of this offence, as attested by scholars and confirmed by common courts' decisions and those of the Supreme Court. There is accordingly no need to create any new definition for the sole purpose of the evaluation. The lack of consent to sexual intercourse is an immanent semantic feature of the offence defined by Article 197(1) of the Criminal Code.

Recommendation 114.25:

No decision of the Court of Justice of the European Union (hereinafter 'CJEU') expressly states that the National Council of the Judiciary (*Krajowa Rada Sądownictwa*) is an organ dependent on the executive or the legislative branch. Moreover, in *Land Hessen*, C-272/19 VQ, judgment of 9 July 2020, the CJEU addressed the problem of the composition of a commission for judicial appointments, viz. numerical superiority of members elected by the legislature; the CJEU found that such a circumstance cannot in itself lead to a doubt as to the independence of the commission and therewith of the court. In *C-791/19*, judgment of 15 July 2021, the CJEU observed that the circumstance that an organ such as the National Council of the Judiciary, participating in the process of judicial appointments and composed predominately of members elected by the legislature, cannot in itself lead to doubts as to the independence of the judges selected through such a process. The ECtHR itself constantly emphasizes that neither Article 6 nor any other provision of the ECHR imposes on the Member States any specific organizational model regulating in any manner the relationships and interactions among the various organs of state authorities, nor does any provision require the states to follow any theoretical constitutional model in respect of the permissible limits of such interactions. The Republic of Poland, too, is of the position that the matter of the reform of the judiciary, including without limitation the determination of the composition of the National Council of the Judiciary in accordance with the Constitution is in the exclusive competence of the Member States.

Recommendation 114.28:

One needs to draw a clear distinction between the protection of graves, monuments and the matter of symbolic commemoration. The dismounting of symbolic memorials takes place on the basis of Poland's domestic legislation — Act of 1 April 2016 on the Prohibition of the Propagation of Communism or Other Totalitarian Regimes Through Names of Organizational Units, Auxiliary Units of Communes, Public Utility Buildings, Sites and Facilities and Memorials.

Recommendations 114.29, 114.50:

Poland complies effectively with all obligations respecting the fight on racism, racial discrimination and xenophobia and guarantees equal access to the justice system for all victims of such human rights violations. This is facilitated both by criminal law mechanisms and administrative mechanisms contributing to the effectiveness of the former. All norms are applied correctly, and instruments of prevention are used in such a manner as to pre-empt the development of situations potentially violating the rights of individuals, including without limitation the escalation of undesirable events.

Out of concern for persons with special needs, the standard is being raised with the regard to the right of access to information in criminal proceedings and with regard to the interrogation of persons with disabilities.

Recommendation 114.30:

According to the Article 32 of the Polish Constitution all persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason whatsoever. Polish legislation provides far-reaching protection against discrimination.

Anti-discrimination legislation already covers sexual orientation, and labour law prohibits discrimination on any grounds whatsoever (including without limitation identification with a different sex than stated in identity papers).

According to the Polish Constitution under the term 'gender' Poland understands only one's biological sex, which is understood to mean either a woman or a man. For this reason, any interpretation of guarantees relating to so-called 'gender identity' cannot be understood as readiness to introduce legislative amendments in the scope in which 'gender' goes beyond the term referred to a woman or man identified on the basis of their biological characteristics.

Recommendations 114.31-114.35:

Same rationale as in the case of Recommendation 114.30.

Recommendation 114.39:

Polish Constitution guarantees the freedom of the press (Article 14) and freedom of expression, as well as prohibition of censorship (Article 54). Constitutional principles are supplemented by the provisions of the Act of 26 January 1984 — Press Law (Journal of Laws of 2018, item 1914 as amended), which safeguards the freedom of the press and journalistic freedom. By virtue of Article 1 of the aforementioned Act, 'the press, in accordance with the Constitution of the Republic of Poland, shall enjoy the freedom of expression and shall give effect to the citizens' right to fair information, transparency of the public life, and social oversight and critique.' The principle of freedom of expression is further reinforced by Article 2 of the aforementioned Act, which imposes on the state the obligation to support the pluralism of the press by guaranteeing the conditions for the achievement of the freedom of the press.

Concerning the independence of the regulatory organs, Article 30 of Directive (EU) 2018/1808 amending Directive 2010/13/EU on audiovisual media services provides that, 'each Member State shall designate one or more national regulatory authorities, bodies, or both.' Member States must ensure that such organs are legally separated from the government and functionally independent from it, as well as from any other entities either public or private. The above is without prejudice to the ability of the Member States to appoint regulatory organs providing oversight of the various sectors.

With the aforementioned EU legislation in mind, attention must be drawn to Article 7 of the Act on Radio and Television Broadcasting, whereby the National Council is composed of five members, elected two by the Sejm, one by the Senate and two by the President, from among persons of eminent knowledge and experience in the area of media. The term of office of the members of the National Council is 6 years counting from the day of appointment of the last member. Members of the National Council continue to serve pending the appointment of their successors. A member is barred from appointment to another full term.

The National Media Council must be mentioned here, as the competent authority for the appointments and dismissals of members of the bodies of the various public broadcasters and of the Polish Press Agency. That Council is composed of five members, appointed three by the Sejm and two by the President of the Republic of Poland. It is worth emphasizing that the President of the Republic of Poland appoints the Council members from among candidates nominated by parliamentary clubs or Sejm clubs composed of formations whose representatives are not included in the Council of Ministers, i.e. the opposition. The specific method of election of the members of the Council is designed to safeguard the balance in the organ selecting the managerial cadre in the public media, so as to guarantee the fullest possible protection from potential political control. At the same time, the National Media Council's activities are subject to oversight because it is required to submit written information about its activities in the past year to the Sejm, Senate, President, President of the Council of Ministers (Prime Minister) and National Broadcasting Council. That information is also communicated to the public. The purpose of these provisions is to ensure the transparent and open conduct of the Council.

Recommendation 114.42:

The Chief Commandant of the Police is the central government-administration authority competent for matters of protection of safety of human persons and maintenance of public security and order. In this context, it needs to be emphasized that the topic range of hate crimes is included in the document titled 'Priorities and priority tasks of the Chief Commandant of the Police for 2021–2023', which, in the scope concerned with improving the effectiveness of Police operations to meet the expectations of society, stipulates a task relating to the adaptation of the Police for preventive activities addressing diagnosed societal threats, e.g. in the area of hate crimes.

Also in the process of implementation is the Police action plan for 2022–2025 (previously 2018–2021) for counteracting hate speech, crimes of incitement of hatred on national, ethnic, racial or religious grounds or on the grounds of lack of religion, as well as counteracting the propagation of fascism and other totalitarian systems is also being executed.

Recommendation 114.62:

Although proceedings opened by the Police in cases relating to hate crimes constitute a minimal percentage of the total number of proceedings, due to the large degree of social harm caused by the offences this area is a constant focus of Police interest and is monitored on a continual basis. The Police undertake the legally prescribed activities in each and every case of either criminal report or own information about the commission of a criminal offence.

Here, it must be emphasized that initiatives and activities concerning this area are undertaken within the structures of the Police; for example, each Voivodeship (i.e. provincial) Police Headquarters and Warsaw Police Headquarters have co-ordinators for hate crime. A national co-ordinator operates at the National Police Headquarters. National Police Headquarters also monitor proceedings opened by the Police in cases of hate-motivated crimes.

Recommendations 114.74, 114.76-114.79, 114.81-114.85, 114.89:

There is no basis for disputing the independence and impartiality of Polish judiciary. The procedure for the appointment of judges is defined by the Constitution of the Republic of Poland and acts of Parliament. The procedure does not diverge from those adopted in other Member States, where the selection of the judges is solely or predominately in the power of representatives of the executive or of the legislative branch. The independence of the judiciary in Poland is also protected by a system of constitutional guarantees capable of ensuring that the judges' decisions are made in complete freedom from any external pressure. The National Council of the Judiciary reinforces the independence of the justice system in Poland. By virtue of their function, Polish judges enjoy immunity from criminal prosecution, which reinforces the guarantees of their independence.

Recommendation 114.75:

The Republic of Poland takes a critical view of the European Commission's annual Rule of Law Report. The sole procedure to determine that a Member State has violated the rule-of-law values and other values dealt with by Article 2 of the Treaty on the European Union is the procedure from Article 7 of the Treaty on the European Union. In that procedure the European Commission is only empowered to put forward a proposal. No Treaty provision vests any powers in the European Commission in the area of the organization of the justice system in the Member States. There is no legal basis to claim that the European Commission, by publishing an annual report, is empowered to influence Poland's justice system and expect any action to be taken in this regard, especially not when identical solutions in place in other Member States are not criticized by the Commission.

Recommendation 114.87:

The judiciary reform in Poland is a response to citizens' expectations.

The purpose of the works consisting in the implementation of changes in the judiciary is to improve the quality and effectiveness of the administration of justice and to adapt the judiciary to social and economic needs, minimize the protraction of proceedings and reinforce judicial independence. The election of the judge-members of the National Council of the Judiciary by the Sejm from among candidates nominated by judges and citizens improves the representativeness and the democratic legitimacy of such Council members. Moreover, this solution strengthens the transparency of the election of the members of the National Council of the Judiciary and enables public debate on the candidacies, which is broadcast by the media, as well as transparency of the appellate procedure from its resolutions.

Recommendation 114.88:

Any acts of devastation committed against war cemeteries are dealt with as criminal offences pursuant to the Act of 28 march 1933 on War Graves and Cemeteries, which provides that war graves and cemeteries must be given care and due respect irrespective of the nationality and creed of the interred or the formations in which they served.

Recommendation 114.90:

Apart from motion to recuse, Polish law has one more mechanism to prompt the verification of a judge's independence and impartiality, which has been introduced by the Act of 9 June 2022 amending the Act on the Supreme Court and Certain Other Acts. The aforesaid test allows verification that a justice of the Supreme Court satisfies the requirements of independence and impartiality also on account of the circumstances of appointment, upon motion of an entitled party, if, in the circumstances of the relevant case, a violation of the standard of independence and impartiality with possible impact on the outcome of the case could ensue in the light of circumstances relating to the entitled party and to the nature of the case. The coming into life of the aforementioned Act has guaranteed that the judges affected by the decisions of the Disciplinary Chamber of the Supreme Court be given access to review in their cases, enabling the reopening of the proceedings.

Moreover, Polish judges are protected from external (such as political) pressure by a number of constitutional guarantees. Similarly to American judges, by virtue of their function they enjoy immunity to criminal prosecution and security of tenure.

Recommendation 114.91:

Polish legal system guarantees full independence of the judiciary and enables judges to make their decisions without fear of reprisal, which is the consequence of the procedure for judicial appointments and of an extensive system of constitutional guarantees protecting all judges from external pressure. These guarantees include, without limitation: indefinite term, security of tenure, immunity, duty to maintain political neutrality, and prohibition of additional employment except for teaching and research. Moreover, to the extent of the administration of justice there is a complete prohibition of any interference by the organs of the legislative and executive branches with the activities of the courts.

Recommendation 114.92:

In Polish legal system, interpreting the law does not constitute judicial misconduct. Systems of disciplinary sanctions are defined by each Member State separately.

Recommendations 114.98-114.99, 114.101-114.103:

Constitutional principles are supplemented by the provisions of the Act of 26 January 1984 — Press Law, which safeguards the freedom of the press and journalistic freedom. By virtue of Article 1 of the aforementioned Act, 'the press, in accordance with the Constitution of the Republic of Poland, shall enjoy the freedom of expression and shall give effect to the citizens' right to fair information, transparency of the public life, and social oversight and critique.' The principle of freedom of expression is further reinforced by Article 2 of the aforementioned Act, which imposes on the state the obligation to support the pluralism of the press by guaranteeing the conditions for the achievement of the freedom of the press.

Concerning the exercise of the profession of journalist, it must be noted that, in Poland, the statute governing the rights and obligations of journalists is the aforementioned Act — Press Law. In accordance with Article 10(1) of the Act, it is the task of a journalist to serve society and the state. A journalist has the duty to act in accordance with professional ethics and principles of social co-existence, within limits defined by the provisions of the law. Simultaneously, a journalist has the right to decline to comply with a binding instruction received from a superior if the expected publication would violate the principles of conscientiousness, objectivity and professional diligence referred to in Article 12(1).

As for recommendations concerning criminal offences against journalists, defamation (Article 212 of the Criminal Code), insult (Article 216 CC) and assault (Article 217 CC) are existing offences already defined by the Criminal Code.

Recommendation 114.100:

When securing public assemblies, the Police are in each and every case guided first and foremost by the need to guarantee the security of both the participants themselves and any accidental bystanders. The Police discharge these tasks irrespective of any individual characteristics, beliefs or creed of the persons involved. With the above in mind, the Police design and implement appropriate activities with the overarching goal of preventing any acts of violence, especially disturbance of the public order.

The key role in protecting human rights belongs to the organs of the state. Non-governmental organizations have a right to issue recommendations. Provisions governing conduct involving Police officers during peaceful assemblies are consistent with international standards. International human-rights-protection institutions have not recommended any changes in this area.

Recommendation 114.107:

The core statute is the Act of 19 December 1992 on Radio and Television Broadcasting (Journal of Laws of 5 August 2022, as amended) and the Act of 22 June 2016 on the National Media Council (Journal of Laws of 2021, item 692 as amended).

The Act on Radio and Television Broadcasting imposes special obligations and tasks on a public broadcaster. In accordance with Article 21, a public broadcaster has a duty to carry out a public mission consisting in supplying society as a whole and the various parts of it with a diverse offering of programmes and other services in the area of information, journalism, culture, entertainment, education and sport, characterized by pluralism, impartiality, balance, independence and innovation, as well as high quality and integrity of the message. The Act provides a precise specification of the tasks of a public broadcaster within the public mission, while leaving the broadcaster with leeway to select the means to do so. Here, attention must be drawn to Article 13, whereby a broadcaster (this includes public broadcasters) has the freedom of programming and is responsible for the content. Simultaneously, in accordance with Article 14, any obligation or prohibition to disseminate any specific programme or message may be imposed on a broadcaster only upon statutory authority.

At the same time, it should also be recalled that, in accordance with the Constitution of the Republic of Poland (Articles 213–215), the freedom of expression, right to information and public interest in radio and television broadcasting are guarded by the National Broadcasting Council, which is an independent organ of the state.

Recommendations 114.118-114.120:

The conditions for the permissibility of termination of pregnancy in Poland are defined by the provisions of the Act of 7 January 1993 on Family Planning, Protection of the Human Foetus and Conditions for the Permissibility of Termination of Pregnancy. In accordance with Article 4a(1) of the aforesaid Act, termination of pregnancy may only be effected by a physician in a case when:

(1) the pregnancy endangers the life or health of the pregnant woman;

(2) there is a reasonable suspicion that the pregnancy originates from an act capable of constituting a criminal offence.

The circumstances referred to in subsection 1 are certified by a physician other than the one performing the abortion, except where the pregnancy presents a direct threat to the pregnant woman's life, and the circumstance referred to in subsection 2 is certified by a public prosecutor.

The circumstances referred to in subsection 1 are certified by a physician other than the one performing the abortion, except where the pregnancy presents a direct threat to the pregnant woman's life, and the circumstance referred to in subsection 2 is certified by a public prosecutor.

The Act also requires the woman's written consent to an abortion. In the case of a minor or completely legally incapacitated woman, the legal guardian's consent is required. In the case of a minor above 13 years of age, her written consent is also required. In the case of a minor below 13 years of age, the guardianship court's consent is required, and the minor has a right to make her opinion known. In the case of a completely legally incapacitated woman, her written consent is also required, except where the condition of her health does not so permit. In the absence of the legal guardian's consent, termination of pregnancy requires the consent of the guardianship court.

Moreover, the provisions of the Act specify the time-limit in which the procedure may be carried out. Where there is a reasonable suspicion that the pregnancy originates from an act capable of constituting a criminal offence, termination of pregnancy is permissible if no more than 12 weeks have elapsed since the beginning of the pregnancy.

The Regulation of the Minister of Health and Social Care of 22 January 1997 concerning the professional qualifications of physicians authorized to perform abortions and to determine that the pregnancy endangers the woman's life or health or suggests a high probability of severe irreversible impairment of the foetus or life-threatening incurable illness specifies that an abortion may be performed by a physician holding a first-degree specialization in obstetrics and gynaecology or the title of a specialist in obstetrics and gynaecology. The existence of circumstances suggesting that the pregnancy endangers the pregnant woman's life or health is certified by a physician holding the title of a specialist in the medical discipline proper to the type of the illness suffered by the pregnant woman.

As for access to benefits in the discussed area, Article 4b of the Act of 7 January 1993 on Family Planning, Protection of the Human Foetus and Conditions for the Lawful Termination of Pregnancy provides that, 'persons covered by social insurance and persons eligible for free health-care under separate provisions shall be eligible for free pregnancy termination in health-care establishments.'

The list of guaranteed benefits in relation to abortion is specified by Annex 1 to the Regulation of the Minister of Health of 22 November 2013 concerning guaranteed benefits in the area of hospital care.

Furthermore, it ought to be noted that in the light of the applicable provisions, including chiefly the provisions of the Regulation of the Minister of Health of 8 September 2015 concerning the general terms of contracts for health-care services (Journal of Laws of 2016, item 1146), all health-care establishments (hospitals) having contracted with the National Health Fund (NFZ) have a duty to provide the benefits specified therein in the full scope and in compliance with the applicable law. By signing a contract for health-care services, the provider agrees to provide all services specified as guaranteed benefits in the relevant executive regulations under the Act, to the extent of the relevant scope and type of benefits covered by the contract. As noted above, the Regulation of the Minister of Health of 22 November 2013 concerning guaranteed benefits in the area of hospital care includes abortion.

The effective legal remedy for, among others, women denied the right to carry out the abortion procedure (in circumstances prescribed by the Act of 7 January 1993 on Family Planning, Protection of the Human Foetus and Conditions for the Lawful Termination of Pregnancy) is the patient's right to object to the physician's opinion or decision.

The aforesaid right was introduced to the Polish legal system by the provisions of the Act of 6 November 2008 on the Patient's Rights and on the Patient's Rights Ombudsman. The right accrues to the patient and can also be exercised on the patient's behalf by the statutory guardian. In accordance with the aforementioned Act, the objection against a physician's or dentist's opinion or decision may be lodged with the Medical Board operating under the auspices of the Patient's Rights Ombudsman, if the opinion or decision affects the patient's rights or obligations arising from the provisions of the law. The activities of the Patient's Rights Ombudsman's Medical Board are governed by the Regulation of the Minister of Health of 10 March 2010 concerning the Medical Board operating under the auspices of the Patient's Rights Ombudsman.

Pursuant to Article 32(2) of the Act of 6 November 2008 on the Patient's Rights and on the Patient's Rights Ombudsman, the national consultants, in consultation with the relevant voivodeship consultants,

shall once a year by 30 March compile lists of physicians eligible to serve as members of the Medical Board. The Patient's Rights Ombudsman has reached out to the national consultants in the relevant medical disciplines concerning updates to the lists prepared and submitted by them.

It should furthermore be noted that the Act of 6 November 2008 on the Patient's Rights and on the Patient's Rights Ombudsman, in addition to the right to object, has also created a central organ of government administration — significant from the perspective of the protection of the rights of all patients, including without limitation pregnant women experiencing difficulties with access to abortion — in the form of the Patient's Rights Ombudsman.

Recommendation 114.120:

Provisions of the Act of 27 August 2004 on Publicly Financed Health Benefits and of the Regulation of the Minister of Health of 6 November 2013 concerning guaranteed benefits in the area of specialized outpatient care provide women with health-care covering specialized services in the area of obstetrics and gynaecology: (i) obstetric-and-gynaecological advice and (ii) gynaecological advice for girls. These include especially assistance with procreative health.

In the Republic of Poland there are currently registered and available contraceptive agents being medicinal products or medical devices, as well as medical drugs and devices used during pregnancy and necessary for foetal care and medical care during pregnancy.

Recommendation 114.122:

Procreative health constitutes an important element of the definition of health as complete physical, mental and social well-being and not merely the absence of disease or infirmity relating to the reproductive system and procreation in all phases of life. Among other things, procreative health includes topics relating to pubescence and menopause, fertility and infertility, family planning, as well as health during pregnancy, delivery and confinement. Attention to procreative health is key to the well-being of Poles and the good health of the generations to come, and it assists actions taken with a view to improving the demographic ratios.

Everybody has a right to the protection of health in Poland; regardless of the citizens' respective economic situations, public authorities guarantee equal access to publicly financed health-care services the scope of which is defined by a separate statute.

Women in pregnancy, delivery and confinement enjoy special legal protection in Poland. Protection of women in pregnancy, delivery and confinement is guaranteed both by domestic legislation and international treaties ratified by Poland.

Recommendations 114.124-114.125:

In reference to recommendations calling for the assurance of full accessibility of health-care benefits to persons with disabilities, it must be noted that persons with disabilities enjoy equal treatment with other citizens with regard to options to avail themselves of publicly financed health-care benefits, pursuant to the Act on Publicly Financed Health Benefits. It must be emphasized that there are no laws or regulations discriminating against persons with disabilities in this area.

As for the matter of accessibility in the context of the assumption of elimination of all barriers whatsoever such as potentially might make the use of health-care services more difficult, it ought to be noted that actions undertaken by Poland include without limitation the development of accessibility standards for primary health-care establishments (POZ) and hospitals and provides co-financing for the elimination of barriers in the system as part of 'Accessibility Plus for Health' (*Dostępność Plus dla Zdrowia*) Programme. Additionally, such activities will be pursued on the basis of the Act on Ensuring Accessibility to Persons with Special Needs, which requires public entities and entities publicly financed at least in half to eliminate architectural, digital and informational-communicational barriers.

Recommendation 114.127:

As for health-care benefits in the area of procreative and sexual health, the rationale is analogous to the one for Recommendations 118 and 122.

With 27 January 2021, due to the coming into force of the decision of the Constitutional Court in *K 1/20*, of 22 October 2020, Article 4a(1)(2) of the Act ceased to be valid; this was the provision for the permissibility of pregnancy termination in cases in which prenatal examinations or other medical indications suggested a high probability of severe irreversible impairment of the foetus or its incurable life-threatening disease.

It must accordingly be emphasized that the change of the law in this regard has occurred not as a result of any legislative efforts but due to a finding of unconstitutionality made by the competent organ. Moreover, as a marginal note, attention must be paid to the matter of the state's autonomy in the area of domestic legislation concerning the permissibility of abortion.

Recommendation 114.132:

Article 23(1)(a) of the Convention deals with the recognition of the right of all persons with disabilities who are of the right age to marry to do so and to start a family, on the basis of consent given freely and fully by the spouses to be. Pursuant to Article 46 of the Convention, the Republic of Poland reserves the right not to apply Article 23(1)(a) of the Convention until Polish law is amended. Until the reservation is withdrawn, a person with a disability whose disability is the result of mental illness or deficiency and who is of the right age to marry cannot marry unless the court permits marriage upon determining that the health condition or mental condition of such a person does not endanger the marriage or the health of the expected progeny, if the person is not completely legally incapacitated. This is the consequence of Article 12(1) of the Act of 25 February 1964 — Family and Guardianship Code (uniform text: Journal of Laws of 2020, item 1359).

Additionally, Poland has submitted a reservation against Article 23(1)(b) and Article 25(a). The reason for the reservation is that the right to health is sometimes interpreted on the international level as an unconditional right to abortion. In order to avoid pressure to amend the provisions governing the conditions for the termination of pregnancy, Poland submitted a reservation whereby it reserves its freedom to decide upon the conditions for the permissibility of abortion.

Recommendation 114.147:

The opinion that environmental issues have been ignored in the design and construction of the border wall is false. The barrier on the border with Belarus, in the territory of Podlaskie Voivodeship, includes 24 gates for large animals. The locations were determined on the basis of analyses of the migration patterns of large mammals, especially European bison and lynx. The process of determining the optimal locations for the gates was assisted by the expertise of Białowieża National Park and State Forests, among others. Additionally, the gate locations were compared against the results of telemetric studies of European bison by the Warsaw University of Life Sciences and telemetric studies of lynx by the Mammal Research Institute of Polish Academy of Sciences.

One hundred maintenance openings 1.5 m tall 1.15 m wide were installed. Openings were made in the concrete base to enable migrations of small animals. For every 5.0 m of the base there are 2 above-ground openings and two underground ones with 10 cm diameter.

At the same time, it must be emphasized that on the Belarusian side, also in the territory of Białowieża Forest, there has for decades now been a tight barrier called 'systiema', built among other things of concertina wire, which successfully restricts animal migration.

Recommendation 114.163:

The Victim Assistance Network financed by the Justice Fund provides legal, psychological and therapeutic assistance for all victims, as well as medical assistance in justified cases. Unpaid assistance for victims is provided by legal professionals, psychologists, psychotherapists and physicians authorized to provide the aforesaid services pursuant to the provisions of domestic law, including without limitation

special provisions governing the right to practice the profession. Currently, the Victim Assistance Network operates 305 centres throughout Poland providing assistance financed by the Justice Fund. Through them, victims of crime are given access to legal and psychological assistance. Assistance from the Justice Fund is offered to all victims of all sorts of criminal offences. This assistance is easily accessible; from 1 January to 30 November 2022 nearly 28,000 persons used the assistance provided by the Victim Assistance Network, the majority having been women — 20,000.

Recommendation 114.187:

Works are currently in progress on a draft amendment of the Family and Guardianship Code and certain other acts to modify the Act on Personal Identity Cards and Act on Passport Documents. The purpose is to enable persons identified as a child's parents in a foreign civil-registry document incapable of transcription to file on the child's behalf for, respectively, a personal identity card or passport, or report the loss of it, etc., which protects the rights of such a child without violating Poland's legal order.

Recommendation 114.215:

Activists of non-governmental organizations and journalists are not intimidated and are not subjected to any pressure.

Even with a ban on entering or staying the immediate vicinity of the border issued pursuant to Article 12b(2) of the Act on the Defence of the State's Border, in justified cases the territorially competent commandant of a unit of the Border Guard Service may permit members of the public to enter and stay for a specific time under specific conditions. In particular, this includes without limitation journalists within the meaning of Article 7(2)(5) of the Act of 26 January 1984 — Press Law.

Recommendation 114.216:

Supported in relation to unaccompanied minors in asylum procedure and in relation to unaccompanied minors under 15 in return procedure. Noted as for the other categories.

It is worth to underline that according to the Polish law it is not allowed to detain asylum seekers if: 1) it could pose a threat to their life or health; 2) their psychophysical condition may justify the presumption that they were subjected violence; 3) are unaccompanied minors or disabled persons- it is not allowed to detain migrants whose psychophysical condition may justify the presumption that they were subjected violence or migrants whose continued detention could pose a threat to their health or life. So it can apply to families, pregnant women and mentally ill persons.

Recommendation 114.231:

Poland provides good conditions for applicants for international protection, including without limitation access to an appellate procedure and medical services.

Statutory and executive provisions in Poland grant foreigners who are refugees the right to use medical services upon the lawful crossing of the border of the Republic of Poland and applying for international protection (submitting an application for the Republic of Poland to grant protection to a foreigner applying for the status of a refugee or to grant supplementary protection).