

## Joint statement in support of the Office of the Polish Commissioner for Human Rights

We, the undersigned organizations, wish to emphasize that an effective and independent National Human Rights Institution (NHRI), ombudsman institution and equality body are necessary features of any democratic State, underpinning human rights, good governance and justice. In this context, we reiterate our strong support for the Office of the Polish Commissioner for Human Rights, an ombudsman institution, equality body, and accredited as A-status NHRI, in its work to promote and protect human rights and equality in Poland in an independent and effective manner. We wish to express our concern regarding developments that may threaten the work of this important institution.

We note that Poland's parliament is currently engaged in the process of selecting a new Commissioner, as the current Commissioner's term of office came to an end on 9 September 2020. According to established law and procedure, the current Commissioner should remain in the post until a successor is appointed.

We observed that on 15 April 2021, the Constitutional Tribunal of Poland delivered a judgment declaring that Article 3, paragraph 6 of the Act on the Commissioner for Human Rights of Poland, which provides that the Commissioner will remain in office until the new office-holder is appointed, is unconstitutional. The Constitutional Tribunal also ruled that the existing transitional provision shall cease to apply three months after 15 April 2021, the date when this decision was published in the Journal of Laws of the Republic of Poland.

In light of this, we are concerned that should a successor not be appointed within this three-month period, the Office of the Commissioner for Human Rights, will have to function without a Commissioner, seriously limiting its effectiveness as an institution and negatively impacting the promotion and protection of human rights in Poland.

We, the undersigned organizations, call upon the Polish authorities to ensure an orderly transition to a new Commissioner for Human Rights and to provide for continuity, ensuring the effective and independent functioning of the institution throughout this process. We recall both the recently adopted Council of Europe Committee of Ministers "[Recommendation](#) on the development and strengthening of effective, pluralist and independent NHRIs", and its "[Recommendation](#) on the development of the Ombudsman institution," which emphasized that the leadership posts of such institutions should not stay vacant for any significant period of time. We further recall United Nations General Assembly resolution 74/156 and Human Rights Council resolution 45/22 which call on all states to establish and strengthen national human rights institutions in line with the UN Paris Principles. We equally recall the United Nations General Assembly resolution 75/186 on the role of Ombudsman which calls on all states to establish independent Ombudsman institutions consistent with the Venice Principles.

We call upon the Polish authorities to act in line with their State's long-standing international commitments and to take steps to ensure that the selection and appointment of a new Commissioner follows pre-established procedures, which are in line with the requirements under the UN [Paris Principles](#) and GANHRI's Sub-Committee on Accreditation (SCA) General Observations. These

requirements stipulate that the assessment of applicants must be on the basis of pre-determined, objective and publicly available criteria. Such an assessment promotes the merit-based appointment of candidates, limits the capacity for undue interference in the selection process, and serves to ensure the appropriate management, credibility, and effectiveness of the NHRI. Such a selection process should be clear, transparent and participatory and should be formalized in relevant legislation, regulations or binding administrative guidelines.

In addition, the [Venice Principles](#) of the Council of Europe emphasize that the heads of Ombudsman Institutions should be elected according to procedures that strengthen, to the highest possible extent, the authority, impartiality, independence and legitimacy of the institution within which they serve.

EU Member States have a legal duty to ensure the independent and effective operations of a National Equality Body. Furthermore, both the EU standards on equality bodies ([European Commission's Recommendation on standards for equality bodies](#)) and Council of Europe standards ([the European Commission against Racism and Intolerance \(ECRI\) General Policy Recommendation No. 2](#)) place particular weight on the independence of the equality body and procedures for appointing and dismissing people in leadership positions.

The Polish authorities should ensure respect for international standards when amending the current legislation. Any constitutional or legislative amendments affecting the Office of the Commissioner for Human Rights should be in compliance with the UN Paris Principles and other international and regional standards laid out above and should be subject to effective consultations with all relevant stakeholders, including the Office of the Commissioner for Human Rights.

We stand ready to support, assist and advise all Polish authorities involved in the selection and appointment of the new Commissioner for Human Rights in ensuring that this process fully complies with international standards and best practices.

May 14, 2021

## **ENNHRI, Equinet, GANHRI, IOI, ODIHR, OHCHR**

ENNHRI, the European Network of National Human Rights Institutions, comprises 47 members and includes all European NHRIs to enhance the promotion and protection of human rights in the region.

Equinet, the European Network of Equality Bodies, brings together 47 organizations from across Europe which are empowered to counteract discrimination as national equality bodies across a range of grounds.

GANHRI, the Global Alliance of National Human Rights Institutions, unites, promotes and strengthens NHRIs to operate in line with the Paris Principles and provides leadership in the promotion and protection of human rights.

IOI, the International Ombudsman Institute is the global organization for the co-operation of more than 200 independent ombuds institutions from more than 100 countries worldwide.

ODIHR, the OSCE Office for Democratic Institutions and Human Rights is the principal institution of the Organization for Security and Cooperation in Europe dealing with the human dimension of security.

OHCHR Europe, the Regional Office for Europe is one of the 80+ field presences of the UN Human Rights Office (OHCHR) around the world working to advance the protection and promotion of human rights for all.

The Office of the Polish Commissioner for Human Rights is mandated as Poland's NHRI, National Equality Body, ombuds institution, National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and monitoring mechanism under the UN Convention on Rights of Persons with Disabilities. It is a member of ENNHRI, Equinet, GANHRI and the IOI.