

EPSCO

(3474th meeting on 16 June 2016)

Item 11b): Draft Council conclusions: Response to the Commission's list of actions to advance LGBTI equality
- *Adoption*

STATEMENT BY POLAND

Poland ensures the enjoyment of human rights by LGBTI people within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. We remain dedicated to ensure the fundamental human rights to everyone without discrimination on the basis of the fundamental law. In this context Poland states that the term "LGBTI people and their families" is not justified under the EU law, as the family law falls within the exclusive competences of the Member States, thus cannot be interpreted as imposing on Member States an obligation to introduce into their national legal systems institutions that are not in conformity with their constitutional order. Poland invokes Article 18 of the Constitution of the Republic of Poland under which marriage is the conjugal union of a man and a woman on their voluntary and mutual consent, within the framework of the Polish legal system. For these reasons Poland states that the understanding of the marriage exclusively as a union between a man and a woman and its preferential treatment as opposed to other forms of living together (de facto couples including the same-sex couples) may not be considered discriminatory. As family law belongs to the exclusive competences of the Member States, and in accordance with the principle of conferral and subsidiarity – as well as the constitutional traditions common to Member States – no activities of the European Union may impose on countries protecting the understanding of marriage as a union between a man and a woman, any obligations that would force the countries either to extend the scope of provisions peculiar to marriage to same-sex couples, also if they were registered in another Member State or that would force the countries to introduce their recognition in accordance with the rights existing in their country of origin.