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## HUMAN RIGHTS. POLAND AND THE UN DECLARATIONS ON HUMAN RIGHTS

### Introduction

#### Poland and the UN and Council of Europe Conventions until 1989

In 1948, Poland was one of the few countries that abstained from voting on the Universal Declaration of Human Rights – the Soviet Union and its other satellite states did the same, as well as Saudi Arabia, for which it was unacceptable to introduce and respect the freedom to change religion guaranteed by the Declaration, as well as South Africa, where in 1948 the apartheid system began to function more and more strongly. The attitude of the People's Poland to the doctrine of human rights was definitely negative, because critics of the communist system derived from the human rights justification for this criticism. In the PRL (The People's Republic of Poland), the Universal Declaration of Human Rights was not widely available (it was printed for the first time only 9 years after its adoption)<sup>1</sup>. When, pursuant to the findings of the Conference on Security and Cooperation in Europe, Poland ratified the Human Rights Pact, only the ratification messages, without text, appeared in the Journal of Laws (pol. Dziennik Ustaw).

1. Main reasons for not ratifying the Universal Declaration of Human Rights in 1948:
  - the intensification of the “Cold War” between the broadly understood western world and the Eastern bloc,
  - no clear intension to “fight against fascism” in the declaration – **official reason** (among allies of the United States there were countries with authoritarian regimes bearing some fascist characteristics: Portugal, Spain, Haiti, Cuba).
2. The People's Republic of Poland and human rights in UN Declarations until 1989:

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<sup>1</sup> J.J. Szczerbowski, P. Piotrowska, *Measures to Dismantle the Heritage of Communism in Central and Eastern Europe*, „Human Rights’ Context, Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol” 2010, No. 62/63, pp. 233–248.

- ratified:
    - International Convention on the Elimination of All Forms of Racial Discrimination (ratified in 1969),
    - International Covenant on Civil and Political Rights (ratified 1977),
    - International Covenant on Economic, Social and Cultural Rights (ratified 1977),
    - Convention on the Elimination of All Forms of Discrimination against Women (ratified 1981),
  - ratified, but not fully implemented:
    - Final Act of the Conference on Security and Cooperation in Europe (CSCE) – the so-called “Helsinki Accords” signed in August 1975,
  - not ratified: the two UN conventions on stateless persons (1954 and 1961) were not ratified by The People’s Republic of Poland because of the need to deal with systemic violations against:
    - former Polish Armed Forces in the West servicemen (1940–1947),
    - politicians and members of the Provisional Government in London (since 1945 a political body unrecognized by anyone),
    - anticommunist exiles and refugees from Poland (1944–1956),
    - German population expelled from the lands seized under the provisions of Yalta (1945–1950),
    - unlawfully expelled from Poland citizens of Jewish origin (March 1968).
3. Of course, the People’s Republic of Poland did not sign or ratify international conventions adopted by the Council of Europe, because Poland was not one of the member states. Between 1953 and 1983, the Council of Europe adopted some 17 different conventions concerning human rights, which were not taken into account by Poland. Nonetheless, the ratification of the CSCE allowed the activities of the first non-governmental organizations, like KOR (Komitet Obrony Robotników – Workers’ Defence Committee), ROPCiO (Ruch Obrony Praw Człowieka i Obywatela – Movement for Defense of Human and Civic Rights).

In 1989, the democratization of political and social life occurred as a consequence of a political breakthrough that allowed Poland to fully accept international regulations in the field of human rights protection. The effect of these changes was the ratification of many agreements and the adoption of international control procedures. These actions – by authenticating the Polish system of democracy, the rule of law and human rights – constituted an important step on the road to the Council of Europe, the North Atlantic Pact and the European Union.

### **Poland and International Declarations on Human Rights**

1. The period of socio-systemic transformation of 1989–1992 (chronological framework set by the Round Table and adoption of the Constitutional Act of 17 October 1992).

Along with the change and transformation of the political and social system, some changes in the attitude of the Polish authorities regarding human rights could be expected. In 1989, the Polish structure of Amnesty International (although, before the fall of the Polish People's Republic, the "Amnesty International Bulletin" with information from the world was published in Polish by the Freedom and Peace Movement). Currently, Polish Amnesty International has 8,000 members and supporters, 12 local groups, 7 educational groups and over 100 school groups.

The same year the Helsinki Foundation for Human Rights in Poland were created Its creation was preceded by seven years of activity of the Helsinki Committee in Poland, which had worked underground since 1982. After the change of the political system in Poland in 1989, the members of the Committee decided to reveal themselves and create an independent institute dealing with education and research in the field of human rights. Since the law in force at that time did not allow the creation of independent institutes, it was decided to set up a foundation to fulfil this role.

At that time, the following international conventions were also ratified:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1989) (no defined crime of torture in the Polish Penal Code),
- The Convention requires states to take effective measures to prevent torture in any territory under their jurisdiction, and forbids states to transport people to any country where there is reason to believe they will be tortured.

The text of the Convention was adopted by the United Nations General Assembly on 10 December 1984 and, following ratification by the 20th state party, it came into force on 26 June 1987.

## 2. Convention on the Rights of the Child (ratified 7 June 1991).

The adoption of the Convention is one of Poland's major achievements in the field of the protection of children's rights. In 1978, Poland proposed the UN Human Rights Commission to pass it and presented a draft which was later modified twice. On the basis of the Convention, a body was established to supervise its implementation by the countries that ratified it – the Committee on the Rights of the Child. The Convention guarantees the rights of the child, regardless of skin color, religion or origin. It was adopted by the United Nations General Assembly in 1989, Poland is the initiator of its adoption. The Convention entered into force in 1990. The parties to the Convention are 195 states (June 2015). Poland ratified the convention in 1991.

The provisions of the Convention on the Rights of the Child are the cornerstone of UNICEF's efforts to make them a canon of ethical principles and international standards for dealing with children.

Nevertheless, even in this case, there were reservations about two important issues: adopted children had no right to determine natural parents' data, and the question of the age limit of military conscription in the event of war (the limit

of 15 years) was reserved in accordance with applicable law. Both of the above reservations were withdrawn later (Oświadczenie Rządowe z dnia 27 marca 2013 r. w sprawie zmiany zakresu obowiązywania Konwencji o prawach dziecka, przyjętej dnia 20 listopada 1989 r. w Nowym Jorku – Dz.U. 2013, Item 677).

On the other hand, the more serious consequences for the subjectivity of children have subsequent reservations according to which the Polish side states that the right to freedom of thought, conscience and religion and expressing their views by the child and the occurrence in matters of the child concerning, in administrative and judicial proceedings is limited “by the parental authority and must comply with Polish customs and traditions concerning the place of the child in the family and outside the family”. In the second declaration, the Polish side stated that “counselling for parents and upbringing in the field of family planning should be in accordance with the norms of morality”. Such records questioned the children’s right to freedom of conscience by:

- giving the parents legal basis to suppress the freedom of thought and impose their own worldview (even in the crucial for shaping self-awareness of teenage age – 14–18 years, when “children” for the first time become familiar with ideas and different worldview visions),
- the lack of legal protection of the LGBTQ minority (sexual awareness is shaped during teenage years) against homophobic attitudes on the part of parents. It is worth noting that to this day, politicians are countering the introduction of sex education in schools.

The issue of proper protection of minors in terms of psychological and psychiatric care has still not been settled. An increase in the phenomenon of suicide attempts and deliberate self-harm among children is observed. According to the data of the National Police Headquarters, in 2017 28 children between the ages of 7 and 12 and 702 children between the ages of 13 and 18 carried out suicide attempts, which in 116 children ended in death. However, these data do not reflect the real scale of the phenomenon, which is why there is an urgent need to introduce an effective system of data collection and analysis. The need to create nationwide preventive and therapeutic programs in the field of counteracting depression and suicide attempts in children is still valid.

Another warning sign was the non-ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which was adopted on 18 December 1990 by the UN General Assembly. The purpose of the Convention is to protect all legal and illegal migrant workers from exploitation by establishing international standards in the field of social protection and human rights and the obligations arising therefrom for sending and receiving migrants. In particular, the Convention aims to prevent illegal employment of migrants. The Committee for the Protection of the Rights of All Workers – Migrants and Members of Their Families supervises the implementation of the provisions of the Convention. The attitudes of the Polish side

towards the ratification of other conventions have not been consistent because volatile governments at that time and the increasingly difficult economic situation in the country.

Nevertheless, on 26 November 1991, Poland became a member of the Council of Europe and signed the European Convention on Human Rights. The Convention for the Protection of Human Rights and Fundamental Freedoms is an international treaty, by virtue of which Council of Europe Member States are obliged to protect the fundamental rights, not only of their own citizens, but also of every person under their jurisdiction. Signed on 4 November 1950 in Rome; the Convention entered into force in 1953

Being part of this organization with large arrears in terms of ratifying important human rights conventions. Membership in the council brought the Polish side closer to the process of European integration (the issue of which was not even the consent of the “post-solidarity” camp, because some of the politicians of the former anti-communist opposition were against this step).

The most advanced system of standards and protection of human rights was created within the Council of Europe. Poland was admitted to this organization in 1991, after meeting three statutory requirements: the introduction of representative and pluralist democracy, respect for the rule of law and fundamental human rights and freedoms. With the official accession to the Council of Europe, Poland adopted the European Convention for the Protection of Human Rights and Fundamental Freedoms, and then made a declaration of recognition of the competence of the European Commission of Human Rights and the European Court of Human Rights. These activities meant the acceptance by Poland of the entire convention system with its high substantive and control standards as well as the jurisprudence of the European Commission and the Court of Human Rights developed over many years. Poland has also acceded to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Social Charter. The ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms has given Polish citizens the full right to lodge individual complaints with the European Court of Human Rights.

### **Human rights during preparations for European integration**

The situation did not change after the adoption of the Constitutional Act of 17 October 1992. On one hand, there were processes that had a positive impact on the image of Poland as a country striving to catch up with the civilization of the West. As an example, it can be noted that the ratification of the European Convention on Human Rights (19 January 1993) and submission to the jurisdic-

tion of the European Court of Human Rights in Strasbourg (Overall until 10 September 2015 Poland ratified 94 different conventions of the Council of Europe, signing another 16).

This step was to meet the important need for the young democracy to be able to fight systemic, legislative and legal violations of human rights. Perhaps it would be considered a success if it was not for the previous law on the right to terminate pregnancy.

The Constitution of the Republic of Poland, in force since 1997, devoted the entire second chapter to the rights and freedoms of man and citizen: The inherent and inalienable human dignity is a source of human and citizen freedoms and rights. It is inviolable, and its respect and protection are the responsibility of public authorities. The catalogue of rights provided for in the Constitution is very extensive and covers all citizens of the Republic of Poland regardless of gender, social origin, religion or nationality<sup>2</sup>. Any discrimination in access to education, work, promotion and exercising public functions is prohibited. The state guarantees Polish citizens belonging to national and ethnic minorities the freedom to preserve and develop their own language, preserve customs and traditions, and develop their own culture. National and ethnic minorities have the right to create their own educational and cultural institutions and institutions serving the protection of religious identity and to participate in settling matters concerning their cultural identity. Citizens are subject to broadly understood protection of life and health, it is forbidden to subject people to medical experiments (without their consent), torture, inhuman or degrading treatment and corporal punishment.

Having freshly remembered the cases of violation of human and citizen rights by the communist authorities, the legislator devoted a lot of space to the issue of inviolability and personal freedom. Deprivation or restriction of liberty may occur only on the terms and in the manner specified by statute. The detained person must be notified immediately of the reasons for detention, and if deprived of his liberty unlawfully, he may claim damages. It is worth paying attention to Art. 45 of the Constitution: Everyone has the right to a fair and public hearing without undue delay by a competent, independent, impartial and independent court<sup>3</sup>. This is a provision the violation of which is the most common basis for bringing a complaint to the European Court of Human Rights in Strasbourg.

On 7 January 1993, the Sejm limited access to abortion by adopting one of the most restrictive (to this day) anti-abortion laws in Europe. The Act introduced, among others a ban on abortion with a few exceptions. The records are

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<sup>2</sup> M. Chmaj, *Wolności i prawa człowieka w Konstytucji Rzeczypospolitej Polskiej*, Warszawa 2006.

<sup>3</sup> On the independence of courts and judges see also: M. Rzewuski, *A Few Words About Judge's Freedom of Expression* [in:] *Contemporary problems of human rights. Selected aspects*, eds. M. Mamiński, M. Rzewuski, Warsaw 2019, pp. 19–34; A. Pawlak, *Communication skills of a judge and the right to a fair trial* [in:] *Contemporary problems of human rights. Selected aspects*, eds. M. Mamiński, M. Rzewuski, Warsaw 2019, pp. 35–54.

controversial to this day and have been tried many times to change them. From the beginning, the Act aroused great emotions in society. Among the opponents of its adoption were some women's organizations, including Federation for Women and Family Planning. Its then chairwoman Wanda Nowicka assessed in an interview with PAP that the act "is no compromise" because the opinion of the public was not taken into account – especially women. The established social committees protested against this step, and the Association for Rights and Freedoms gathered 1.7 million signatures of support under the milder version of the planned law before the vote. However, the voice of quite a large number of citizens has been completely ignored by politicians.

Again, there was also a whole group of various conventions of the Council of Europe, which Poland did not ratify, although it signed them:

- Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (1999),
- Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings (1999),
- European Convention on Nationality (1999),
- Convention on Cybercrime (2001),
- Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (2003),
- Convention on Contact concerning Children (2003),

or refused at all the following:

- European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors (1953),
- Protocol To The European Interim Agreement On Social Security Schemes Relating To Old Age, Invalidity And Survivors (1953),
- European Convention on Social and Medical Assistance (1953),
- Protocol to the European Convention on Social and Medical Assistance (1953),
- European Code of Social Security (1964),
- Protocol to the European Code of Social Security (1964),
- European Convention on the International Validity of Criminal Judgments (1970),
- European Convention on the Repatriation of Minors (1970),
- European Convention on the Transfer of Proceedings in Criminal Matters (1972)
- European Convention on Social Security (1972),
- Supplementary Agreement for the Application of the European Convention on Social Security (1972),
- European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (1974),

- Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality (1977),
- Additional Protocol to the Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality (1977),
- Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality (1977),
- European Convention on the Legal Status of Migrant Workers (1977),
- European Convention on the Compensation of Victims of Violent Crimes (1983),
- European Code of Social Security (revised) (1990),
- Convention on the Participation of Foreigners in Public Life at Local Level (1992),
- Protocol to the European Convention on Social Security (1994),
- Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (1995),
- Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (2000),
- Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin (2002).

Nevertheless, Poland has also signed and ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 2002.

However, the overall assessment of this period is not very favourable. A shadow of ratification of conventions dealing with certain human rights were caused by quite serious deficiencies in the rights of women (abortion, access to contraception and sex education), attempts to exert pressure and prosecute journalists who criticize power or relations between the State and the Roman Catholic Church (often a factor for the question of freedom of speech and the press was decisive)<sup>4</sup>.

### **Human rights in European integration (since 2004) – inconsistency or selective approach?**

The accession of Poland to the European Union on 1 May 2004 was the crowning achievement of many years of integration activities. In a sense, this was seen as a symbol of a certain “catching up” of Western Europe, but serious reservations about human rights still remained. The fact that since joining the EU, Poland has ratified some international agreements such as:

- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (2004),

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<sup>4</sup> On the Catholic church and Polish relationship see: B. Sitek, *Citizenship and the role of the Catholic church in the modern world*, „Teka Komisji Prawniczej PAN Oddział w Lublinie” 2019, Vol. XII, No. 1, pp. 249–259; A. Banaszak, *Unia Europejska a Kościół Katolicki*, „Journal of Modern Science” 2014, No. 23(4), pp. 327–349.



- The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2005),
- Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2006),
- Convention on the Rights of Persons with Disabilities (2012),
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (2014),
- Arms Trade Treaty (2014).

Nevertheless, the signing of the extremely important and media Convention on the prohibition of the use of cluster munitions from 2008 was refused. Loss for the Polish arms industry and reduced combat effectiveness were given as an explanation. Cluster munitions – particularly dangerous for civilians – have been officially banned. International humanitarian organizations have long been demanding this. The Convention, which enters into force on 1 August, has been signed by 108 countries. Proponents of the ban call the United Nations decision the most important humanitarian agreement of the decade when it comes to disarmament.

In Art. 1 The Convention prohibited all use, production, testing, acquisition, transfer and storage of cluster munitions, as well as supporting, encouraging or inducing any activity contrary to this prohibition.

The parties were obliged to destroy existing stocks within 8 years and to clear unexploded lands containing them within 10 years, with the possibility of extending these deadlines if it proved impossible to keep them<sup>5</sup>.

In the same year, the District Prosecutor's Office in Warsaw started an investigation into a very medial (and not yet clarified) case of alleged secret CIA prisons in the Republic of Poland, that were supposed to operate after the 9/11 attacks on New York. Basically, a summary of all accusations under reputation Polish was the report of the European Committee for the Prevention of Torture of 2011, which stated continued use of violence by the Police and the Border Guard, including tortures that did not leave permanent traces on the body.

It is worth noting that years later during the visit, the CPT's delegation assessed progress made since previous visits and the extent to which the Committee's recommendations had been implemented. Particular attention was paid to the treatment of persons in police custody, foreign nationals detained in Border Guard establishments, remand and sentenced prisoners, juvenile offenders and civil and forensic psychiatric patients.

Human Rights Watch criticized in its report legal regulations concerning abortion and birth control in Poland, taking into account the particularly anti-abortion law of 1993, which was particularly restrictive (in the entire Union).

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<sup>5</sup> [https://www.msz.gov.pl/pl/polityka\\_zagraniczna/polityka\\_bezpieczenstwa/rozbrojenie\\_konwencjonalne/amunicja\\_kasetowa/](https://www.msz.gov.pl/pl/polityka_zagraniczna/polityka_bezpieczenstwa/rozbrojenie_konwencjonalne/amunicja_kasetowa/) (11.2018).

Of course, these problems were then known to specialists, journalists and NGO-s that have repeatedly pointed out quite inconsistent policies in this regard in recent years (especially since 2010). The “selective” (according to some) approach of Polish governments to ratify and fulfil obligations resulting from international conventions on human rights was very negatively assessed.

In June 2010, Prof. Roman Wieruszewski (Poznań Center for Human Rights PAS), stated that “Poland avoids the ratification of some treaties”, exemplifying the failure to ratify the second Additional Protocol from the Covenant of Civil and Political Rights (prohibition of the death penalty) or the Council of Europe’s bioethical Convention (which is opposed by the circles associated with the Roman Catholic Church). Professor Wieruszewski points out that this puts Poland in a bad light on the international forum, he claims that the reason is either fears resulting from the consequences of adopting certain acts. As an example he shows the ratification of the UN Convention on stateless persons exposes Poland to the need to pay compensation for unlawful expulsions (1945–1950) and expulsion (1968) of people living in the lands that currently constitute the territory of the Polish State.

While the second (and much more frequent) reason is the use of some conventions as elements of the internal political games in Poland. There is no such thing in Poland as a policy of ratifying international treaties and conventions. Some are quickly ratified and introduced into the Polish legal system, while others wait for years. Often, the cause of such delays are concerns about the effects of assuming by the state the burden of international agreement, but much more often it is due to internal political game – says prof. Roman Wieruszewski from the Poznań Center of Human Rights of the Polish Academy of Sciences<sup>6</sup>.

As recently as 2014, the Ombudsman Irena Lipowicz demanded that the government prepare a concrete plan for the ratification of conventions related to human rights, to no avail.

In recent years, in addition to the Council of Europe’s bioethical Convention (in Poland the issue of convention has been reduced to in-vitro fertilization), the **Council of Europe Convention on preventing and combating violence against women and domestic violence** (2011) aroused much of a stir among some of the more conservative and catholic circles, which considered it an attempt on tradition and family in Poland. Finally, in 2015, the Convention was ratified by the Polish parliament, but the law and specific laws implementing the provisions and recommendations of this document were not changed completely, so in practice it remained only a blank declaration without coverage to this day. It is significant that while discussing the Convention, Poland (like Russia) was also making amendments to Art. 21 of this document, according to which the

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<sup>6</sup> <https://www.prawo.pl/prawnicy-sady/prof-roman-wieruszewski-polska-unika-ratyfikacji-niektorych-traktatow,31899.html> (11.2018).

state was to assist victims in making individual or collective complaints. According to the representatives of both countries, the state is not obliged to do so<sup>7</sup>.

Of course, these are just some examples, but the timing of the performance does not allow you to go deeper into the subject.

The two years that have passed since November 2015 brought the most challenges and threats to human rights and freedoms in the entire period after 1989 – the Helsinki Committee assesses the situation in Poland.

In their position, members of the Committee indicate that since the end of 2015, a number of events have taken place that have required intensified efforts to monitor compliance with human rights. These events include, above all, the growing constitutional crisis, legislative changes leading to the exclusion of effective constitutional review and the limitation of the guaranteeing role of the judiciary in the separation of powers.

### **Conclusion: 28 years after regaining independence – the state of human rights in Poland**

In summary, there are several points to be noted:

1. Within 25 years of adjudication, the European Court of Human Rights issued 1145 sentences<sup>8</sup> concerning Poland, 958 of which are unfavorable. In addition, the Helsinki Foundation for Human Rights also emphasizes that very often these judgments are not carried out in full: “the execution of the judgment cannot be equated only with acknowledgment of the violation and payment of compensation to the individual, because the correct execution of the Tribunal’s judgment, apart from the obvious and necessary compensation for the violation, it also depends, «perhaps from the social point of view, first of all on bringing the state’s right to such a state that will be compliant with the Convention standards»”<sup>9</sup>.

Just paying compensation, however important, will not change the letter of the law or the practice of its application. In order to achieve this, it is necessary to analyze the justification of the judgment and to draw conclusions from it for

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<sup>7</sup> M. Bojaruniec, *Intimate Partner Violence and UN Activity on Women Rights Protection* [in:] *Contemporary problems of human rights. Selected aspects*, eds. M. Mamiński, M. Rzewuski, Warsaw 2019, pp. 497–514.

<sup>8</sup> <https://www.prawo.pl/prawnicy-sady/raport-helsinki-fundacji-praw-czlowieka-o-wykonywaniu-przez,333424.html> (11.2018).

<sup>9</sup> *Wyrok w Strasburgu to nie koniec! Raport na temat wykonywania wyroków Europejskiego Trybunału Praw Człowieka*, Warszawa 2018, <http://www.hfhr.pl/wp-content/uploads/2018/11/Wykonywanie-wyrok%C3%B3w-ETPC-2018-FIN.pdf> (11.2018). See also: A. Łukaszczyk, *Prawo do udziału w zgromadzeniach i stowarzyszenia się osób zatrudnionych w służbie publicznej na podstawie orzecznictwa Europejskiego Trybunału Praw Człowieka* [in:] *Prawa człowieka w funkcjonowaniu administracji publicznej*, eds. F. Parente, B. Sitek, I. Florek, Józefów 2018, pp. 169–181.

the future. By recognizing the jurisdiction of the ECtHR, the state agrees to the implementation of the Strasbourg case law into its legislation and to periodic examination of its state by the Committee of Ministers of the Council of Europe conducted in order to improve the legal infrastructure in the field of human rights in a given country – reminds the HFHR.

2. In 2016, the Council of Europe Commissioner Nils Muižnieks presented a report in Warsaw on the state of human rights in Poland, in which the Council of Europe pointed to a number of reservations regarding respect for human rights in Poland, pointing to legislative and systemic attempts to limit them. Earlier, the European Commission issued a critical opinion on the activities of the Polish government.

“Recent far-reaching changes to Poland’s legal and institutional framework threaten human rights and undermine the rule of law, on which the protection of human rights ultimately depends. Lawmakers and the Government should urgently change course”<sup>10</sup>, said Nils Muižnieks.

The Commissioner was particularly concerned by the prolonged paralysis of the Constitutional Tribunal which “bears heavy consequences for the human rights protection of all Polish citizens and prevents human rights proofing of legislation”. He called on the Polish authorities to urgently find a way out of the current deadlock, stressing that “the rule of law requires that any solution be based on respect for and full implementation of the judgments of the Tribunal”

3. The IGLA-Europe ranking in 2018 places Poland in the 38th position in terms of tolerance in Europe – 18.23% acceptance for sexual diversity, which is the lowest tolerance indicator in the entire European Union. What’s more, the 2017 Human Rights Watch report also indicated that the perpetrators of crimes arising from sexual orientation most often avoid responsibility in Poland.

4. A sad summary of the whole issues is the position of the Helsinki Committee of 15 February 2018:

„We have recorded closing public discourse, limiting the freedom of assembly, limiting the conditions of action for civil society organizations. We pointed out that undermining the position and independence of the judiciary poses a direct threat to the level of protection of human rights and freedoms. We opposed the assassination of constitutional democracy and the dismantling of the rule of law.

We expressed the scandal concerning to the conduct of legislative work, aimed at unconstitutional changes in the law on the system of courts, the law on the Supreme Court, and the National Council of the Judiciary”<sup>11</sup>.

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<sup>10</sup> Council of Europe, [https://www.coe.int/en/web/portal/home/-/asset\\_publisher/ke6Wfgn94238/content/erosion-of-rule-of-law-threatens-human-rights-protection-in-poland?\\_101\\_INSTANCE\\_ke6Wfgn94238\\_viewMode=view/](https://www.coe.int/en/web/portal/home/-/asset_publisher/ke6Wfgn94238/content/erosion-of-rule-of-law-threatens-human-rights-protection-in-poland?_101_INSTANCE_ke6Wfgn94238_viewMode=view/) (11.2018).

<sup>11</sup> [http://obserwatoriumdemokracji.pl/wp-content/uploads/2016/03/stanowisko\\_komitet-helsinki-w-polsce\\_15022018.pdf](http://obserwatoriumdemokracji.pl/wp-content/uploads/2016/03/stanowisko_komitet-helsinki-w-polsce_15022018.pdf) (11.2018).

In all, it can be noticed that instead of strengthening human rights and progressing legislation aimed at guaranteeing them, Poland is moving away from the standards set by the conventions it has ratified<sup>12</sup>. We can only hope, that this is a temporary situation.

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## Summary

Human rights are the foundation of democracy, a democratic society, freedom, justice and peace. Without human rights and awareness of their ownership, people cannot live in dignity. Human rights are the same for all of us, regardless of race, gender, religion, ethnicity, political or other beliefs, social origin, national origin, sexual orientation. There are cases in which human rights may be limited, but only in very specific situations, usually defined in international documents or constitutions of individual countries (e.g. due to the protection of certain values by the state, or due to threats such as war or public security). In 1948, Poland was one of the eight states that abstained from voting on the ratification of the Universal Declaration of Human Rights. Until the transformation of the political system between 1989–1992, the number of international conventions dealing with the issue of human rights, which the Polish state had not ratified, has increased.

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<sup>12</sup> M. Sitek, *The human right to freedom of opinion and expression and the twilight of Western civilization* [in:] *Contemporary problems of human rights. Selected aspects*, eds. M. Mamiński, M. Rzewuski, Warsaw 2019, pp. 187–198.

Along with the democratization of public life in Poland and the accession process to the European Union, successive governments have signed certain conventions, but many important documents remain unratified or unimplemented, including significant conventions regarding the status of stateless persons or related to cluster munitions. This presentation aims at indication of the relation of Polish legislation and basic legal acts to the UN Universal Declaration of Human Rights and subsequent conventions aimed at protecting those rights. On the basis of a short comparative analysis, I will try to indicate how important human rights are to Poland nowadays.

*Keywords:* human right, Universal Declaration of Human Rights, European Union, Poland

## **PRAWA CZŁOWIEKA. DEKLARACJE ONZ W SPRAWIE PRAW CZŁOWIEKA**

### Streszczenie

Prawa człowieka są fundamentem demokracji, demokratycznego społeczeństwa, wolności, sprawiedliwości i pokoju. Bez praw człowieka i świadomości ich własności ludzie nie mogą żyć w godności. Prawa człowieka są takie same dla nas wszystkich, bez względu na rasę, płeć, religię, pochodzenie etniczne, przekonania polityczne, pochodzenie społeczne, pochodzenie narodowe, orientację seksualną. Zdarzają się przypadki, w których prawa człowieka mogą być ograniczone, ale tylko w bardzo szczególnych sytuacjach, zwykle zdefiniowanych w dokumentach międzynarodowych lub konstytucjach poszczególnych krajów (np. ze względu na ochronę niektórych wartości przez państwo lub z powodu zagrożeń, takich jak wojna lub bezpieczeństwo publiczne). W 1948 r. Polska była jednym z ośmiu państw, które wstrzymały się od głosu w sprawie ratyfikacji Powszechnej Deklaracji Praw Człowieka. Do czasu transformacji systemu politycznego w latach 1989–1992 wzrosła liczba konwencji międzynarodowych dotyczących kwestii praw człowieka, których państwo polskie nie ratyfikowało. Wraz z demokratyzacją życia publicznego w Polsce i procesem akcesyjnym do Unii Europejskiej kolejne rządy podpisały pewne konwencje, ale wiele ważnych dokumentów pozostaje nieratyfikowanych lub niewzmocnionych, w tym znaczące konwencje dotyczące statusu bezpaństwowców lub związane z amunicją kasetową. Prezentacja ta ma na celu wskazanie związku polskiego prawodawstwa i podstawowych aktów prawnych z Powszechną Deklaracją Praw Człowieka ONZ i późniejszymi konwencjami mającymi na celu ochronę tych praw. Na podstawie krótkiej analizy porównawczej postaram się wskazać, jak ważne są obecnie prawa człowieka dla Polski.

*Słowa kluczowe:* prawa człowieka, ONZ, Unia Europejska, Rzeczpospolita Polska