

End of Mission Statement

UN Special Rapporteur in the field of cultural rights Karima Bennouna

Poland: UN expert concerned that erosion of cultural freedom threatens the country's rich cultural life

General Context and Introduction

The world can and should learn much from Poland's rich and diverse culture, sophisticated cultural institutions and vibrant cultural life with which the Special Rapporteur was deeply impressed. At the same time, all these achievements are currently challenged by attempts at official cultural engineering aimed at reducing cultural expression to reflect a monolithic vision of contemporary society and a simplistic and exclusionary version of Polish history both of which undermine the enjoyment of human rights, including cultural rights.

The Special Rapporteur appreciates the fact that she was able to travel unhindered, to visit many places and sites with no obstacle save limitations of time. During her 12-day mission, the Special Rapporteur was able to visit Gdańsk, Kraków, Oświęcim, Warsaw and the village of Żelazowa Wola, as well as to meet people from other regions who travelled to see her.

She met with numerous representatives of seven different ministries including, the Ministry of Culture and National Heritage, the Ministry of Foreign Affairs, the Ministry of Interior and Administration, the Ministry of Family, Labour and Social Policy, the Ministry of National Education and the Ministry of Science and Higher Education, and the Ministry of Digital Affairs, as well as the chancellery of the Prime Minister, in particular the Plenipotentiary of Equal Treatment and Civil Society. She met with diverse government bodies including the Institute of National Remembrance, the National Freedom Institute, the National Broadcasting Council and the Office of the Commissioner for Human Rights, as well as mixed bodies like the National Commission of UNESCO. At the Municipal level, she was gratified to speak with deputy mayors of Gdańsk and Kraków, as well as relevant municipal bodies and cultural departments, and regional bodies.

She was pleased to listen to a wide range of Polish voices, including those of academics, actors, artists, civil society organizations and activists from different sectors, cultural professionals, representatives of cultural centres, current and former directors of national cultural institutions, feminists and women human rights defenders, festival directors, journalists,

lawyers, musicologists, psychologists, teachers, trade unionists as well as representatives of Kashubian, Jewish, Muslim and Ukrainian groups, and groups representing LGBT persons and working with persons with disabilities, refugees and migrants. She tried to meet representatives of the Polish Catholic Church, specifically the Council of Bishops, and with representatives of the German and Roma minorities but this was not possible for logistical reasons, and she looks forward to a dialogue with them in the future. She was delighted to visit numerous cultural institutions, including cinemas, museums, theatres, the National Opera, to attend cultural performances, to view exhibitions, to visit churches and synagogues, to see cultural heritage sites and important memorial sites such as the birthplace of Fredryk Chopin and the adjacent Żelazowa Wola memorial park, and the UNESCO World Heritage Site at Auschwitz-Birkenau Former German Nazi Concentration and Extermination Camp which she will never forget.

These preliminary observations to the Polish Government are the reflection of a 12-day mission to a very culturally rich country. The Special Rapporteur will present a more detailed final report to the UN Human Rights Council at a later time about which she will consult with the authorities.

Background on the Mandate and Cultural Rights

The United Nations Human Rights Council has repeatedly stressed that “cultural rights are an integral part of human rights, which are universal, indivisible, interrelated and interdependent.” The core concern of the cultural rights mandate is the right of all people to take part in cultural life without discrimination as guaranteed in Article 15 of the International Covenant on Economic, Social and Cultural Rights, which has been ratified by Poland.

One of the key commitments of the mandate in any context is to promote the enjoyment of cultural rights without any discrimination.

The Special Rapporteur identifies as key the following principle, which was recalled by the UN Human Rights Council in its resolution 19/6. As enshrined in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in 1993, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

Cultural rights are not tantamount to cultural relativism. They are not an excuse for violations of other human rights. They do not justify discrimination or violence. They are firmly embedded in the universal human rights framework.

Constitutional and legal framework- global and domestic

Cultural rights are protected by important provisions of Polish law and international standards. These include numerous articles of the constitution, such as Article 5 requiring the Government to 1) ensure the freedoms and rights of persons and citizens and 2) safeguard the

national heritage, Article 6.1 ensuring the provision of conditions for the people's equal access to the products of culture "which are the source of the Nation's identity, continuity and development," as well as guarantees that Polish citizens belonging to national or ethnic minorities can maintain language and traditions, develop their own culture (Article 35.1), establish cultural and religious institutions and "participate in the resolution of matters connected with their cultural identity." Article 53 guarantees freedom of religion and the right not to be compelled to participate or not participate in religious practices. Article 73 provides everyone with protections for freedom of artistic creation and scientific research, and the freedom to teach and "to enjoy the products of culture." Innovatively, the Constitution requires assistance to Poles living abroad so they may "maintain their links with the national cultural heritage." (Article 6.2)

The Special Rapporteur is pleased to note the very strong record of ratification of international human rights treaties and treaties on the protection of cultural heritage by Poland, including those codifying cultural rights. She further notes that Article 9 of the Constitution requires that "the Republic of Poland shall respect international law binding upon it." In practice, more needs to be done to systematically and effectively implement such international standards. She was pleased to learn that during the next round of the Universal Periodic Review Process, the Government plans to meet with civil society both before and after its report is presented. She also hopes that speedy consideration will be given to the possibility of adhering to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, so that individuals having claims regarding violations of their cultural rights may have recourse to its communications procedure, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

At the international level, she is grateful for the stated commitment of the Ministry of Foreign Affairs to supporting greater focus by the European Union on Economic, Social and Cultural Rights, and its support for resolutions at the Human Rights Council on cultural rights and cultural heritage. She looks forward to cooperating with the Government of Poland on issues of shared concern such as this, and the cultural rights of members of the Polish diaspora located in other countries.

The Special Rapporteur's visit came during a period of widespread legal change and debate about possible change, including in the areas of the judiciary, the constitution, women's sexual and reproductive rights, education, and the media. Many such proposed and actual reforms have provoked great public controversy in Poland. She was pleased to note the widespread civic engagement with debates regarding law reform and the culture of the rule of law across Polish society, and salutes those taking part in it. Translating constitutional rights protection into popular culture, including by means of things like T-shirts is a positive example of using culture for human rights education, and she was sorry to learn that at least one person has faced dismissal for doing this on personal time.

It is clear to the Special Rapporteur that respect for Poland's constitution, and safeguarding of the independence of the judiciary which realizes its guarantees, are amongst

the most important steps that must be taken to secure human rights generally, and cultural rights, in particular, in the country. Many facing violations of their cultural rights indicated that the independence of the judiciary and the strength of the court system represented their best hope for justice and protection against abuse.

Cultural Governance

The Special Rapporteur was glad to see the large importance given to the cultural sector, as shown by the number of cultural institutions and programmes dedicated to supporting and promoting culture, both inside the country and abroad. With such a large diversity of institutions, she was surprised to learn that there was no overarching cultural policy for the ministry. She was informed that the goals of the Ministry are divided according to department, but has not yet received these various sets of goals.

The goals and objectives of the Ministry in fostering the participation of each person in civil society and cultural life are also reflected in the numerous grant programmes of the various departments. Through these programmes, the Ministry of Culture and National Heritage provides an important part of the funding made available to local and regional organizations for their activities. It acts in complementarity with regions and local governments, which also have their own budget and programmes to support cultural activities and initiatives and may provide joint support. The rules and processes for submitting requests for these grant programmes are for the most part available on the internet and easily accessible, and except for a small number of targeted programmes, the majority of grants seem to be open to submissions from all types of applicants and organisations.

However, concerns have been however expressed by various sources about the lack of transparency regarding the attribution of the points in the evaluation of projects, especially those attributed for consistency with the strategic goals. There is a need to both clarify the general and strategic goals and provide explanation for the scores attributed by the experts involved.

The Special Rapporteur regrets that she was not able to meet the Minister of Culture and National Heritage despite at least three requests, and that the Ministry of Culture and National Heritage did not take part in her official debriefing meeting with the Government.

The Commissioner for Human Rights is an important mechanism for assisting in securing remedies for violations of cultural rights, and should receive increased funding. Along with the relevant bodies of the central Government, municipalities and regional bodies are key players in Polish cultural life. Efforts aimed at overly centralizing cultural governance should be avoided.

Independence of Cultural Institutions and Artistic Freedom

The Special Rapporteur was told repeatedly that the Ministry does not have a say in the content of cultural projects and productions, and that key objectives are to ensure diversity in

the cultural offerings, the independence of cultural institutions and the exercise of scientific and artistic freedoms. These are all laudable objectives. The legal framework in this sense is very clear. However, the Ministry is involved in selecting both the experts who assess projects submitted to the funding programmes and the directors of National Cultural Institutions, and the programmes of these institutions are subject to the approval of the Minister. This implies a rather large influence on the orientation of the content of cultural and artistic programming. For funding programmes, this influence translated into recent changes in regulations, experts and priorities. For the directors and staff of cultural institutions, the fact that some members of the ruling party did not agree with their artistic and cultural choices translated into repeated criticism in the media, and sometimes to investigations, and in particular cases even led to dismissals. The Special Rapporteur was concerned to hear that some in the cultural field were beginning to engage in self-censorship to protect themselves and their institutions, and that a few highly skilled cultural professionals were making plans to leave the country, which is a loss to cultural life here.

The dissolution of Mr. Pawel Machcewicz's contract as director of the World War II museum in Gdańsk and the ongoing efforts to modify the museum's permanent exhibition is emblematic and well documented, but the Special Rapporteur also met with other directors and former directors of Cultural Institutions who have experienced similar pressure to conform. For the Malta theatre festival in Poznań, disapproval of a curating choice translated into denying its organisers previously agreed funding. The role of the Ministry must clearly remain one of ensuring diversity of offerings and programming and the exercise of the right to scientific and artistic freedom as guarantees for a rich cultural life, not molding the political orientation of cultural programming so as to achieve a monoculture.

Cultural Heritage

Poland is home to 15 listed World heritage sites, and during her mission, the Special Rapporteur had the opportunity to visit three: Warsaw and Kraków's historic city centres and Auschwitz-Birkenau. She was impressed by the level of care dedicated to reconstructing and maintaining these sites, which bears testimony to the importance Poland gives to cultural heritage.

At this stage, she remains concerned about the impact that logging of the Białowieża forest has had on that site and calls for its full restoration. She was pleased to learn from the Ministry of the Environment of the Joint World Heritage Centre / IUCN Control Mission (Reactive Monitoring mission) to the site which was held from 24 September to 2 October, and according to the ministry allowed experts to review the situation and "meet with all stakeholders." The final recommendations of this mission are not yet available and she understand the Ministry will develop a plan on this basis. She hopes the recommendations will be made public without delay and that any plan will be developed with wide participation and consultation of all relevant stakeholders. She will continue to follow developments in this case and looks forward to receiving further information.

This country has developed an impressive number of museums, public and private, and takes seriously its obligation to protect cultural heritage both in these museums and in the public space, through numerous plaques and monuments. The Special Rapporteur was pleased to learn about the many efforts to protect and conserve heritage as well as to transmit, through educational projects, the meaning of these resources to the next generations. For example, she was pleased to learn of efforts to care for some Jewish cemeteries, such as the Warsaw Jewish Cemetery.

From the perspective of cultural rights, heritage resources are important as a bridge between the past and the future, and should be accessible for all to engage with. Poland's record in this sense is impressive, with Chopin's birthplace hosting school groups and offering free admission for people from the region, and girl scouts involved in bringing to light the route of underground canals used during the Warsaw uprising.

Cultural rights are not about preserving culture per se, but fostering the conditions for culture to continuously be created. Heritage resources and commemorative monuments are also sites inviting continuous interpretations and discussions about identity and social challenges. This is very well illustrated by the choice of citizens to dress certain monuments with a T-shirt inscribed "constitution" to express their attachment to this text and protest against what they see as attempts to undermine the constitution. While she shares the concern to protect monuments, the Special Rapporteur is also concerned that charges of "defiling the monument" were brought against some of the persons responsible for these actions. She has received no information suggesting that monuments were harmed in the process.

Identity

Like many countries today, Poland is currently experiencing political and cultural polarization. Efforts must be made to transcend such divides, and cultural and artistic initiatives can play a positive role in this regard. Polish identity does not belong to any one group, or any one opinion bloc alone, but to all the citizens of Poland, and those who live here. The Special Rapporteur was disturbed to hear that the term "anti-Polish" was being applied to Poles who express views different than those of the Government or ruling party, including through art and culture, or the suggestion that there is only one way of being Polish, and that there is a monolithic Polish identity represented by one interpretation of one religion, and one way of thinking. The diversity of perspectives, approaches and views – from avant-garde theatre directors to traditional clergy - and the vibrant debates the Special Rapporteur found in Poland are sources of its cultural richness.

One of the exemplary aspects of the Polish Constitution is its explicit recognition that "Both those who believe in God as the source of truth, justice, good and beauty, As well as those not sharing such faith but respecting those universal values as arising from other sources" are "Equal in rights and obligations towards the common good..." (preamble). It stresses that Polish culture is "rooted in the Christian heritage of the Nation and in universal human value." Turning away from such a pluralist commitment now is a rejection of the values which motivated

and underpinned the great Polish human rights movements of the past, which have inspired the world.

The Special Rapporteur recognizes that many different governments may try to promote cultural expression, which reflects their worldviews. However, at present in Poland, efforts to defund, side-line and silence cultural dissidence, and views at odds with the historical and cultural vision of the current Government, represent a kind of cultural engineering, seeking to alter the public face of Poland and reshape and simplify the complex contours of its difficult history. The Special Rapporteur fears that this may give rise to further violations of cultural rights. One of the most important myths that must be challenged is that of “homogenous” Polish culture, which does not reflect lived cultural reality. Additionally, official discourse is often at odds with the lived experience, beliefs and values of wide sectors of the population, including on issues such as migrants, discrimination, tradition and cultural practices.

The 100th anniversary of Polish independence in November 2018, an event about which many Poles have understandably strong feelings of pride, will be an important moment for expressing an inclusive view of the complexity and cultural abundance of Polish society and culture. The Special Rapporteur was sorry to hear reports that past events on this date have seen expressions of hate speech and extremism and that a group of women counter protestors calling themselves Women Against Fascism who opposed this were assaulted by participants in the 11 November 2017 march. She heard concerns that this year this event may again be used by some extremist and nationalist forces to divide the population, and could be the scene of renewed violence against, for example, those peacefully expressing their right to assemble and protest. This fear is magnified by the fact that charges against those who harmed Women Against Fascism counter protestors last year were dropped, and these women themselves are now facing fines.

The Special Rapporteur calls on the Government to take steps to ensure that this significant event is marked in ways that include, rather than exclude, that have no room for hate speech and that do not equate discrimination with patriotism. She was pleased to learn that civil society and local actors are developing a range of complementary ways to mark the anniversary, and other contemporaneous anniversaries, such as that of women obtaining the right to vote.

The impact of language in debates about identity must be carefully considered and inclusive language used to refer to all inhabitants of Poland so as not to reinforce dynamics of othering and ideas that within the population of Poland some are “us” and some are “them,” or that minorities are not Polish.

Fundamentalism, Extremism and Nationalism

As one manifestation of a broader global trend the Special Rapporteur has repeatedly addressed in the past, the increasing prominence and aggressiveness in Poland of some far right wing nationalist groups, Christian fundamentalist groups and media outlets propagating discriminatory and exclusionary views is also a matter of grave concern, and has a deleterious

effect on the enjoyment of cultural rights without discrimination. The apparent normalization and increasing mainstreaming of some of these views, including their expression by some government officials without consequences, is particularly worrying and must be addressed with urgency, including by holding officials accountable for hate speech. Neo-Nazi and neo-fascist groups are emerging and seeking to influence youth, reportedly including through cultural events such as music festivals.

Separation of religion and state

Many of the Special Rapporteur's interlocutors indicated that the influence of the Catholic Church in regard to matters of education, politics and public policy, including those with importance for the enjoyment of cultural rights without discrimination, is a matter of serious concern. Article 25.2 of the Polish Constitution stipulates that "Public authorities... 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." Moreover, 25.3 expounds that "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."

The Special Rapporteur has noted in her thematic reports that the separation of religion and state is everywhere critical to the protection of cultural rights and the freedom of religion or belief, including the right to believe in a diversity of ways and not to believe. It creates or preserves space for women, minorities and others to enjoy their cultural rights without discrimination. It does "not mean the absence of religion but rather a state structure that defends both freedom of expression and freedom of religion or belief, where there is no state religion, where law is not derived from God and where religious actors cannot impose their will on public policy" ([A/72/155](#), para.11; [A/HRC/34/56](#)).

The Special Rapporteur recognizes the historically important part played by the Catholic Church in many aspects of Polish cultural life, and that Catholic practice has merged with many treasured traditions. In addition, the Catholic Church represented a critically important partner in human rights movements challenging Communism and repression in the 1970s and 1980s. However, she also takes note of statistics indicating that while 90% of Poles may be baptized Catholic, only some 40% of Poles are practicing Catholics and hence religious outlooks are indeed diverse. She also stresses the importance of respect for the cultural rights of religious minorities and non-religious persons. Moreover, the Special Rapporteur is concerned that the Catholic Church today plays a powerful role in public education, including by teaching most religion courses in public schools, and doing so unsupervised by educational authorities.

She was pleased to see first-hand that Polish artists are able to engage in the debate about the role and human rights impact of the Catholic Church, including in the fields of film and theatre, and that audiences are keenly interested in such works. However, she also notes that artists who do so risk facing threats, bans at the local level as experienced in the case of

the film “Kler”, and jeopardizing future funding for themselves and institutions or productions with which they are associated. In one case reported to the Special Rapporteur, an act of violence at a performance of the play “Klątwa” resulted in hospitalization of theatre workers.

She is also concerned about the impact when some voices associated with the Catholic Church reflect discriminatory views, for example about LGBT people. She stresses that there is a range of Catholic viewpoints in Poland, including the views of those who use their interpretation of Catholicism as the basis for their activism for human rights and inclusion, and may themselves be criticized by clerical bodies.

Politics of History

Since the beginning of this year, the law on the Institute of National Remembrance has been amended twice, adding limitations on language used to describe certain historical events. The amendments will be discussed in more detail in the report to the Human Rights Council, at this stage the Special Rapporteur will emphasize two main concerns about this issue from the perspective of cultural rights. The first is that, as far as the Special Rapporteur has been able to determine, these amendments were not discussed with the competent departments of the Ministry of Culture and National Heritage, relevant academic experts, or with other relevant societal actors whose exercise of cultural rights will be affected by these additional provisions. Although it is positive that criminal penalties have been removed concerning language relating to some of these events, the criminal and civil liabilities that remain in the law may still interfere with the ability to consider historical facts related to past atrocities from a variety of perspectives and express different narratives about these facts. The mere presence of these provisions, even if they were not to be used, has a chilling effect on the ability to talk openly about history and sends a message that there is only one narrative about the past that is acceptable. An example of this is the recent complaint by Lublin regional officials about the findings of an historian regarding crimes against the Ukrainian population in March 1944 characterizing them as defamation of the Polish Nation, as well as the public campaign questioning the credibility of the historian concerned. This can have especially dire consequences for cultural institutions, such as museums, whose mission is precisely to address such questions. Moreover, the debate over the amendments may have contributed, as survey data has indicated, to the increase in hate speech, in particular of an anti-Semitic nature, of an increasingly open and public nature.

At the same time, she believes that, as a Polish Jewish expert emphasized to her, the international community, must do more to recognize the severe suffering of Poles of all religious backgrounds during the Second World War, even if it did not take the same form, a reality importantly demonstrated in the Warsaw Uprising museum and not adequately understood internationally.

There is an array of institutions and monuments in Poland seeking to display a complicated vision of history and past human rights abuses and atrocities, such as the important European Solidarity Center in Gdańsk and POLIN Museum in Warsaw and the former Auschwitz-Birkenau Camp which she trusts will be able to continue their work unimpeded. She

was sorry to learn that the directors of some of these institutions have faced inappropriate official political criticism due to the content of their important institutions and urges that their independence be fully respected. Constructively addressing these difficult chapters of history, including them in school history curricula and in museums is an important way to develop critical thinking and understanding, and to shaping a tolerant and inclusive society.

Discrimination, equality, inclusion

Responsibilities to ensure the cultural rights of minority groups in Poland are shared between a number of departments across Ministries. This is a positive sign of mainstreaming, which should increase efficiency of the measures taken to ensure non-discrimination and equality of treatment. Poland has the legal framework and mechanisms in place to efficiently address reported cases of discrimination, to provide education of children belonging to minority groups in their mother tongue and about their own culture, to ensure equitable presence of minority groups in the media and therefore to foster an inclusive society where all citizens are treated equally and have the same opportunities to take part in cultural life. What seems to be missing is the willingness to implement those existing legal and institutional frameworks.

Structural discrimination does not only concern situations where persons who should be treated the same are given different treatment, but also appears in situations where providing the same treatment to persons who are in different situations results in discriminating against them. It is the responsibility of the State to bring national and local laws and regulations in line with the international obligations of equal treatment and non-discrimination. The Special Rapporteur was concerned, for example, about the cancellation of the programme in Kashubian language and ethnology at the University of Gdańsk, reportedly because it did not reach the threshold of 25 enrolled students. A solution must be found which complies with the European Charter for Regional and Minority Languages to which Poland is a State Party.

The statement will now address some specific issues facing particular groups in relation to equality and non-discrimination: women, LGBT people and persons with disabilities.

Women

Women are very active in the cultural and educational sector in Poland, including serving as directors of national cultural institutions. The Special Rapporteur was informed that Polish women's employment rate is higher than the average across the European Union.

Women's rights are at the heart of the quest for a culture of equality, in accordance with international law, in Poland. The Special Rapporteur is concerned about what are said to be religious and cultural narratives used to justify discrimination against women, such as a focus on women as primarily self-sacrificing mothers. Some within the Catholic Church hierarchy are propounding the view that advocating for gender equality, as required by international human rights standards, is a threat to Polish religious and cultural values and the national identity.

Fundamentalist and anti-choice discourse during the debate over changing abortion law in Poland reaffirmed stereotypical cultural attitudes toward women. It is very positive that women's public activism, including in the Black Marches, including by both Catholics⁴Choice and religious women and nonreligious women, helped to challenge such stereotypes. This is essential for women's enjoyment of cultural rights without discrimination. The Special Rapporteur was sorry to learn that women teachers in Katowice who had posted pictures on their personal Facebook accounts wearing black shirts to express support for these demonstrations had faced disciplinary proceedings and pressure, though she was pleased to learn they had not been fired.

Sexual and reproductive rights are critical healthcare issues but also essential, as UN experts have made clear in the past, to enable women to access their economic, social and cultural rights in equality. The Special Rapporteur welcomes the Government's decision to respect women's opposition and general public opinion and shelve any attempt to change the law for now, and will be watching this issue closely in the future as it affects women's equal participation in cultural life.

The official statement to the effect that the Council of Europe Convention on preventing and combating violence against women (Istanbul Convention) remains in force but will not be complied with is a violation of international law and one which undermines efforts to build a culture of equality, and free from violence against women.

The role of women human rights defenders in ensuring cultural rights is critical, and their work must be supported. The Special Rapporteur greatly appreciated the opportunity to take a women's history tour of the Gdańsk shipyards, which discussed the role of women in movements for human rights during the Communist regime, a critical component of that history which needs to be more fully reflected.

LGBT Persons

There is growing acceptance of LGBT people in Polish society, and increasing possibility for open cultural expression of LGBT identity, including through growing numbers of pride and equality marches which are important exercises of internationally guaranteed cultural rights. All of this is very positive. The Special Rapporteur welcomes legal recognition of the need for protection from discrimination through for example Case Number II KK333/17 concerning the refusal to print the roll up of an LGBT organization. She remains concerned, however, about the lack of specific legal protection for LGBT persons under Polish law, a gap which must be filled promptly.

She recognizes the use of a flag which combines the rainbow flag and the Polish eagle symbol as an exercise of cultural rights to express one's identity and inclusion. Hence, she is sorry that this has come under criticism and that people using such a flag have reportedly faced questioning by law enforcement officers.

Acts of hate and hate speech against LGBT people and their cultural events continue. Sometimes the hate speech emanates from those in official positions, and this is especially worrying. There are no laws specifically prohibiting homophobic hate speech or hate crimes in Poland. Openly homophobic language is reportedly used in textbooks. This is unacceptable.

The Special Rapporteur was concerned that a high government official with responsibility in the equality area told her that his daughter would be “disturbed” to see an Equality March on the street and suggested that its participants might be naked.

She hopes that the Equality march scheduled for 13 October in Lublin will take place without any obstacles despite the fact that a regional and a local official have both used derogative language to describe it and have called for it to be banned.

Persons with disabilities

The Special Rapporteur was pleased to see some serious thinking being given to accessibility of cultural sites for persons with disabilities, and noted creative efforts such as models of cultural heritage buildings that could be touched and annotated in braille for visually impaired persons in the cultural heritage site of the old city of Kraków. She reiterates the recommendation of the Committee on the Rights of Persons with Disabilities that an overall strategy must be developed with regard to the full inclusion of persons with disabilities, who must be recognized as actors and participants, not objects of such a strategy. To make this possible, this strategy must fully include access to cultural life and cultural spaces with adequate financing, fully reflect the needs of women with disabilities, and enable persons with disabilities to build a cultural agenda reflecting their own needs. A movement for rights of persons with disabilities, led by them, is emerging in Poland as evidenced by the recent women’s strike inside the Parliament building, and this is a very positive development. The Special Rapporteur encourages the Government to invite the Special Rapporteur on the rights of persons with disabilities to visit the country.

Hate Speech/Hate Crimes

The Special Rapporteur was dismayed to learn of a recent spate of what seem to be hate incidents and a reported rise in hate speech, including on the internet, of increasing intensity, targeting members of minorities and their cultural sites. In some instances, persons in official positions, have engaged in hate speech with impunity. A psychologist suggested to the Special Rapporteur that this may be resulting in members of minorities leaving their homes less frequently, and a civil society advocate explained that they may be less comfortable displaying their identities publicly.

Events of concern include an October 2017 incident when a rock was thrown at the Muslim Cultural Center in Warsaw, incidents at a Gdańsk synagogue, a break in and related vandalism at a burial house located at the Jewish cemetery in Kalisz, all of which are reportedly still under investigation, as well as an incident in which an anonymous anti-Semitic letter directed at the Center for Holocaust Research was left at the Centre’s door, calling its staff

members “stupid dirty Jews” and “liars” and referring to historians Barbara Engelking and Jan Grabowski as “lying” and “crazed with hatred of Poland and Poles.” The Prosecutor has declined to investigate this last incident. All such acts raise human rights concerns, and the impact of anti-Semitic acts is particularly magnified by the history of the Holocaust.

The Special Rapporteur understands from information received from the Ministry of the Interior and Administration that the perpetrator of the attack on the Muslim cultural centre was apprehended thanks to security camera footage and that “the procedure is ongoing.” She appreciates the expressed intention to share information with her as soon as it becomes available, and hopes it will also be shared with the leaders of the Centre. With regard to the incident at the cemetery in Kalisz, the Ministry informed her that the event was an act of “hooliganism” and the apprehended perpetrators are minors who will be dealt with in family court. The Special Rapporteur will be watching the ongoing processes carefully.

She was alarmed by the fact that when she raised reports of such a “series of events” in a meeting with a highly placed official with responsibility in the area of equality, he said that it was as if she was insulting the nation. In every society, it is essential to have an open debate about reports of hate speech and hate incidents, including violence, and their impact on human rights, so as to appropriately document these incidents, prevent them in the future and punish perpetrators where appropriate and in accordance with international standards. Denial and defensiveness will not solve the problem. Moreover, the Special Rapporteur calls on the authorities to investigate why their official statistics (which she is waiting to receive in writing) show that such incidents are diminishing at a time when civil society and representatives of targeted groups report experiencing precisely the opposite trajectory, and to give serious consideration to how to facilitate reporting. She notes that the Ombudsman indicates only approximately 5% of hate crimes are reported. Whatever the precise number of incidents, failure to acknowledge the concerns of citizens and take appropriate action to respond can only lead to a lack of social trust in the relevant authorities and institutions and less reporting of these incidents.

The Special Rapporteur visited the Gdańsk New Synagogue, which had a large paving stone thrown through its window on Yom Kippur, September 19, narrowly missing women and children. She salutes the rapid and sensitive response by the Mayor of Gdańsk and some local religious leaders to this incident, which is a model of local action, and the response by the central Government two days later. She understands that an investigation into this incident is proceeding, that an arrest has been made and according to the Ministry of Interior and Administration “charges have been filed” though she is not aware of the specific nature of those charges. Again, she urges that the findings and information be made available to synagogue leaders and their congregation as soon as possible, and that the perpetrator be brought to justice in accordance with the law to deter any future such incidents and send a clear message about the unacceptability and seriousness of such acts. Moreover, the Government clearly needs to develop an effective overall response to hate which is currently lacking. The Special Rapporteur is pleased to learn that civil society is very engaged in countering hate speech and

hate incidents, but this is not an alternative to resolute government policy, as required by international human rights law, implemented in accordance with the framework described by the Special Rapporteur on freedom of expression (A/67/357).

Civil Society Space

The Special Rapporteur received mixed reports regarding civil society space in Poland which is indeed vibrant, diverse and active and whose work is important for securing the enjoyment of cultural rights. On the one hand, a number of demonstrations are regularly organised by a variety of actors, and the Special Rapporteur was told that protection granted to participants by police forces was sometimes good, including in the case of equality marches where participants sometimes felt safe. On the other hand, there are shocking reports about failure of police forces to protect peaceful demonstrators against violent physical attacks and about abuses of the police forces themselves, as well as lack of legal remedies from the prosecutor's office in cases of abuse. One worrying example concerns the reported intrusive body searches of female environmental demonstrators who were arrested trying to stop the logging of the forest of Białowieża, a world heritage site.

She appreciates the work of civil society initiatives and public-private partnerships such as Villa Decius, to create spaces for artistic exchange.

It is the responsibility of the State to ensure that there is respect for a diversity of points of views, visions of life and values and that real opportunities exist for those who embrace different views and life styles to freely exercise their human rights and fully take part in cultural life. Human rights cannot be limited on the basis of the fact that any group, even a, does not share in these views.

Conclusion

The final report will include comments about cultural rights-related aspects of the media and the educational system which cannot be included here for reasons of space.

The Special Rapporteur thanks the Polish authorities for their kind invitation and looks forward to a continuing dialogue with them as she develops her final report for the UN Human Rights Council, and in particular about ways to fully implement her recommendations at this critical moment in cultural life in Poland.