Republic of Poland

Joint Submission to the UN Universal Periodic Review

27th Session of the UPR Working Group

Submitted 21st September 2016

Submission by CIVICUS: World Alliance for Citizen Participation, NGO in General Consultative Status with ECOSOC

And

Committee for the Defence of Democracy (KOD)

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1. (A) Introduction

1.1 CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 170 countries throughout the world.

1.2 The Committee for the Defence of Democracy (KOD) is a grassroots civic movement founded in 2015 in Warsaw. Its goal is to protect the rule of law, democracy and human rights, defend European values and strengthen civil society. In 2015 and 2016 KOD organised the biggest mass protests in Poland since the fall of communism, gathering hundreds of thousands of people on the streets of all major cities in the country and numerous capitals worldwide.

1.3 In this document, CIVICUS and KOD examine the Government of Poland's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Poland's fulfillment of the rights to freedom of association, peaceful assembly, and expression since its previous UPR examination in June 2012. To this end, we assess Poland's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.

1.4 During the 2nd UPR cycle, the Government of Poland received 5 recommendations relating to the above mentioned rights. Of these recommendations, 5 were accepted and 0 were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Poland has fully implemented only 1 of these recommendations, partially implemented 1 and not implemented 3 of them. While some progress was made towards strengthening media laws and the freedom of association in the period up to 2015, since late 2015 the government has followed a path marked by a determination to close space for the expression of a plurality of views, an essential component of a functioning democratic society.

1.5 CIVICUS and KOD are particularly concerned by the government's assertion of control over state institutions and the media through weakening of the rule of law and undermining respect for fundamental freedoms, in particular the freedom of expression. We echo the sentiments of many Polish civil society groups, which have called attention to the current government's attempts to undermine democratic safeguards and limit the independence and plurality of the media since taking office in 2015.

1.6 CIVICUS and KOD are further alarmed by the recent enactment of new counter-terrorism legislation which threatens to seriously undermine the exercise of fundamental freedoms, including the right to freely share information and express ideas, and the freedom to gather peacefully in public. The law contains an overbroad definition of terrorism, provides for increased scrutiny on the activities of foreigners (including foreign NGOs and journalists) in Poland and places wide-ranging powers in the hands of the police and the Minister of the Interior to ban all public protests if the threat level is raised high enough.

- In Section B, CIVICUS and KOD examine Poland's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- In Section C, CIVICUS and KOD examine Poland's implementation of UPR recommendations and compliance with international human rights standards concerning to freedom of expression, independence of the media and access to information.
- In Section D, CIVICUS and KOD examine Poland's implementation of UPR recommendations and compliance with international human rights standards related to freedom of peaceful assembly.
- In Section E, CIVICUS and KOD make a number of recommendations to address the concerns listed.

2. (B) Freedom of association

2.1 Under the 2nd UPR cycle, the government received a series of recommendations related to strengthening protections for the rights of minority groups, particularly the LGBTI community. Through these, Poland was urged to 'recognize gender identity as [a] possible ground for discrimination'[1] and adopt laws and policies to 'safeguard the rights of LGBT people and fight discrimination based on sexual orientation.'[2]

2.2 Article 58 of the Constitution of the Republic of Poland guarantees the right to freedom of association, while Article 9 states that Poland 'shall respect international law binding on it.'[3] Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Poland is a state party, also guarantees freedom of

[1] Recommendation from United Kingdom of Great Britain and Northern Ireland, A/HRC/21/14 - Para. 90 & A/HRC/21/14/Add.1 - Para. 90.68.
[2] Recommendation from Brazil, A/HRC/21/14 - Para. 90 & A/HRC/21/14/Add.1 - Para. 90.71.
[3] While article 58 of the constitution guarantees freedom of association generally, article 59 contains further and specific guarantees for freedom of association in the context of trade unions. Full text of the Constitution of the Republic of Poland 1997 in English is available here: http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm Accessed 3rd July, 2016.

association. Despite these commitments, some minority groups, including LGBTI groups, do not receive the full protection of the state for their enjoyment of this right.[4]

2.3 While most civil society groups can operate without unwarranted restrictions some minority groups, most notably LGBTI people, homeless people and people with disabilities, are not adequately protected by the state. Campaign against Homophobia[5], a local civil society group, reports that there were at least 120 acts of homophobia and transphobia in 2014 alone.[6] In 2015, the offices of Campaign Against Homophobia and another LGBTI organisation Lambda Warszaw[7], suffered vandalism ranging from broken windows to hate graffiti.[8] Violent attacks against LGBTI people and groups often go unpunished and when prosecutions are brought, courts often turn a blind eye to the homophobic motive behind the attacks.[9] A refusal to officially acknowledge these attacks as hate crimes leaves LGBTI people and other minority groups in Poland without adequate protection, perpetuating intolerance, division and marginalisation in society.

2.4 Associations in Poland are governed by a range of subsidiary legislation including the 1989 Law on Associations (as amended in 2015) and the 2003 Act on Public Benefit and Volunteer Work (as amended in 2015).[10] These laws provide a comprehensive legal framework for the formation and operation of tens of thousands of civil society organisations working in many sectors in Poland.

2.5 CIVICUS and KOD welcome the positive changes brought about by amendments to the Law on Associations in 2015. We welcome the reduced indicative period for registration from three months to seven days which is in force since 20 May 2016. We urge the Polish authorities to do their utmost to adhere to the shorter turnaround time for registrations now stipulated in the law. We also welcome changes to

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4 See section 2.4 below.
5 Campaign Against Hate's website in English: http://world.kph.org.pl/index.php?lang=en Accessed 3rd July, 2016.
6 See 'The pink book of hate', here: http://kph.org.pl/publikacje/raport_rozowa_ksiega_nienawisci_2014.pdf Accessed 3rd July, 2016, see also Amnesty International, 'Targeted by Hate, Forgotten by Law' 17 September 2015, https://www.amnesty.org/en/latest/news/2015/09/poland-abandoning-hundreds-of-victims-of-hate-crimes-1/ Accessed 27th June 2016.
7 See information about Lambda Warszawa here: http://lambdawarszawa.org/. Accessed 16th September, 2016.
8 The Guardian, 'Thousands march for LGBTI rights in Warsaw amid rising hostility', 11th June, 2016. https://www.theguardian.com/world/2016/jun/11/thousands-march-for-lgbti-rights-in-warsaw-amid-rising-hostility Accessed 27th June, 2016.
9 International Lesbian and Gay Alliance (ILGA) Europe, 'Annual Review 2016 – Poland' http://ilga-europe.org/sites/default/files/2016/poland.pdf Accessed 27th June, 2016.
10 Unofficial English translations of all relevant legislation related to freedom of association in Poland can be found here: http://www.legislationline.org/topics/country/10/topic/1 Accessed 3rd July, 2016.

accounting rules which allow small civil society organisations to adopt simpler book keeping systems than larger organisations.[11]

2.6 Despite these recent legal changes, many CSOs still face an overly-bureaucratic regulatory environment in which requests for registration are delayed significantly, government officials have broad scope to question the goals or mission of an organisation and administrative burdens are heavy, even for relatively small organisations.[12] CIVICUS and KOD therefore call upon the Polish authorities to ensure that these positive legal changes are fully implemented and that the remaining challenges faced by Polish CSOs are recognised and addressed.

2.7 Poland's new Law on Anti-terrorist Operations [13] contains provisions which could be used to discriminate against minority civil society organisations or institutions. Regulations accompanying the law include multiple references to 'Muslim' or 'Islamic' groups or institutions whose actions could *prima facie* raise the prospect of someone associated with those groups being detained for 14 days without having to appear before a judge. Given current tensions caused by the refugee crisis in Poland and elsewhere in Europe, language in the Act to the effect that foreigners should be treated with heightened level of suspicion, increases the risk that civil society groups established to promote the rights of immigrants and refugees as well as religious minorities will be unfairly targeted.

3. (C) Freedom of expression, independence of the media and access to information

3.1 Under the 2nd UPR cycle, the government received two recommendations relating to freedom of expression and access to information. By accepting both of these recommendations, the government pledged to 'review article 212 of the Penal Code criminalising defamation, with the aim of removing it from the Penal Code' and 'provide access to the means of communication to all groups of society so that they may exercise fully their right to freedom of expression.'[14] However, as discussed

[11] Act of 23rd July 2015 amending accounting rules and other acts: http://www.dziennikustaw.gov.pl/DU/2015/1333 Accessed on 8th September, 2016.
[12] This comprehensive report (in Polish) on the NGO sector in 2015 from local civil society group Klon/Jawor details that over half of NGOs surveyed believe that bureaucracy is a problem for them. http://fakty.ngo.pl/files/wiadomosci.ngo.pl/public/civicpedia/Raport_Klon_Kondycja_2015.pdf Accessed on 3rd June, 2016. This finding is backed up by 'The 2014 CSO Sustainability Index for Central and Eastern Europe and Eurasia', https://www.usaid.gov/sites/default/files/documents/1863/EuropeEurasia_FY2014_CSOSI_Report.pdf Accessed 27th June 2016.
[13] The draft text of the new law can be read in Polish here, https://bip.mswia.gov.pl/bip/projekty-aktow-prawnyc/2016/24018,Projekt-ustawy-o-dzialaniach-antyterrorystycznych.html Accessed 21st September, 2016.
[14] Recommendations made by Norway and the Holy See respectively during Poland's review in the 2nd UPR cycle. Link to UPR Info/OHCHR report.

below, the government did not take effective measures to implement these recommendations.

3.2 Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 54 (1) of the Constitution of Poland states that the 'freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone.' Article 54 (2) of the Constitution prohibits 'preventive censorship of the means of social communication'.[15] However, due to a combination of legal and practical restrictions, freedom of expression in Poland has become increasingly restricted since Poland's last review.[16]

3.3 Despite the recommendation made during the 2nd cycle of the UPR process, provisions criminalising defamation remain part of Poland's laws. At Poland's mid -term UPR, the government stated that there were 'no sufficient grounds for full decriminalization of the crime of defamation.'[17] Polish civil society groups reported during submissions to the last UPR review that use of criminal defamation provisions in Article 212 of the Criminal Code were on the rise, and that they were often used to block legitimate discourse on public matters, rather than protect the reputation of individuals.[18]

3.4 Furthermore, and despite the general recommendation made to ensure that everyone could fully exercise his or her right to freedom of expression, since late 2015, the government of Poland has taken active steps to undermine the independence of public media. Notwithstanding the positive amendments made to several media-related laws between 2011 and 2013,[19] the introduction and proposal of new media legislation – including the Act on the Council of National Media and the Act on Audiovisual Contribution – has substantially eroded the independence of Poland's public broadcasters.[20]

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[15] Full text of the Constitution of the Republic of Poland 1997 in English is available here: http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm Accessed 3rd July, 2016.

[16] Reporters Without Borders 2016 World Press Freedom Index shows that Poland fell from 18th in 2015 to 47th in 2016 in its global ranking of respect for press freedom: https://rsf.org/en/poland. Accessed 8th September, 2016.

[17] Ministry of Foreign Affairs, 'Universal Periodic Review Mid-Term Progress Review by Poland', presented by the Republic of Poland at the 25th Session of the Human Rights Council. http://lib.ohchr.org/HRBodies/UPR/Documents/session13/PL/ImplementationPoland.pdf Accessed 4th July, 2016.

[18] Universal Periodic Review of Poland, Submission by the Helsinki Foundation for Human Rights (Warsaw) 28th November, 2011 http://lib.ohchr.org/HRBodies/UPR/Documents/session13/PL/HFHR_UPR_POL_S13_2012_HelsinkiFoundationforHumanRights_E_shorterversion.pdf Accessed 4th July, 2016.

[19] Ministry of Foreign Affairs, 'Universal Periodic Review Mid-Term Progress Review by Poland', presented by the Republic of Poland at the 25th Session of the Human Rights Council. http://lib.ohchr.org/HRBodies/UPR/Documents/session13/PL/ImplementationPoland.pdf Accessed 4th July, 2016.

[20] The Council of Europe commissioned an expert legal opinion on Poland's new media laws, which produced a range of critical findings and recommendations for amendments that would bring Poland's laws back in line with Council of Europe standards on the freedom of expression: https://www.coe.int/en/web/portal/-

3.5 While political influence on the public service media has been present in Poland for some time, the actions of the government since December 2015 have seriously diminished confidence in the independence and impartiality of public television and radio stations. In early January 2016, the Polish Parliament adopted a Law Amending the Broadcasting Act – known as the 'Small Media Law' – which subordinated governance[21] of public service broadcasting directly to the government, allowing it to directly appoint top leadership and the members of supervisory boards.[22] The legislation removed the incumbent heads of public television and radio stations Telewizja Polska (TVP) and Polskie Radio (PR) while the government directly appointed new heads in their place. The new appointees quickly dismissed (or forced the resignations of) about 140 journalists, some of whom had worked for as long as 20 years for the public broadcaster. This political interference appeared to be designed to transform public television into 'National television', promoting "Polish traditions and patriotic values".[23]

3.6 Around the time that the Small Media Law was introduced Ryszard Terlecki, deputy leader of the ruling law and justice (PiS) party, said 'If the media imagine they're going to take up Polish people's time with criticism of our plans…then it's time to put a stop to that.'[24] The media reforms introduced by the government have been heavily criticised by Polish civil society and the international community alike for moving away from well-established principles and best practices to ensure the independence and impartiality of public broadcasters.[25]

/conclusions-of-an-expert-dialogue-between-the-polish-government-and-the-council-of-europe Accessed 4th July, 2016.

[21] 'Grave' concerns about these structural changes (which were still only proposals at the time) were raised in December 2015 by the European Broadcasting Union (EBU) in an open letter to the Polish government: http://www.ebu.ch/news/2015/12/ebu-urges-polish-government-to-e Accessed 27th June 2016

[22] Reporters Without Borders, 'RSF urges Juncker to call for the repeal of Poland's new media law', https://rsf.org/en/news/rsf-urges-juncker-call-repeal-polands-new-media-law Accessed 27th June 2016.

[23] CIVICUS, Interview with Hanna Szulczewska Press Officer with the Committee for the Defense of Democracy (KOD), 19th February, 2016, http://civicus.org/index.php/en/media-centre-129/news-and-resources-127/2359-poland-government-should-listen-to-the-people-and-stop-curbing-civil-liberties Accessed 27th June, 2016

[24] The Nation, 'Regime Change in Poland, Carried Out from Within', by David Ost, January 8, 2016. https://www.thenation.com/article/regime-change-in-poland-carried-out-from-within/ Accessed 27th June, 2016. A video record of Mr Terlecki's comments can be viewed in Polish here: http://www.tvn24.pl/wiadomosci-z-kraju,3/ryszard-terlecki-o-mediach-zmiany-w-mediach-zapowiada-pis,606582.html. Accessed 8th September, 2016.

[25] The Council of Europe conducted a mission to review these and other legislative changes in February 2016 and their report was released in June 2016, here: http://www.coe.int/de/web/media-freedom/news/-/asset_publisher/RuR4jZRX8nrl/content/coe-commissioner-for-human-rights-urges-the-polish-authorities-to-introduce-safeguards-to-guarantee-the-independence-of-public-service-media-from-poli?inheritRedirect=false&redirect=http%3A%2F%2Fwww.coe.int%2Fde%2Fweb%2Fmedia-freedom%2Fnews%3Fp_p_id%3D101_INSTANCE_RuR4jZRX8nrl%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1 Accessed on 27th June 2016.

3.7 The Law on Anti-terrorist Operations [26] enacted on 10 June 2016 undermines freedom of information and expression by allowing the head of the Internal Security Agency (ISA) to block any website without notification or justification, and without first obtaining a court order to do so. A court's approval for the blocking of a website only needs to be secured five days later and even then the ISA is entitled to appeal any decision of the court in order to have the block reinstated.

3.8 The above mentioned new counter-terrorism law also grants sweeping surveillance powers to the Internal Security Agency (ISA) without providing for any oversight role by any other public body. Such provisions could create a chilling effect on journalists' and citizens' private conversations and public debates. Because of the wide scope that police have under the law to collect users' data, there is a particular concern that online expression could be restricted. The increased powers provided for in the Law on Anti-terrorist Operations exacerbate the problem of unchecked surveillance by security forces, provided for in amendments to the Police Act, passed in February 2016.[27] That Act allows police to collect internet users' metadata without a court order and has been heavily criticised by civil society and by the Council of Europe's Venice Commission for failing to provide adequate oversight and limitations on data collection, in order to prevent the misuse by state authorities of extensive surveillance powers.[28]

3.9 On 18 June 2014, security service officers raided the headquarters of a private magazine, Wprost, which had leaked recordings of conversations between several government officials and a number of public figures including a bank governor. The recordings suggested improper dealings between the bank and the government and the peddling of political influence for electoral gains. The raid was carried out without a proper court order and was severely criticised by journalists and civil society as an attack on media freedoms. The Justice Minister later conceded that the raid should not have taken place.

3.10 Article 20 (2) of the ICCPR, to which Poland is a state party states that 'any advocacy of national, racial or religious hatred that

[26] A short summary of the new law is provided here by the Citizens Observatory of Democracy: http://citizensobservatory.pl/temat/police-and-special-services/ Accessed 8th September, 2016.
[27] A short summary of the main problems with these amendments is available here: http://citizensobservatory.pl/ustawa/law-of-15-january-2016-amending-the-act-on-the-police-and-several-other-acts-concerning-the-functioning-of-secret-services-journal-of-laws-of-2016-section-154/ Accessed 8th September, 2016.
[28] Council of Europe, 'Surveillance powers too broad in Poland, according to Council of Europe's Venice Commission', https://wcd.coe.int/ViewDoc.jsp?p=&id=2433683&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE&direct=true. Accessed 27th June 2016.

constitutes incitement to discrimination, hostility or violence shall be prohibited by law.' While the Polish Constitution's provision on freedom of expression does not contain any clause specifically related to the prevention of hate speech or speech which incites others to violence, article 256 of Poland's criminal code criminalises the promotion of fascist or other totalitarian regimes, and the humiliation of any group based on national, ethnic, racial or religious grounds.

3.11 The law however does not address discrimination on the grounds of sexual orientation and in practice, hate speech against a number of minority groups is prevalent in Polish society. In particular, discriminatory speech against ethnic and sexual minority groups in Poland remains a challenge in Poland.[29]

3.12 Article 61 of Poland's constitution guarantees that the public shall have access to information held by the state. In practice, however, rules governing access to information are not fully respected. A report in 2014 from a Polish civil society coalition concluded that, although regulations are in place, they are often applied in a discretionary manner. The report also finds that some categories of information are regulated by special regulations, making the system overly complicated, and that public institutions have not been sufficiently proactive in releasing information.[30]

3.13 The government is also exerting economic pressure on the private media critical of its record in Poland. There are several reports of large state and semi-state companies withdrawing advertising from private media publications as punitive means to exercise control of their editorial independence. Government institutions no longer subscribe to the most popular independent daily Gazeta Wyborcza. Recent reports indicated that filling station agents had been instructed not to display Gazeta Wyborcza and Newsweek newspapers. There are also suggestions that ongoing investigations into the owners of large private media outlets are politically motivated.

4. (D) Freedom of peaceful assembly

4.1 During Poland's examination under the 2nd UPR cycle, the government received one recommendation on the right to freedom of assembly. Poland accepted this

[29] Warsaw University Centre for Research on Prejudice and Stefan Batory Foundation, 'Hate Speech in Poland 2014 Summary of the National Opinion Poll', 2014 http://www.batory.org.pl/upload/files/Programy%20dotacyjne/Obywatele%20dla%20Demokracji/Hate_speech_Poland_2014.pdf Accessed 3rd July, 2016.

[30] Polish Open Government Coalition, 'Waiting for open government', June 2014. http://www.freedominfo.org/2014/06/polish-foi-laws-practices-weak-evaluation-finds/ Accessed 4th July, 2016.

recommendation and committed to 'conduct, jointly with special procedures of the Human Rights Council, a comprehensive and impartial investigation of all cases of cruel treatment and the use of excessive force by police officers against the participants in demonstrations that were held in Poland in November, 2011.'

4.2 Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 30 of the Polish Constitution states that 'freedom of peaceful assembly and participation in such assemblies shall be ensured to everyone.' However, there are concerns about impunity for the use of excessive force by security forces in the past and new laws which give the authorities undue power to ban protests.

4.3 In respect of the recommendation made during the 2nd UPR cycle, and in its mid-term UPR report, the government of Poland reported that only one police officer had been convicted of 'abuse of power' and 'battery' in connection with protests in November 2011, receiving a suspended 6 month prison sentence and banned from working as a police officer for eight years.

4.4 The Law on Anti-terrorist Operations, passed by both houses of parliament in June 2016 and signed into law by the president grants wide ranging powers to the authorities through which the right to freedom of peaceful assembly could be violated. In particular, civil society is fearful that the broad definition of terrorism employed in the law could be used to clamp down on peaceful protests aimed at affecting state policy.[31] The law would give the police the power to cancel public meetings and even allow the police to conduct indiscriminate searches and shoot to kill policies. Under the law, the Minister of Internal Affairs can issue a blanket ban on public assembly when the state deems that there is a heightened 'state of alarm', something which can be declared without any evidentiary requirement.[32]

4.5 In September 2014, the Constitutional Court ruled six provisions of a 2012 amendment to the Law on Assemblies unconstitutional, including a ban on simultaneous demonstrations in the same place that could threaten public order. Proposals made by the government in 2015 to address these shortcomings were partially welcomed by civil society, particularly provisions relating to a shortened notification period for stationary demonstrations. Concerns remain however

[31] Panoptikon Foundation, 'Poland adopted a controversial anti-terrorism law' 22nd June, 2016 https://en.panoptykon.org/articles/poland-adopted-controversial-anti-terrorism-law Accessed 21st September, 2016.

[32] Human Rights First, 'Poland's Anti-Terror Law', June 2016. http://www.humanrightsfirst.org/sites/default/files/Poland-Anti-Terror-Law-Brief.pdf Accessed 27th June, 2016.

regarding a six day notification requirement for marches, even where marches would not affect the circulation of traffic.[33]

5. (E) Recommendations to the Government of Poland

CIVICUS and KOD call on the Government of Poland to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6 on Protecting Human Rights Defenders, 27/5 on the Safety of Journalists and 27/31 on Civil Society Space.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

5.1 Regarding freedom of association

- Repeal discriminatory provisions, including those contained in the Law on Anti-terrorist Operations, which increase the risk that minority or foreign civil society groups in Poland will be unfairly targeted.

- Pending the repeal of those provisions, ensure that all charges or arrests brought for terrorism-related charges are based on a reasonable suspicion that a crime has been committed and not primarily on the basis of the religious or national affiliations of any group or individual.

- Laws, policies and practices should be put in place to ensure that LGBTI groups are able to freely form associations and organise peacefully to advance their interests. The state should take active steps to address the widespread nature of attacks against LGBTI people, ensure that these groups are adequately protected from threatening or intimidating behaviour and physical violence.

- Ensure that state institutions at all levels adhere to enabling new provisions in the Law on Associations 2015, particularly in respect to the implementation of faster times for registration and easier accounting requirements for smaller

[33] In 2015, local civil society group the Helsinki Foundation for Human Rights made a submission to the Ministry of Administration and Digitisation on legislative proposals on assemblies. A summary of their main arguments is found here: http://www.hfhr.pl/en/long-way-ahead-for-new-assemblies-act/ Accessed 9th September, 2016.

associations. The government should also take steps to address the remaining concerns of civil society organisations regarding onerous bureaucratic procedures.

5.2 Regarding freedom of expression, independence of the media and access to information

- Ensure freedom of expression and media freedom by all bringing national legislation into line with international standards.

- Respond positively to calls by domestic and international civil society groups as well as intergovernmental bodies including the European Union and the Council of Europe, by amending laws passed since late 2015 which undermine the independence of the public media and erode public confidence in the impartiality of public television and radio stations.

- Repeal provisions of the counter-terrorism law enacted on June 2016 by removing overbroad powers to block online content and to introduce safeguards and adequate oversight mechanisms on the use of powers to interfere with or monitor electronic communications of Polish citizens or foreigners residing in Poland.

- Amend article 256 of the criminal code to include reference to hate speech based on discrimination against sexual minority groups in Poland.

- Revisit the decision not to repeal the law criminalising defamation in the criminal code, ensuring that while the law is being repealed that it is not used for political purposes or to target individuals for the free and legitimate expression of their views.

5.3 Regarding freedom of assembly

- Repeal provisions in the counter-terrorism law passed on June 10th 2016 to ensure that the right to conduct peaceful public gatherings cannot be arbitrarily denied, that lethal force is never used against peaceful protestors and that stringent evidentiary requirements and tests or proportionality are fulfilled before any blanket ban on public gathering is imposed.

- Enact changes to the Law on Assemblies, which respond to the court judgment declaring unconstitutional several provisions of the law in September 2014 and which take into account international best practices with regard to the notification requirements for demonstrations and marches.

- In general, ensure that Poland's laws, policies and practices adhere to the best practices on freedom of peaceful assembly as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.

- All instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated.

- Review and if necessary update existing human rights training for police and security forces with the assistance of independent nongovernmental organizations to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.

5.4 Regarding access to UN Special Procedures mandate holders

- Since 2001, Poland has extended a standing invitation to all UN Special Procedure mandate holders. Given the challenges described in this submission, the government should prioritise official visits with 1) the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and 2) the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

- CIVICUS and KOD also note that a recommendation in the 2nd UPR cycle asked Poland to confirm the status of an invitation to the Special Rapporteur on Torture, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances. We welcome the confirmation from Poland in January 2014, in its mid-term report on the UPR, that all requests for such visits would be 'positively considered'.[34] We urge the current Polish Government to live up to this commitment.

5.5 Regarding State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with a wide range of civil society organizations on all issues mentioned above and

[34] Ministry of Foreign Affairs, 'Universal Periodic Review Mid-Term Progress Review by Poland', presented by the Republic of Poland at the 25th Session of the Human Rights Council. http://lib.ohchr.org/HRBodies/UPR/Documents/session13/PL/ImplementationPoland.pdf Accessed 4th July, 2016.

enable more effective involvement of civil society in the preparation of law and policy.

- Include civil society organizations in the UPR process before finalising and submitting the national report.

- Systematically consult with civil society and NGOs on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society sectors.

- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a mid-term evaluation report to the Human Rights Council on the implementation of the recommendations of this session.