

## Permanent Mission of Poland on Item V

Thank you Madam Chair.

Poland appreciates that the 20<sup>th</sup> anniversary of the adoption of the Declaration has been devoted here to reflection on the promotion and protection of the persons belonging to national or ethnic minorities. Poland supports constructive approaches designed for comprehensive action in this field.

As a contribution to the debate on challenges and problems Poland would like to draw the attention to the experience on and perception of some recurring problems relating to national minority issues.

Poland shares the messages contained in Draft Recommendation 21 where by the Declaration and other relevant instruments “should be incorporated into domestic law providing a strong legal basis for the protection of minority rights”. These wise guidelines however, pose numerous problems in their practical application.

To mention but a few:

First, there are cases demonstrating an apparent opposition adopting specific legislation on minority issues, with a view to resorting to policy measures solely without any legal guarantees for members of minority communities. A dangerous trend has emerged to repealing deliberately the existing legislation or abrogating its essential parts. This permits to maintain a legislative façade but does not improve regulations for the benefit of minorities.

Second, we have sometimes to deal with worse situations like highly regrettable cases of the so called retrogressive measures. This occurs when members of national minorities are being deprived of their rights and freedoms which they’ve had been enjoying and exercising earlier, sometimes for many decades.

Third, failure to adopt legislation also extends to the so called implemented or delegated legislation which is indispensable in so sensitive areas for minorities like those of education, public participation, use of languages, access to media and others. One must be aware that minority rights law is a *lex specialis* in relation to general human rights regulations and continues to be underdeveloped.

Fourth, absence of minority legislation, its numerous and regular amendments unclear and uncertain provisions invite a considerable degree of arbitrariness on the part of the administrative bodies and the judiciary.

Fifth, there are still cases of uncertainty about the status of international treaties in domestic law. It occurs sometimes that constitutional law or supreme courts give preference to domestic law over contracted international obligations. This contradicts the principle of universally recognised that a state may not evoke the provisions of its internal law, or its absence as justification for its failure to perform a treaty.

Thank you very much.