



## **Poland**

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### United Nations Human Rights Committee Consideration of Poland during the 8th Periodic Cycle

**List of Issues Prior to Reporting, submitted by Lawyers for Lawyers on 19 August 2024**

#### **Lawyers for Lawyers**

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#### **About the organization**

Lawyers for Lawyers (L4L) is an independent, non-political and not-for-profit lawyers' organisation established in 1986. Its mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognised norms and standards by supporting lawyers who are at risk as a result of discharging their professional duties. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013.

## I. Introduction

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1. During its 142<sup>nd</sup> session, from 14 October to 8 November 2024, the Human Rights Committee ('the Committee') will adopt a List of Issues Prior to Reporting (LoIPR) in advance of the periodic review of Poland under article 40 of the Covenant. This follows the adoption of a List of Issues,<sup>1</sup> submission of the State report,<sup>2</sup> and adoption of the Concluding Observations<sup>3</sup> during the previous reporting cycle.
2. In the context of this upcoming review, Lawyers for Lawyers (L4L) wishes to bring to the Committee's attention a number of concerns pertaining to Poland's implementation of the ICCPR. This submission will focus on the situation of lawyers in the State Party, specifically the obstacles to the independent exercise of their profession and the implications on the right to access to justice for all. In particular, the following matters will be discussed:
  - A. Lack of independence of the judiciary
  - B. Harassment and interference with lawyers' activities
  - C. Surveillance and threats to lawyer-client confidentiality
  - D. Restrictions on the right to an effective defence
3. The concerns shared in this submission are particularly relevant for the Committee's evaluation of Poland's implementation of the right to a fair trial under Article 14 ICCPR, as it relates to the independence of the legal profession, as well as other Covenant rights and their ensuing impact thereon.

### *Methodology*

4. Lawyers for Lawyers has been closely following the rule of law and human rights developments in Poland in the context of democratic backsliding and rise of authoritarianism that have taken place of the past decade. Public and private intervention and advocacy to date has had a particular focus on the situation of lawyers in the country and their ability to practice their profession free from intimidation, hindrance, harassment or improper interference (as found in the UN Basic Principles on the Role of Lawyers). The information of this submission is collected through ongoing desk-research, semi-structured interviews with Polish legal professionals, and engagement with and reports from Polish lawyers and other local and international stakeholders.

## II. Substantive Part – Implementation of the ICCPR and related issues

### **A. Lack of independence of the judiciary**

5. The adequate protection of human rights and fundamental freedoms requires that every citizen has effective access to justice and legal assistance. Legal assistance can only be provided effectively in a judicial system where lawyers, along with judges and prosecutors, are free to carry out their professional duties independently of the government and political pressure. This follows, inter alia, from the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR). In particular, the protection and the independence of justice actors is a key

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<sup>1</sup> CCPR/C/POL/QPR/7.

<sup>2</sup> CCPR/C/POL/7.

<sup>3</sup> UN Human Rights Committee, 'Concluding observations on the seventh periodic report of Poland' (23 November 2016) CCPR/C/POL/Co/7 ('Concluding Observations').

component to ensure the well-functioning of justice systems and to combat impunity. This is a precondition to the right to a fair trial, protected by Article 14 of the ICCPR.

6. L4L has previously expressed concern over Poland's failure to fully comply with its obligations under Article 14 ICCPR, particularly on the lack of an independent judiciary and the ensuing implications for the ability of lawyers to effectively carry out their work, in accordance with the UN Basic Principles on the Role of Lawyers.<sup>4</sup> In the Concluding Observations issued during the previous reporting period, the Committee expressed concern about the negative impact of certain legislative reforms on the independence of the judiciary. This included the amendments of November and December 2015 and July 2016 to the law on the Constitutional Tribunal, the law on prosecution of January 2016 and the then draft act on the National Council of the Judiciary (passed in 2017).<sup>5</sup> These reforms were widely criticized, including by the Venice Commission, which found that elements of the reforms had compromised impartiality by politicizing the appointment procedure and that the tenure of improperly appointed judges raised serious questions about the independence of the judiciary.<sup>6</sup> These doubts relating to impartiality were confirmed by the Court of Justice of the European Union (CJEU) in July 2021, holding that, after a series of attempted reforms, the Polish Supreme Court had not sufficiently mitigated the issues explored by the Venice Commission in 2017 and 2020.<sup>7</sup>
7. According to reports received, lawyers in Poland continue to be concerned about the ongoing negative impact of these legislative reforms and the considerable challenges that they pose to their ability to effectively carry out their work. Among other things, these reforms have allowed the government to replace judges with politically appointed judges in regional and appeals courts as well as the Supreme Court. Polish lawyers have shared that they can no longer rely on judicial decisions being made independently and free from executive influence, and are therefore hampered in their ability to provide effective legal assistance. When facing an illegitimately appointed judge, lawyers need to consider whether it's in their client's best interest to file for a judge's recusal, due to the lack of fair trial, or risk a judgement which may later be overturned on the same grounds. Lawyers indicated that when filing for the judge's recusal, such procedures are at times ostensibly protracted and negatively impact the client's right to be tried 'without undue delay' (see paragraph 22 of this submission for further detail).<sup>8</sup> There are currently no effective means to mitigate this.

## **B. Harassment and interference with lawyers' activities**

8. Lawyers for Lawyers has received reports from Polish lawyers who have been the subject of different forms of harassment in connection to their legitimate professional activities. Since the conclusion of the previous reporting period, L4L has been informed of several cases in which Polish lawyers were subjected to legal harassment,<sup>9</sup> including arbitrary arrests and

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<sup>4</sup> L4L and IBAHRI Joint Submission to the Universal Periodic Review on Poland (March 2022) para 12-20, available at: [https://lawyersforlawyers.org/wp-content/uploads/2022/04/Final-UPR-Poland-March-2022.L4L.IBA .pdf](https://lawyersforlawyers.org/wp-content/uploads/2022/04/Final-UPR-Poland-March-2022.L4L.IBA.pdf); and Basic Principles on the Role of Lawyers, adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 ('Basic Principles').

<sup>5</sup> Concluding Observations, paras 7, 8 and 33.

<sup>6</sup> Venice Commission, Opinion No. 1181/2024, para 11.

<sup>7</sup> *European Commission v Republic of Poland*, (ECJ, 15 July 2021).

<sup>8</sup> UN Human Rights Committee, 'General Comment No. 32', (23 August 2007), CCPR/C/GC/32 ('General Comment 32'), para 35.

<sup>9</sup> L4L and ICJ, 'End harassment of Michał Romanowski' (15 July 2021) available at: <https://lawyersforlawyers.org/end-harassment-of-michal-romanowski/>.

detentions,<sup>10</sup> searches and seizures, disciplinary proceedings,<sup>11</sup> and criminal prosecution.<sup>12</sup> This is particularly the case for lawyers working on politically sensitive cases, including but not limited to human rights and criminal law.

9. Numerous lawyers reported having faced online harassment and hateful messages in relation to the clients they represent or the causes they advocate for. Lawyers are often discredited or demonised for exercising their profession, being labelled as “enemies of the nation” in the media, or attributing them words that were never used while representing certain minorities or persons who are or who are perceived to be members of the LGBTI community. Consequently, in some of these cases, lawyers are precluded from offering their legal services, as clients are dissuaded from hiring them because of the public vilification the lawyers have experienced. These instances may amount to a violation of Article 14 ICCPR, given that more vulnerable members of society may feel restricted in their right to freely choose one’s counsel, as a result of the harassment experienced by lawyers. This follows from the Committee’s General Comment No. 32,<sup>13</sup> as well as Principle 16 of the UN Basic Principles, under which “[g]overnments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment, or improper interference”.<sup>14</sup>

### **C. Surveillance and threats to lawyer-client confidentiality**

10. In recent years, Lawyers for Lawyers has noted continuous and increased pressure on the principle of lawyer-client confidentiality in Poland.<sup>15</sup> This manifests itself in threats posed by surveillance and wire-tapping of lawyers’ communications with their clients, as well as attempts by prosecutors and courts to lift privilege by summoning or questioning lawyers. Recent interviews with Polish lawyers indicate that, although the Polish legal system pertaining to lawyer-client privilege is ultimately consistent with ECHR law,<sup>16</sup> justice actors lack awareness about the importance of the principle and maintain a too narrow understanding of the scope of legal privilege. In addition, certain legal provisions and the far-reaching competences of surveillance bodies risk undermining legal protection offered to lawyer-client confidentiality. As a consequence, lawyers’ ability to communicate with their clients in confidence, which is of fundamental importance to their free and independent

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<sup>10</sup> ‘Treatment of lawyer Roman Giertych undermines independence of legal profession’ (L4L, 16 November 2020) available at: <https://lawyersforlawyers.org/en/treatment-of-lawyer-roman-giertych-undermines-independence-of-legal-profession/>.

<sup>11</sup> ‘End harassment of Michał Romanowski’ (fn 9).

<sup>12</sup> For a summary of these cases, see: L4L and IBAHRI, ‘Joint Submission to the United Nations Universal Periodic Review, Republic of Poland’ (November 2022), para 24. Available at: [https://lawyersforlawyers.org/wp-content/uploads/2022/04/Final-UPR-Poland-March-2022.L4L.IBA\\_.pdf](https://lawyersforlawyers.org/wp-content/uploads/2022/04/Final-UPR-Poland-March-2022.L4L.IBA_.pdf).

<sup>13</sup> ‘General Comment 32’, paras 34, 37.

<sup>14</sup> ‘Basic Principles’, Principle 16.

<sup>15</sup> See, L4L and IBAHRI Joint Submission to the Universal Periodic Review on Poland (March 2022) para 12-20, available at: [https://lawyersforlawyers.org/wp-content/uploads/2022/04/Final-UPR-Poland-March-2022.L4L.IBA\\_.pdf](https://lawyersforlawyers.org/wp-content/uploads/2022/04/Final-UPR-Poland-March-2022.L4L.IBA_.pdf); L4L, ‘Lawyer-Client Confidentiality in a Digitalised Society’ (May 2023), p. 17-19, available at: <https://lawyersforlawyers.org/wp-content/uploads/2023/05/Lawyers-for-Lawyers-Digital-Lawyer-Client-Confidentiality.pdf>; L4L, ‘Pietrzak v Poland: Why Lawyers for Lawyers follows the proceedings’ (13 October 2022) available at: <https://lawyersforlawyers.org/pietrzak-v-poland-why-lawyers-for-lawyers-follows-the-proceedings/>; L4L, ‘Treatment of lawyer Roman Giertych undermines independence of legal profession’ (L4L, 16 November 2020) available at: <https://lawyersforlawyers.org/treatment-of-lawyer-roman-giertych-undermines-independence-of-legal-profession/>.

<sup>16</sup> Article 6, paragraph 3, of the Polish Law on the Advocates Bar (1982) stipulates that “an advocate may not be relieved from the duty to keep professional secrets with regard to facts which came to his/her knowledge whilst providing legal assistance or conducting a case”.

functioning,<sup>17</sup> is under pressure and risks infringing upon the client's right to a fair trial under Article 14 ICCPR.

*Surveillance and wire-tapping*

11. The use of surveillance against lawyers and threats to confidential communications in Poland is well-documented. In its Concluding Observations, the Human Rights Committee expressed concern over the interception powers of the Polish intelligence and law enforcement authorities as reflected in the law on counter-terrorism of June 2016 and the act amending the Police Act and certain other acts of January 2016.<sup>18</sup> In a 2023 report, L4L found that Polish lawyers have, systematically and on a broad scale, been subjected to surveillance by Polish counter-intelligence agencies in recent years.<sup>19</sup> A 2023 report by the European Parliament confirmed this and found that in Poland, "(...)Pegasus surveillance spyware has been illegally deployed for political purposes to spy on (...) lawyers (...) [among other targeted professions] (...) apparently as part of a system or an integrated strategy (...) [to repress political opposition]."<sup>20</sup> Lawyers have reported that invasions of electronic communications, such as Whatsapp and Signal, but also interception of emails and wire-tapping, continue to persist. Prosecutors sometimes openly present and submit intercepted communications as evidence, regardless of whether or not it may have violated lawyer-client confidentiality. This is mostly the case when it concerns terrorism or espionage charges.
12. Notably, in a recent judgement issued by the ECtHR, the Court ruled that given the "secret nature and wide scope of the measures provided for" in the Polish Anti-Terrorism and Police Acts, the mere existence of these provisions, that allow for surveillance of lawyers by governmental agencies, constitute a violation of the right to respect for private and family life, which protects the exchange of information between clients and their lawyers.<sup>21</sup> This is illustrative of the State's lack of implementation of the Committee's recommendation to review its counter-terrorism legislation in order to bring it into line with its obligations under the ICCPR.<sup>22</sup>

*Other attempts to lift or circumvent lawyer-client confidentiality*

13. Whereas prior to 2016, lawyers and bar associations reported minor issues regarding threats to lawyer-client confidentiality, recent information indicates the pressure on lawyers to breach lawyer-client confidentiality is on the rise. Between 24 June 2016 and 8 August 2024, the Warsaw Bar Association received 438 reports from lawyers who experienced threats to lawyer-client confidentiality. These included instances of courts deciding to lift legal privilege, censorship of correspondence between lawyers and clients in detention by penitentiary officers, as well as demands by investigative and prosecutorial authorities to reveal privileged information. In terms of the latter, lawyers reported being called to the witness stand to testify about the communication with their client, being asked to provide certain explanations on behalf of their clients, or received requests to share documents protected by lawyer-client privilege. These requests came from police and tax authorities, prosecutors, officers the Central Anticorruption Bureau, as well as courts themselves.

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<sup>17</sup> Principle 22 of the 'Basic Principles' holds that "governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential".

<sup>18</sup> 'Concluding Observations', para 39.

<sup>19</sup> L4L, 'Lawyer-Client Confidentiality in a Digitalized Society' (May 2023) available at: <https://lawyersforlawyers.org/wp-content/uploads/2023/05/Lawyers-for-Lawyers-Digital-Lawyer-Client-Confidentiality.pdf>.

<sup>20</sup> European Parliament recommendation of 15 June 2023 to the Council and the Commission following the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware (2023/2500(RSP)) para. O.

<sup>21</sup> *Pietrzak and Bychawska-Siniarska and others v Poland*, nos. 72038/17 and 25237/18 (ECtHR, 28 May 2024), paras 56 and 146.

<sup>22</sup> 'Concluding Observations', paras 39 and 40.

14. In other cases, intelligence agencies and police authorities come into lawyers' offices and seize documents and devices that contain privileged information in violation of lawyer-client confidentiality. Bar associations will object and formally notify the investigating authority, who mostly respect these declarations and subsequently place the documents and devices in sealed plastic bags before a judge decides on the privilege at a later stage. According to the lawyers interviewed, however, prosecutors often open the bags to read the privileged contents. When reaching the conclusion that the information is indeed covered by privilege, prosecutors will then request the court to overturn the evidence. This defeats the purpose of the principle of lawyer-client confidentiality and overrides the procedural safeguards intended to protect privilege and the accused's rights to a fair trial in accordance with Article 14 ICCPR.

*Narrow understanding of the principle of lawyer-client confidentiality*

15. Lawyers interviewed noted a general attitude of the State of disregarding professional privilege or loosely-interpreting its application, also reflected in legislation and practice. While lawyer-client confidentiality enjoys constitutional protection as well as absolute protection under Article 6(3) of the Polish Law on the Advocates Bar,<sup>23</sup> lawyers reported that legal gaps in legislature may allow interference with lawyer client confidentiality,<sup>24</sup> and, consequently, impact the accused's right to effective legal assistance under Article 14 ICCPR.

16. Under one statute, the procedural code imposes criminal liability, should lawyers fail to notify authorities regarding specifically listed offenses, without exception.<sup>25</sup> Other statutes governing lawyer-client confidentiality enable a Court to release a witness from professional secrecy under certain conditions, and Civil Procedure allows a court to compel a lawyer to testify on issues related to advocacy.<sup>26</sup> In theory, lawyers are still under an obligation to maintain secrecy<sup>27</sup> and the Court should defer to the lawyer's discretion on which aspects of their testimony may violate that obligation. In this context, lawyers expressed that "there is a culture of permissiveness", as the State maintains a too narrow understanding of lawyer-client confidentiality, strictly limiting it to declarations made by the client in communication with the lawyer. Additionally, because of their work-load and ensuing pressure, duty-judges have little motivation to refuse applications to lift lawyer-client privilege, consequently applying a very low threshold when assessing the necessary criteria to release such privilege.

17. Besides support offered by bar associations, there is no effective means of redress for violations of legal privilege under Polish law. Lawyers and clients cannot resort to an appeal mechanism; and prosecutors and other state authorities are not disincentivized from using improperly obtained or privileged information as evidence.<sup>28</sup> In 2008, the ECtHR Court found a violation of defense rights in *Rybacki v. Poland*, where prosecutors reserved the right to be present whenever the accused was with their advocate. This prosecutor referred to provisions of the Code of Criminal Procedure, still in effect, to justify the incursion.<sup>29</sup> Under current Polish law, when evidence that may be covered by privilege is obtained illegally or improperly, the accused is not protected from its use in court,<sup>30</sup> and a prosecutor that uses illegally obtained evidence will not be subject to disciplinary action.<sup>31</sup>

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<sup>23</sup> Article 42(2) of the Constitution of Poland, 1997.

<sup>24</sup> Elzbieta Hryniewicz-Lach, *Attorney-client privilege in Polish law and legal practice - on legal gaps and some controversial matters*, ERA Forum (13 April 2023), available at: <https://link.springer.com/article/10.1007/s12027-023-00741-0>.

<sup>25</sup> Article 240 (2) of the Polish Code of Criminal Procedure.

<sup>26</sup> Article 180 (2) of the Polish Code of Criminal Procedure.

<sup>27</sup> *Ibid.* Article 266 (1); see also Article 19 (1) of the Polish Code of Advocate Ethics.

<sup>28</sup> Malgorzata Szuleka, *The rule of law crisis in Poland*, The Helsinki Foundation for Human Rights, (January 2019) pp 7-9.

<sup>29</sup> *Rybacki v. Poland*, no. 53479/99 (ECtHR, 13 January 2009).

<sup>30</sup> Article 168 (a) of the Polish Code of Criminal Procedure.

<sup>31</sup> Article 137 (2) of the Act On the Public Prosecutor's Office, 2017.

18. The importance of the principle of lawyer-client confidentiality for the protection of the rule of law is firmly rooted in international law. It is also an essential prerequisite for the effective exercise of human rights, including the right to privacy, access to justice, and the right to a fair trial.<sup>32</sup> The practices described above are contrary to Poland's obligation under Article 14 ICCPR, according to which 'counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications'.<sup>33</sup> The nature and widespread reports of threats to lawyer-client confidentiality, indicate that the State Party has not yet fully implemented the Committee's recommendations issued in its last Concluding Observations to ensure that 'all communication between the counsel and the accused remains confidential'.<sup>34</sup>

#### **D. Restrictions to the right to an effective defence**

19. Lawyers in Poland have reported experiencing obstructions in preparing their clients' defence, precluding them from exercising their professional duties effectively. This materializes in the form of restrictions to access to clients in pre-trial detention and to information, undue procedural delays, and restricted time for preparation of the defence. These issues echo the concerns mentioned by the Committee in the Concluding Observations during the last reporting period, in which it recommended that the State Party 'ensure[s] that all detainees, including juveniles, have unhindered, prompt and adequate access to the lawyer of their choice or free legal aid from the outset of detention [...]'.<sup>35</sup>

##### *Restrictions to access to clients and information*

20. Lawyers have experienced interference accessing their clients. They reported that in cases of arrests and detentions during public protests or high-profile demonstrations, law enforcement has restricted lawyers' access to their clients, not granting them any information on their whereabouts. Lawyers have also reported cases of denial of contact with their clients in cases of pre-trial detention, consequently hampering their ability to effectively prepare their defence.<sup>36</sup>

21. Lawyers also expressed concern over the restriction to access to information by the government of Poland in criminal proceedings. In these cases, Articles 156(5a) and 250(2a and 2b) of the Code of Criminal Procedure of Poland allow public prosecutors to restrict access to evidence while investigations are pending due to "danger to the witness' life". Interviewed lawyers expressed perceiving these provisions as treating lawyers as "a danger to the proceedings", limiting their ability prepare an effective defence. These articles were introduced in 2016, and although concern has been expressed over their impact on the right to an effective defence, they have not been overturned. Moreover, under Article 181(2) of the Polish Code of Criminal Procedure, as well as the Order of the Minister of Justice of 9 September 2017,<sup>37</sup> lawyers are only able to access files in a "confidential room", where pictures are prohibited and any notes taken must remain. The information accessed in these instances cannot be discussed, even with their clients. Although sometimes justified, it was

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<sup>32</sup> Besides Article 14 ICCPR, see: Article 12 and Article 10 UDHR, UNGA 1948; Articles 6, 8 and 14 ECHR, Council of Europe 1953; Articles 1 and 4-13 of the Convention 108+, Council of Europe 2018.

<sup>33</sup> 'General Comment 32', para 34.

<sup>34</sup> 'Concluding Observations', paras 33-34.

<sup>35</sup> Ibid.

<sup>36</sup> See, also, Adwokatura Polska, 'Assessment of regulations and standards use of pre-trial detention in Poland by advocates and trainee advocates, Report' (March 2023), p 7.

<sup>37</sup> Order of the Minister of Justice of 9 September 2017 on the treatment of interrogation reports and other documents or objects to which the obligation of professional secrecy or to keep professional or functional secrets extends, OJ 2017.1733 of 2017.09.12.

also reported that recourse to these restrictions is often abused, as prosecutors enjoy discretionary power to determine their implementation.

#### *Procedural delays*

22. Lawyers in Poland have also reported cases of delays on their proceedings, which may hinder their client's enjoyment of the right to a fair trial and the right to be tried 'without undue delay'.<sup>38</sup> Proceedings are often prolonged in cases in which lawyers find themselves obliged to recuse judges in light of the recent judicial reforms concerning the independence of the judiciary. In one case, which commenced in 2020, a lawyer filed for recusal of an appeal court judge, who allegedly did not meet the required standards in years of experience and had been illegitimately appointed following the 2016-2017 reforms, on the grounds that the judge lacked independence. The judge in question, however, appealed the recusal before the Supreme Court and simultaneously suspended the ongoing proceedings, before submitting the question to the European Court of Justice, which has yet to decide on the matter. Additionally, delays are present in appeals against a prosecutor's refusal to initiate proceedings, while also precluding victims from filing their own indictments. In one case, proceedings were initiated five years after the first rejection by the prosecutor, by which point evidence-gathered was severely hampered. Lawyers expressed that these delays are problematic and do not allow for the effective enjoyment of the right to a fair trial.

#### *Restricted time for the preparation of the defence*

23. The interviews conducted also found a restricted time for the preparation of the defence. In pre-trial detention cases, lawyers are often only granted 24 hours to prepare first instance court proceedings, even when dossiers contain extensive information as they have been building for years. This is not only detrimental to lawyers' work, but also to the Courts and judges themselves. These practices may constitute violations to Article 14(3) of the International Covenant on Civil and Political Rights, under which everyone has the right to have adequate time and facilities to prepare for their defence, to communicate with counsel of their own choosing, and to be tried without undue delay. In this sense, the Committee has previously expressed its concern over undue delays in court proceedings, and difficulties in accessing legal assistance during arrest in Poland.<sup>39</sup>

### **III. Conclusions and recommended questions**

24. According to information received and presented above, the State Party fails to fully respect and ensure the guarantees for the free and independent functioning of the legal profession and the right to a fair trial under Article 14 of the ICCPR. We recommend the Human Rights Committee to ask the State Party to:

- Please provide information on what measures the State Party intends to take to ensure that lawyers can rely on a fair and impartial judiciary and public prosecution service, to allow them to carry out their work freely and independently in accordance with the UN Basic Principles on the Role of Lawyers and effectively act in their client's best interest.
- Please respond to reported instances of harassment of lawyers in relation to the exercise of their legitimate professional duties and provide information on how the State Party aims to ensure that lawyers are able to carry out their professional activities

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<sup>38</sup> 'General Comment 32', para 35.

<sup>39</sup> 'Concluding Observations', para 33.



safely and independently without fear of threat, intimidation, hindrance, harassment, improper interference, reprisals, or criminal prosecution.

- Please respond to reports of wide-spread interference with the principle of lawyer-client confidentiality and clarify how the State Party aims to (i) enhance the understanding and respect for lawyer-client privilege among the different actors in the justice chain; and (ii) align its counter-terrorism legislation with international standards on the right to privacy and the right to a fair trial, in relation to its obligations under Article 14 ICCPR to respect and protect client's right to communicate with their lawyer in confidence.
- Please clarify what measures the State Party intends to take to guarantee the right to an effective defence, in order to ensure the right to a fair trial under Article 14 ICCPR, including (i) ensuring that the defence has timely access to information pertaining to the case at hand, as well as to clients, and (ii) that proceedings are expeditious.