1. (A) Introduction

1.1 In this consolidated document, CIVICUS and KOD examine the Government of Poland’s compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Poland’s fulfillment of the rights to freedom of association, peaceful assembly, and expression since its previous UPR examination in June 2012. To this end, we assess Poland's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.

1.2 During the 2nd UPR cycle, the Government of Poland received 5 recommendations relating to the above mentioned rights. Of these recommendations, 5 were accepted and 0 were noted. An evaluation of a range of legal sources and human rights
documentation addressed in subsequent sections of this submission demonstrate that the Government of Poland has fully implemented only 1 of these recommendations, partially implemented 1 and not implemented 3 of them. While some progress was made towards strengthening media laws and the freedom of association in the period up to 2015, since late 2015 the government has followed a path marked by a determination to close space for the expression of a plurality of views, an essential component of a functioning democratic society.

1.3 CIVICUS and KOD are particularly concerned by the government’s assertion of control over state institutions and the media through weakening of the rule of law and undermining respect for fundamental freedoms, in particular the freedom of expression. We echo the sentiments of many Polish civil society groups, which have called attention to the current government’s attempts to undermine democratic safeguards and limit the independence and plurality of the media since taking office in 2015.

1.4 CIVICUS and KOD are further alarmed by the recent enactment of new counter-terrorism legislation which threatens to seriously undermine the exercise of fundamental freedoms, including the right to freely share information and express ideas, and the freedom to gather peacefully in public. The law contains an overbroad definition of terrorism, provides for increased scrutiny on the activities of foreigners (including foreign NGOs and journalists) in Poland and places wide-ranging powers in the hands of the police and the Minister of the Interior to ban all public protests if the threat level is raised high enough.

2. (B) Freedom of association

2.1 Under the 2nd UPR cycle, the government received a series of recommendations related to strengthening protections for the rights of minority groups, particularly the LGBTI community. Through these, Poland was urged to ‘recognize gender identity as [a] possible ground for discrimination’\(^2\) and adopt laws and policies to ‘safeguard the rights of LGBT people and fight discrimination based on sexual orientation.’\(^3\)

2.2 Recommendations

- Repeal discriminatory provisions, including those contained in the Law on Anti-Terrorist Operations, which increase the risk that minority or foreign civil society groups in Poland will be unfairly targeted.

\(^2\) Recommendation from United Kingdom of Great Britain and Northern Ireland, A/HRC/21/14 - Para. 90 & A/HRC/21/14/Add.1 - Para. 90.68.

\(^3\) Recommendation from Brazil, A/HRC/21/14 - Para. 90 & A/HRC/21/14/Add.1 - Para. 90.71.
• Laws, policies and practices should be put in place to ensure that LGBTI groups are able to freely form associations and organise peacefully to advance their interests. The state should take active steps to address the widespread nature of attacks against LGBTI people, ensure that these groups are adequately protected from threatening or intimidating behaviour and physical violence.

• Ensure that state institutions at all levels adhere to enabling new provisions in the Law on Associations 2015, particularly in respect to the implementation of faster times for registration and easier accounting requirements for smaller associations. The government should also take steps to address the remaining concerns of civil society organisations regarding onerous bureaucratic procedures.

3. (C) Freedom of expression, independence of the media and access to information

3.1 Under the 2\textsuperscript{nd} UPR cycle, the government received two recommendations relating to freedom of expression and access to information. By accepting both of these recommendations, the government pledged to ‘review article 212 of the Penal Code criminalising defamation, with the aim of removing it from the Penal Code’ and ‘provide access to the means of communication to all groups of society so that they may exercise fully their right to freedom of expression.’\textsuperscript{4} However, as discussed below, the government did not take effective measures to implement these recommendations.

3.2 Recommendations

• Respond positively to calls by domestic and international civil society groups as well as intergovernmental bodies including the European Union and the Council of Europe, by amending laws passed since late 2015 which undermine the independence of the public media and erode public confidence in the impartiality of public television and radio stations.

• Repeal provisions of the counter-terrorism law enacted on June 2016 by removing overbroad powers to block online content and to introduce safeguards and adequate oversight mechanisms on the use of powers to interfere with or monitor electronic communications of Polish citizens or foreigners residing in Poland.

• Amend article 256 of the criminal code to include reference to hate speech based on discrimination against sexual minority groups in Poland.

\textsuperscript{4} Recommendations made by Norway and the Holy See respectively during Poland’s review in the 2\textsuperscript{nd} UPR cycle. Link to UPR Info/OHCHR report.
4. (D) Freedom of peaceful assembly

4.1 During Poland’s examination under the 2\textsuperscript{nd} UPR cycle, the government received one recommendation on the right to freedom of assembly. Poland accepted this recommendation and committed to ‘conduct, jointly with special procedures of the Human Rights Council, a comprehensive and impartial investigation of all cases of cruel treatment and the use of excessive force by police officers against the participants in demonstrations that were held in Poland in November, 2011.’

4.2 Recommendations

- Repeal provisions in the counter-terrorism law passed on June 10\textsuperscript{th} 2016 to ensure that the right to conduct peaceful public gatherings cannot be arbitrarily denied, that lethal force is never used against peaceful protestors and that stringent evidentiary requirements and tests or proportionality are fulfilled before any blanket ban on public gathering is imposed.

- Enact changes to the Law on Assemblies, which respond to the court judgment declaring unconstitutional several provisions of the law in September 2014 and which take into account international best practices with regard to the notification requirements for demonstrations and marches.

- In general, ensure that Poland’s laws, policies and practices adhere to the best practices on freedom of peaceful assembly as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.