

Extraordinary Revision of Registration of the Polish Accreditation Committee (PKA)

Register Committee

Ref. RC34/C68

Ver. 2.0

Date 2022-07-12

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Decision of:	2022-06-28
Report received on:	2021-09-08
Agency registered since:	2009-04-08
Last external review report:	October 2018
Registration until:	2023-05-31 (originally 2023-10-31)
Absented themselves from decision-making:	Izabela Kwiatowska-Sujka
Attachments:	<ol style="list-style-type: none"> 1. Substantive Change Report 2. Clarification request to PKA (11/11/21) 3. Response by PKA (25/11/21) 4. Clarification request to the Minister (21/12/21) 5. Response by the Minister (19/01/22) 6. Additional representation by PKA (03/05/22)

1. The Register Committee considered the Substantive Change Report of 2021-09-08, the clarification provided by PKA and the clarification provided by the Minister.
2. On 15/02/2022, the Register Committee initiated an extraordinary revision of PKA's registration in light of the concerns mentioned under 2.2 below. The Committee invited PKA to make additional representation on the intended decision to shorten PKA's remaining registration period and considered PKA's representation of 03/05/2022.

1.1 Programme evaluations changed to remote

3. The Register Committee took note of PKA's temporary change of its programme evaluations to remote as a result of the Covid-19 pandemic. Given the pandemic emergency, the Register Committee did not consider these adaptations a Substantive Change.
4. PKA clarified that it does not plan to run evaluations in remote mode entirely beyond the pandemic, but expects to retain some elements of the online procedure that have been tested and found useful.
5. The Register Committee underlined that such changes will need to be reported separately if and when they are made part of PKA's permanent methodology.

1.2 Attention to distance learning in indicators of compliance

6. The Register Committee took note of the addition of specific elements related to on-line and distance learning to PKA's methodology and acknowledged that these were obviously topical in light of current developments in higher education.
7. As the additions could not be addressed within the Change Report process in detail, the next external review of PKA should give attention to those additions in further detail.

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2.1 Increase of the maximum number of PKA members

8. The Register Committee took note of the change in legislation, allowing for a higher maximum number of PKA members.

2.2 Appointment of a new President

9. The Register Committee noted that a new President of PKA was appointed before the end of the previous President's regular term.
10. Given that PKA provided no information how the previous President's term ended and why the President changed, the Register Committee sought clarification from PKA.
11. PKA (letter of 25/11/2021) explained that the "change in the position of PKA was carried out" on the basis of and in accordance with the Law on Higher Education and Science President, giving the Minister of Education the competence to appoint and dismiss the PKA President.
12. The Register Committee inferred that the Minister dismissed the previous PKA President, but PKA provided no reasons for the Minister's decision. The Committee thus invited the Minister to clarify the reasons for dismissing the previous PKA President.
13. In his letter of 19/01/2022, the Minister confirmed that he dismissed the previous PKA President, Krzysztof Diks. The Minister reiterated that the law entitled him to dismiss the PKA President and noted that the Minister was "guided by his care to ensure that PKA performs tasks related to improving the quality of education in the field of higher education". The Minister did not provide any specific reasons why it was necessary to dismiss the previous President.
14. The Policy on the Use and Interpretation of the ESG specifies that the rules and conditions for dismissing the members of an agency's governing body are an important element to consider in relation to ESG 3.3. In a previous decision, the Register Committee set a precedent and considered that the dismissal of the leadership of an agency might be "appropriate and justifiable if it was both reasonable and absolutely necessary to protect other overriding values or principles, e.g. the integrity of the agency" (decision of 1/3/2018 on KAA). In turn, the Committee established that it infringes on an agency's independence if an external dismisses the agency's leadership without that being based on such overriding reasons or circumstances.

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15. As the Minister provided no reason for the dismissal whatsoever, the Register Committee was unable to establish any reasons or circumstances of overriding importance that would have justified the dismissal of the previous President.
16. **The Register Committee concluded that the dismissal therefore casts serious doubts on whether PKA remains able to “act autonomously” and to assume “full responsibility for [its] operations”, as required by ESG standard 3.3.**
17. The Minister held that the current arrangements for PKA, and specifically the Minister’s competence to dismiss the PKA President, had previously been reviewed favourably against the ESG, last in the review report of 17/10/2018 and the EQAR Register Committee decision of 19/06/2019.
18. The Register Committee considered that the previously positive review in itself does not allay the concerns. The 2018 review report discussed the arrangements for nominating PKA members; it specifically highlighted as an important safeguard of PKA independence that the Minister cannot dismiss a member from PKA after they have been appointed, except on PKA’s own request.
19. The 2018 review did not specifically discuss the Minister’s discretionary power to dismiss the PKA President (from that specific function, making him/her continue to serve as ordinary PKA member). At this point, it cannot be established whether the panel considered it appropriate for the Minister to hold such power, relied on the fact that this power would not be used except in duly justified cases, or might simply not have known of such power.
20. In its additional representation, PKA reiterated the legal provisions concerning the nomination and dismissal of the President. Furthermore, PKA drew attention to its level of organisational and operational independence otherwise, as well as the independence of its results.
21. The representation contained no new information or arguments as concerns the nomination and dismissal of the President. In particular, the Committee was aware that the Minister could only revoke the President from that specific position, making him/her an ordinary PKA member, but could not dismiss him/her from PKA as such.
22. This, however, does not change the fact that neither PKA nor the Minister could mention any specific reasons to explain that the former President’s dismissal was justifiable and appropriate.
23. PKA also highlighted the need to consider an agency’s individual context and noted that there were “a lot of differences among seemingly analogous situations”. The Register Committee underlined that the present decision is based on PKA’s own case considered in its own context; the prior decision cited above set a general precedent only. The Committee did not consider PKA’s case analogous to another and, consequently, neither is the Committee’s resulting decision analogous.
24. The Register Committee considered that the case at hand clearly demonstrated that the current law and regulations on PKA provide

insufficient safeguards against an infringement on the agency's independence by allowing for such a decision to be taken discretionary by the Minister. In that regard, the earlier conclusion that PKA complies with ESG 3.3 might have been flawed. If that conclusion was materially wrong it could not be invoked as a justification now.

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25. **The Register Committee was unable to make a final conclusion as to whether PKA actually complies with standard 3.3 without a new external review of the agency.**
26. According to §8.4c of the EQAR Procedures for Applications, the Register Committee shall reduce an agency's remaining registration period "if there are serious concerns about the applicant's fulfilment of the criteria and the Register Committee considers it impossible to make a judgement without a new review".
27. **The Register Committee thus reduced PKA's registration period until 31 May 2023, so that PKA is able to launch a new external review instantly and submit the report before expiry of registration.**
28. The Committee expects that that next review would analyse carefully the independence-related implications of the Minister's discretionary power to dismiss the PKA President, in theory as well as based on how it has been exercised to date; the Register Committee will consider PKA as partially compliant with standard 3.3 in the meantime.
29. PKA mentioned in its representation that the plenary assembly amended the PKA's Statute in order to create the possibility of appointing a new "Quality Council" with responsibility for "systemic monitoring and evaluation of the work of PKA's members and experts".
30. The Register Committee underlined that PKA is required to report to EQAR on the introduction of this council, as well as any other changes to PKA's organisational structure, by means of a Substantive Change Report.
31. PKA has the right to appeal this decision of the Register Committee in accordance with the Appeals Procedure (available on the EQAR website at <https://www.eqar.eu/about/official-documents/#appeals-and-complaints-procedure>). Any appeal must reach EQAR within 40 days from receipt of this decision.

EQAR Substantive Change Report

Reference #	20760588
Status	Complete
Agency #1	Polish Accreditation Committee
Agency acronym	PKA
Expiry date #1	31/10/2023
Contact #1	Grzegorz Kołodziej
Phone #1	+48 22 563 17 63
Email #1	grzegorz.kolodziej@pka.edu.pl
Other organisations?	No
A. Has the organisational identity of the registered agency changed?	No
B. Has the organisational structure changed?	Yes
Description	See attachment
C. Changes in EQA activities	2. Substantive changes carried out to one or several existing external QA activities (e.g. changes to their methodology, criteria or procedures)
Description new/changed	See attachment
2. Changed EQA activity	
1	---
ESG 2.1	---
ESG 2.2	---
ESG 2.3	
1	---
ESG 2.4	---
ESG 2.5	---
ESG 2.6	

1

D. Activity outside the scope of the ESG

No

File #1

[Substantive_Change_Report.pdf \(603 KB\)](#)

Last Update

2021-09-08 15:15:39



Mr Colin Tück
Director EQAR

Following EQAR Annual Update Report submitted by the Polish Accreditation Committee (PKA) on the 8th of September, please find below information on the substantive changes that took place in the agency since the last update.

SUBSTANTIVE CHANGE REPORT

1. Changes in the external quality assurance activities:	
Change	Date
<p>1.1.PKA implements and provides programme evaluation procedure remotely – due to the pandemic situation of SARS-Cov-2 the Presidium of the Polish Accreditation Committee made up decision to conduct all programme evaluation procedures remotely since the beginning of new academic year 2021/2022. The adopted change only affected the mode of procedure delivery while the quality criteria and standards remained unchanged.</p> <p>https://www.pka.edu.pl/wp-content/uploads/2020/10/poste%CC%A8powanie_ocenija%CC%A8ce_ostateczna.pdf</p> <p>In order to support PKA's review panels (internal trainings and consultations) and HEIs in pandemic situation (open webinars) PKA decided to deliver series of webinars on the remote procedure and its schedule as well as published the FAQ on its website</p> <p>https://www.pka.edu.pl/en/2020/02/18/training-consultations-webinars/</p> <p>https://www.pka.edu.pl/wp-content/uploads/2021/05/Pytania-i-odpowiedzi-dotycz%C4%85ce-oceny-programowej-przeprowadzanej-zdalnie_aktualizacja_27_04_2021.pdf</p>	October 2020



https://www.pka.edu.pl/2020/09/15/harmonogram-dzialan-o-charakterze-szkoleniowym/	
1.2. PKA highlighted the issues of distance learning and teaching in the indicators of compliance with the quality standards https://www.pka.edu.pl/en/for-higher-education-institutions/templates-for-self-assessment-reports/	February 2021
2. Changes in the organisational structure:	
Change	Date
2.1. On January 26, 2021, Art. 251 (2) of the Act of July 20, 2018 - Law on Higher Education and Science (Journal of Laws of 2020, item 85, as amended), consisting in increasing - from no more than 90 to no more than 100 - the number of members of the Polish Accreditation Committee (pursuant to Article 18 (3) of the Act of 21 January 2021 amending the Act on special solutions related to the prevention, prevention and combating of Covid-19, other infectious diseases and situations caused by them crisis and some other acts, Journal of Laws, item 159).	Minister of Education and Science increased number of members of the Polish Accreditation Committee on April (9 members), and on May (1 member).
2.2. The Minister of Education and Science has appointed a new President of PKA – Professor Stanisław Wrzosek.	June 2021

Should you require any further information please do not hesitate to contact me again.

Yours sincerely,

Stanisław Wrzosek

President of the Polish Accreditation Committee

EQAR | Aarlenstraat 22 rue d'Arlon | BE-1050 Brussels

Polish Accreditation Committee (PKA)

Stanislaw Wrzosek, President

– by email –

Brussels, 11 November 2021

Substantive Change Report – Clarification Request

Dear Mr Wrzosek,

We wish to thank you for the Substantive Change Report of 08/09/2021. Your report is currently being reviewed by the EQAR Register Committee.

In order to prepare the Committee's consideration of your Report, we would be obliged if you could clarify the following:

Item 1.1

You reported that PKA decided to operate its programme evaluation procedure remotely/on-line since the beginning of new academic year 2021/22, as a result of the Covid-19 pandemic. The Report does not explicitly state whether that change is temporary or permanent.

If site visits are envisaged to stay on-line beyond the current pandemic, please comment briefly how PKA ensures that the expert group is in a position to validate the evidence provided by institutions and to carry out interviews of different stakeholders as it finds appropriate.

Item 2.1

As you reported, the “*Act on special solutions related to the prevention and combating of Covid-19, other infectious diseases and situations caused by them*” (as changed in January 2021) increased the maximum number of PKA members from 90 to 100, and the Minister subsequently appointed 10 additional PKA members.

Could you please explain the rationale of that change, as it is not obvious why the pandemic made it necessary to increase the number of PKA members?

Please also kindly explain how the additional PKA members were recruited and appointed.

European Quality Assurance
Register for Higher Education
(EQAR) aisbl

Aarlenstraat 22 rue d'Arlon
1050 Brussels
Belgium

Phone: +32 2 234 39 12

Fax: +32 2 230 33 47

info@eqar.eu

www.eqar.eu

VAT BE 0897.690.557

EQAR Founding Members:

The logo for ENQA (European Network of Quality Assurance Agencies) is located in the bottom left corner. It features the letters "enqa" in a bold, lowercase, sans-serif font.

The logo for EURASHE (European Association of University Supervisors and Heads of Institutions) is located in the bottom center-left. It features the word "EURASHE" in a bold, uppercase, sans-serif font, with a stylized graphic of three stars above the letters "A", "S", and "H".

The logo for EUA (European University Association) is located in the bottom center-right. It features the letters "eua" in a bold, lowercase, sans-serif font, with the full name "EUROPEAN UNIVERSITY ASSOCIATION" in a smaller, uppercase, sans-serif font below it.

The logo for ESU (European Student Union) is located in the bottom right corner. It features the letters "esu" in a bold, lowercase, sans-serif font, with a stylized graphic of a curved line above the letters "s" and "u".

Item 2.2

The Minister of Education and Science appointed you as the new President of PKA in June 2021. Our understanding is that the previous President's, Krzysztof Diks, term commenced on 1/1/2020 and was expected to last until 2023. The Report contained no information why the previous President's term ended prematurely.

Could you please explain whether the previous President's term ended by dismissal, resignation or for another reason?

In case of resignation, please kindly explain the reasons cited by the former President.

In case of dismissal or other reasons, please kindly explain the legal basis and the reasons cited by the Minister (or any other body that made the formal decision).

In order to expedite proceedings we kindly ask you for a reply **by 29 November 2021**. Please inform us if any difficulties arise in meeting this deadline. Please also note that this request and your response will be published together with the final decision on your Report.

I shall be at your disposal if you have any further questions or inquiries.

Kind regards,

A handwritten signature in black ink, appearing to read "Colin Tück".

Colin Tück
(Director)

Cc: Grzegorz Kołodziej



Mr Colin Tück
Director EQAR

Following your request on PKA's Substantive change report, please find below further clarifications.

Please do not hesitate to contact me for any other information.

Yours sincerely,

Stanisław Wrzosek
President of the Polish Accreditation Committee

Clarification Request

Item	Clarification
<p>1.1 You reported that PKA decided to operate its programme evaluation procedure remotely/on-line since the beginning of new academic year 2021/22, as a result of the Covid-19 pandemic. The Report does not explicitly state whether that change is temporary or permanent. If site visits are envisaged to stay on-line beyond the current pandemic, please comment briefly how PKA ensures that the expert group is in a position to validate the evidence provided by institutions and to carry out interviews of different stakeholders as it finds appropriate.</p>	<p>Acting on provisions of generally applicable law (Act of March 2, 2020 on special solutions related to the prevention and combating of COVID-19, other infectious diseases and emergencies caused by them) including temporary considerable limitations in higher education and research institutions, Presidium of PKA decided on implementation remote programme evaluations procedures.</p> <p>During the period of the emergency caused by the COVID-19 epidemic in Poland, PKA hasn't changed:</p> <ol style="list-style-type: none"> 1. Detailed programme evaluation criteria stipulated in the Statute of the Polish Accreditation Committee, 2. Detailed procedure for the programme evaluation, 3. Composition of the evaluation team, 4. Principles of conducting the site-visits, under condition that if it is impossible to hold visit on-site, the site-visit may be carried out remotely, 5. The duration and schedule of the site-visit, 6. Reporting 7. Final decision-making process. <p>During the period of the emergency caused by the COVID-19 epidemic, PKA has changed:</p> <ol style="list-style-type: none"> 1. Conditions in which the site-visit is carried out - remote site-visit is carried out by using distance communication platform offering workspace and Video Conferencing provided by the PKA Office, 2. Methods of communication between the evaluation team and the HEI and the tools used in this regard. <p>To facilitate the implementation of remote procedure PKA organized training activities (webinars) addressed to various group of stakeholders (PKA members, experts, secretaries of the panels, staff and HEIs).</p>

	<p>PKA, striving to implement its mission, as well as gaining valuable experience from a COVID-19 situation that unexpectedly changed the functioning of many aspects of social life, conducted a research in order to reflect, as well as to improve the remote evaluation procedure and to develop recommendations for the future. The survey was conducted in the period from February 22, 2021 to March 10, 2021. In total, over 430 respondents participated in it, both from the group of HEIs representatives, PKA's members of evaluation teams and PKA's Presidium participating in such a procedure (https://www.pka.edu.pl/en/2021/09/22/research-report/). The results of the research were presented in June 2021 to all stakeholders during the Quality Forum, initiated and organized by PKA on <i>What did we learn about higher education during the COVID-19 pandemic? Quality assurance in higher education - crises and opportunities in the short and long term</i> (https://www.pka.edu.pl/en/quality-forum/).</p> <p>The analysis of the results of the study showed that carrying out the site-visit with the use of the distance communication tools allows for the evaluation of the programme to validate evidence in relation to all detailed evaluation criteria. Moreover, the study confirmed that the procedure meets all European principles, norms and standards, which makes the programme evaluation process fair, reliable and equal for all participants of the process. Another key finding from the conducted research is the general observation that, once the pandemic and related restrictions are over, it is not expected to return to the manner of conducting site-visits in the same way as before the pandemic (in stationary format), as some elements (e.g. communication, online circulation of documents, coordination of review teams) which was designed and implemented under remote work conditions significantly improved the course of the evaluation procedure.</p> <p>The PKA Presidium will discuss in the nearest future which elements of the online procedure will remain as a permanent solution, while currently it is not planned the resignation from stationary procedures after the end of the pandemic. During this time, the above-mentioned research on the remote programme evaluation procedures will be carried out in cycles by PKA.</p>
<p>Item 2.1 As you reported, the "Act on special solutions related to the prevention and combating of Covid-19, other infectious diseases and situations caused by them" (as</p>	<p>Minister of Education and Science increased number of members of the Polish Accreditation Committee on April (9 members), and on May (1 member). In the Act of 21 January 2021 amending the Act on special solutions related to the prevention, prevention and combating of Covid-19, other infectious diseases and situations caused by them crisis and some other acts, Journal of Laws, item</p>

<p>changed in January 2021) increased the maximum number of PKA members from 90 to 100, and the Minister subsequently appointed 10 additional PKA members. Could you please explain the rationale of that change, as it is not obvious why the pandemic made it necessary to increase the number of PKA members? Please also kindly explain how the additional PKA members were recruited and appointed.</p>	<p>159). The above mentioned Act of 21 January 2021 introduced changes related to many regulations in force to increase the efficiency and effectiveness of public and private sector operations during a pandemic. Some of the changes concerned the higher education sector.</p> <p>Limitations resulting from the epidemic in force in the country, the number and diversified scope of cases conducted by the PKA, resulting from its statutory tasks, as well as specified in Art. 245 Law on Higher Education and Science deadlines for the handling of these matters by the Committee, as a consequence, led to a greater burden of obligations for members of the PKA. Number of cases conducted by the PKA in the period from January to September 2020 showed that the PKA issued 458 opinions on HEIs' applications for permission to run study programmes pursuant to Art. 54 (2) Law on Higher Education and Science. 96% of these opinions were issued during the period of the epidemic in Poland.</p> <p>The additional recruitment of PKA members was carried out in accordance with the provisions of the Law on Higher Education and Science. The detailed rules of recruitment were published by the Ministry of Education and Science on its website: https://www.gov.pl/web/edukacja-i-nauka/rozpoczal-sie-nabor-uzupelniajacy-na-czlonkow-polskiej-komisji-akredytacyjnej-w-kadencji-20202023 .</p>
<p>Item 2.2</p> <p>The Minister of Education and Science appointed you as the new President of PKA in June 2021. Our understanding is that the previous President's, Krzysztof Diks, term commenced on 1/1/2020 and was expected to last until 2023. The Report contained no information why the previous President's term ended prematurely. Could you please explain whether the previous President's term ended by dismissal, resignation or for another reason? In case of resignation, please kindly explain the reasons cited by the former President.</p>	<p>In accordance to the competence held by the Minister of Education on the ground of the Art. 253 (4) Act of July 20, 2018 - Law on Higher Education and Science: <i>The chair of the Polish Accreditation Committee shall be appointed from among its members and dismissed by the minister.</i></p> <p>The change in the position of the PKA President was carried out on the basis of and in accordance with the above-cited provision of the Act.</p>

In case of dismissal or other reasons, please kindly explain the legal basis and the reasons cited by the Minister (or any other body that made the formal decision).	
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EQAR | Aarlenstraat 22 rue d'Arlon | BE-1050 Brussels

Minister of Education and Science
Przemysław Czarnek

– by email –

Brussels, 21 December 2021

Dismissal of the PKA President

Honourable Minister,

The Polish Accreditation Committee (PKA) has been registered on the European Quality Assurance Register for Higher Education (EQAR) since 2008. EQAR therefore monitors PKA's compliance with the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG). The EQAR Register Committee, which decides on registration of the quality assurance agencies, asks the registered agencies to inform the Committee on substantive changes.

We received a Substantive Change Report in which PKA informed us – amongst other changes – of the appointment of Stanisław Wrzosek as its new President. Since the former PKA President's, Krzysztof Diks, term was expected to last until 2023 we requested PKA to explain why the President's term ended prematurely.

PKA kindly referred us to Art. 253 (4) of the Law on Higher Education and Science, stipulating that "The chair of the Polish Accreditation Committee shall be appointed from among its members and dismissed by the minister", and explained that you acted on that basis.

We thus understand that you decided to dismiss the former PKA President. PKA did not mention any reasons for the dismissal of the former President.

Based on information available on the website, we also understand that prof. Wroszek was appointed as a member of PKA only recently.

ESG standard 3.3 stipulates that "agencies should be independent and act autonomously. They should have full responsibility for their operations and the outcomes of those operations without third party influence".

The dismissal of the President of PKA might call into question whether the agency continues to fulfil the standard, if the reasons for that

European Quality Assurance
Register for Higher Education
(EQAR) aisbl

Aarlenstraat 22 rue d'Arlon
1050 Brussels
Belgium

Phone: +32 2 234 39 12
Fax: +32 2 230 33 47

info@eqar.eu
www.eqar.eu

VAT BE 0897.690.557

EQAR Founding Members:

enqa.

EURASHE

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dismissal remain opaque and do not allow the Register Committee to understand whether the dismissal was necessary and proportionate.

We thus kindly request you to explain the reasons for your decision to dismiss the former PKA President.

We would be obliged if we could receive your response on the matter **by 31 January 2022** at the latest, so as to fully inform our Register Committee of the situation at hand.

Please note that this request and your response will be published together with the Register Committee's decision on PKA's Substantive Change Report.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Karl Dittrich', written over a blue oval-shaped scribble.

Karl Dittrich
(President)

Attached: Substantive Change Report by PKA
Clarification request by EQAR
Response by PKA

Cc: PKA



MINISTER EDUKACJI I NAUKI

Warszawa, 19 stycznia 2022 r.

DSW-WKS.810.1.2022

Pan
Karl Dittrich
Przewodniczący
European Quality Assurance Register
for Higher Education

Szanowny Panie Przewodniczący,

w odpowiedzi na pismo z dnia 21 grudnia 2021 r., dotyczące odwołania prof. Krzysztofa Diksa ze stanowiska Przewodniczącego Polskiej Komisji Akredytacyjnej (PKA), jak również wątpliwości w zakresie spełniania przez PKA standardu dotyczącego niezależności określonego w punkcie 3.3 *Standardów i wskazówek dotyczących zapewnienia jakości kształcenia*

w Europejskim Obszarze Szkolnictwa Wyższego, przekazuję następujące informacje.

W polskim systemie szkolnictwa wyższego PKA odgrywa znaczącą rolę, ponieważ jest niezależnym gremium eksperckim o ugruntowanej pozycji, działającym na rzecz zapewnienia i doskonalenia jakości prowadzonego przez uczelnie kształcenia. PKA działa przez swoje organy, którymi zgodnie z ustawą z dnia 20 lipca 2018 r. – *Prawo o szkolnictwie wyższym i nauce* są przewodniczący oraz prezydium.

W skład PKA wchodzi członkowie powołani przez Ministra Edukacji i Nauki spośród kandydatów zgłoszonych przez uprawnione do tego podmioty, tj. uczelnie, Radę Główną Nauki i Szkolnictwa Wyższego, konferencje rektorów, prezydium PKA, Parlament Studentów RP, ogólnokrajowe stowarzyszenia naukowe i organizacje pracodawców (art. 251 ustawy).

Zgodnie z art. 253 ust. 4 ww. ustawy, uprawnienie do powoływania oraz odwoływania Przewodniczącego PKA (spośród członków PKA) zostało jednoznacznie przypisane do wyłącznej kompetencji Ministra Edukacji i Nauki. Podejmując taką decyzję, Minister kieruje się dbałością o zapewnienie wykonywania przez PKA zadań związanych z doskonaleniem jakości kształcenia w obszarze szkolnictwa wyższego. Należy podkreślić, że poprzednio obowiązująca ustawa z dnia 27 lipca 2005 r. – *Prawo o szkolnictwie wyższym* również przewidywała takie samo uprawnienie dla Ministra Edukacji i Nauki (art. 51 ust. 1).

Z uwagi na powyższe, w dniu 24 czerwca 2021 r. Minister Edukacji i Nauki skorzystał z przysługującego mu ustawowego uprawnienia i odwołał prof. Krzysztofa Diksa z funkcji

Przewodniczącego PKA. Jednocześnie na to stanowisko (do zakończenia kadencji 2020-2023) został powołany prof. dr hab. Stanisław Wrzosek, który reprezentuje nauki prawne. Należy podkreślić, iż prof. Stanisław Wrzosek dwukrotnie był już członkiem PKA w latach 2012–2015 i 2016–2019. Posiada on również duże doświadczenie we wdrażaniu wewnętrznych systemów zapewnienia jakości kształcenia w uczelniach.

Natomiast w kwestii wątpliwości dotyczącej spełniania przez PKA standardu określonego w punkcie 3.3 *Standardów i wskazówek*, zgodnie z którym agencje powinny być niezależne i działać autonomicznie oraz ponosić pełną odpowiedzialność za swoje działania i wyniki tych działań bez jakiegokolwiek wpływu ze strony osób trzecich, wskazuję, że podstawą działania PKA zawsze były przepisy o randze ustawy. Potwierdzeniem powyższego było trzykrotne (w 2008 r., 2013 r. i 2018 r.) pozytywne przejście przez PKA procedury zewnętrznego przeglądu prowadzonego z udziałem międzynarodowych ekspertów, w wyniku których PKA została przyjęta, a następnie potwierdziła pełne członkostwo w ENQA oraz wpis do

EQAR.

W toku powyższych przeglądów skutecznie bowiem wykazano, że PKA w swoich działaniach kieruje się zasadami określonymi w *Standardach i wskazówkach*, do czego nie wnoszono żadnych zastrzeżeń. Należy zdecydowanie podkreślić, iż stopień wymagań zawartych zarówno w punkcie 3.3 *Standardów i wskazówek* (niezależność, autonomia i odpowiedzialność agencji za swoje działania), jak również w punkcie 3.2 *Standardów i wskazówek* (podstawy prawne funkcjonowania, sposób powoływania członków agencji, w tym sposób powoływania i odwoływania jej przewodniczącego), został w 2008 r., 2013 r. oraz 2018 r. oceniony jako całkowicie zgodny ze *Standardami i wskazówkami*.

Z wyrazami szacunku

**Przemysław Czarnek
Minister Edukacji i Nauki**

/-podpisano kwalifikowanym podpisem
elektronicznym/



MINISTER EDUKACJI I NAUKI

Warsaw, 19 January 2022

DSW-WKS.810.1.2022

Mr Karl Dittrich
President
European Quality Assurance Register
for Higher Education

Dear President Dittrich,

in response to your letter of 21 December 2021, regarding the dismissal of Prof. Krzysztof Diks from his position as President of the Polish Accreditation Committee and your concerns with respect to the fulfilment by the Committee of the independence standard set out in point 3.3 of the *Standards and Guidelines for Quality Assurance in the European Higher Education Area*, let me provide the following information.

The Polish Accreditation Committee (PKA) plays a significant role in Poland's higher education system because it is an independent and well-established expert group acting to assure and enhance the quality of teaching at higher education institutions. PKA operates through its bodies, that is – as stipulated by the *Law of 20 July 2018 on higher education and science* – the President and the Presidium.

PKA comprises members appointed by the Minister of Education and Science from among candidates proposed by entities entitled to do so: higher education institutions, the General Council for Science and Higher Education, conferences of rectors, the Presidium of PKA, the Students' Parliament of the Republic of Poland, country-wide scientific associations and employer organisations (Art. 251 of the Law).

In accordance with Art. 253 (4) of the Law, the power to appoint and dismiss the President of PKA falls unambiguously within the exclusive competence of the Minister of Education and Science. In making that decision, the Minister is guided by his diligence to ensure that PKA performs its tasks related to enhancing the quality of teaching in higher education. It should be

stressed that the previous *Law of 27 July 2005 on higher education* laid down the same authorisation for the Minister of Education and Science (Art. 51 (1)).

In the light of the foregoing, the Minister of Education and Science exercised his statutory right on 24 June 2021 and removed Prof. Krzysztof Diks from the position of PKA President. At the same time, Prof. Stanisław Wrzosek – who represents legal sciences – was appointed to that position till the end of the 2020-2023 term. It should be stressed that Prof. Stanisław Wrzosek was a member of PKA twice in the years 2012–2015 and 2016–2019. He also has rich experience in implementing internal systems of quality assurance at higher education institutions.

As regards the concerns about PKA’s fulfilment of the standard expressed in point 3.3 of the *Standards and Guidelines*, which stipulates that “agencies should be independent and act autonomously. They should have full responsibility for their operations and the outcomes of those operations without third party influence”, let me point out that PKA has always operated on the basis of laws. This is evidenced by the fact that PKA has successfully undergone the procedure of an external review, conducted with the involvement of international experts, three times thus far (in 2008, 2013 and 2018). As a result of those reviews, PKA was accepted and then confirmed full membership of ENQA as well as gained an entry in EQAR. In the course of the reviews, PKA was effectively shown to be guided in its operation by the principles set out in the *Standards and Guidelines* and that conclusion raised no objection. It must be emphatically stressed that the degree to which PKA complied with the requirements contained both in point 3.3 of the *Standards and Guidelines* (an agency’s independence, autonomy and responsibility for its operations) and in point 3.2 therein (the legal basis of operation, the procedure for appointing members, including the procedure for appointing and dismissing the President) was found in 2008, 2013 and 2018 to be entirely consistent with the *Standards and Guidelines*.

Yours sincerely,

Mr Colin Tück
Director EQAR

In response to EQAR invitation to make representation on the matter before the Register Committee will make a final decision on Substantive Change Report, please find attached PKA's Additional Representation.

Please do not hesitate to contact me for any other information.

Yours sincerely,

Stanisław Wrzosek
President of the Polish Accreditation Committee

PKA's Additional Representation

in response to EQAR's decision on Substantive Change Report

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For 20 years we have been working to ensure and improve quality in higher education

1. Foreword and analysis

We thank the EQAR's Register Committee for the opportunity to provide Additional Representation in response to the decision on Substantive Change Report.

We hope that, with this Additional Representation the Register Committee will get a better view of PKA's compliance with the ESG 3.3 and will be able then to acknowledge the period of PKA's registration.

Since the beginning of PKA's operation the independence of agency has remained the crucial point of its activity in the Polish higher education system as well as European Higher Education Area. PKA's independence is not only guaranteed by the law but is also safeguarded by internal executive acts. It is reflected in PKA's organizational structure, operational activities and decision-making process.

Bearing the above in mind, in our response we would like to respond particularly to the issues raised by the EQAR's Register Committee with regard to the appointment of the new President of the Polish Accreditation Committee. In accordance with the Art. 253 (4) Act of July 20, 2018 - Law on Higher Education and Science: ***The chair of the Polish Accreditation Committee shall be appointed from among its members and dismissed by the minister.***

It should be noted that dismissal from the position of the PKA's President is not the same as declaration of the expiry of the mandate of PKA's member, which may only take place in the cases specified in Art.252 (2) of the Act of July 20, 2018 - Law on Higher Education and Science (LoHES). According to law only PKA's acting President may state mandate's expiry in the event of member's death; submission a resignation; failure to submit a vetting declaration or vetting information; failure to participate in the PKA's work for a period longer than 6 months, as well as cessation of meeting one of the prerequisites for candidates for PKA's member, specified in Art. 251 paragraph. 5 and 6. These requirements stipulate that PKA's member may be only a person who has an unblemished opinion and adheres to the principles of scientific ethics; has at least a doctoral degree and teaching achievements, and in the case of candidate proposed by the employers' organization - university education; has not reached the age of 70 by the date of commencement of the term of office; has full legal capacity; enjoys full public rights; has not been convicted by a valid sentence for an intentional crime or an intentional fiscal crime; was not punished with a disciplinary penalty; in the period from July 22, 1944 to July 31, 1990, did not work in state security agencies within the meaning of Art. 2 of the Act of October 18, 2006 on the disclosure of information on documents of state security organs from 1944–1990 and the content of these documents (Journal of Laws of 2021, item 1633), did not perform service in them or cooperate with these authorities. Moreover, a member of the PKA may not act

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as a member of the Science Evaluation Committee; founder of the university; rector; member of the university council; employee of the PKA's Office.

It should be noted that previous President after being dismissed from the position he still carried out his duties as ordinary member in the Polish Accreditation Committee until December 2, 2021. The expiry of his mandate as ordinary member was stated by the new PKA's President pursuant to Art. 252 paragraph. 2 point 2 of the Act of 20 July 2018 Law on Higher Education and Science (Journal of Laws of 2021, item 478, as amended), i.e. resignation due to the election as a member to the General Council of Science and Higher Education for the term of office from January 1, 2022 to December 31, 2025.

PKA's organizational and operational independence is ensured in Article 251 (1) of the Law on Higher Education and Science stipulating that: ***PKA is an institution acting independently on enhancement of the quality of education***. At the same time, pursuant to Article 256, PKA has retained the right to develop on its organization and mode of its activity, competences, and tasks of PKA's statutory bodies, detailed evaluation criteria, methods of selecting and appointing reviewers/experts, conditions of awarding certificates, etc.

PKA's members are appointed by the Minister from among candidates presented by the higher education institutions, the General Council for Science and Higher Education, the Conference of Rectors of Academic Schools in Poland, the Conference of Rectors of Public Professional Universities, the Conference of Rectors of Vocational Schools in Poland, the Presidium of the Polish Accreditation Committee, the Students' Parliament of the Republic of Poland, nationwide scientific associations and employers' organisations. By the virtue of law the President of the Students Parliament is also the PKA's member.

Referring to the aforementioned prerequisites for declaring the expiry of a member's mandate by the PKA's President, it should be emphasized that the Minister has only the power to dismiss the PKA's President from among its members, whereas, the statement of the expiry of the mandate, in strictly defined cases referred to above, is the sole competence of PKA's President.

Moreover, the Law on Higher Education and Science grants powers to PKA to decide independently about the scope and form of cooperation with other accreditation institutions operating in Poland and abroad.

Independence of formal outcomes is protected in clearly defined statutory competences, procedures, and policy of non-conflict interests. Regarding the independence of formal outcomes, the evaluation resolutions and ratings go through several stages of discussion before being adopted: within the panel, within a section, within the Presidium. The decision-making process is collegial and contributing to the independence of the structures.

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The resolutions of the Committee are final and no external institution is authorized to alter them or affect their contents at any stage of their drafting. The interested parties under evaluation may submit appeal in the appeals' process.

The Polish Accreditation Committee makes all the decisions collegially and in an independent manner. As observed by the ENQA review team in 2008 and confirmed in 2014 and 2018: ***The two-stage decision-making procedure combined with collective decision making prevents any third party from influencing quality ratings that PKA gives as a result of its ex-post evaluations and opinions given as part of the ex-ante evaluation.***

The current law and regulations concerning the activities of PKA provides sufficient guarantees for the agency's independence. The system check-and-balance has been built at all levels of PKA's operations, with particular emphasis on the organizational structure, range of competences reserved for the PKA's bodies, all established and implemented processes, as well as the decision-making process relating to their results. The effectiveness of adopted solutions that guarantees PKA's independence in all dimensions of its activities has also been confirmed recently. In the face of the changes PKA acted fully autonomously and maintained operational continuity in an unchanged organizational structure, providing all established processes, as well as running decision-making processes without the influence of third parties, taking full responsibility for its operations. Pursuant to the LoHES and the Statute, all operational and strategic decisions are reserved for collegiate bodies, which in practice established a mechanism to maintain PKA's continuity and further optimize the decision-making process in any changes in the occurrence. The competences of individual bodies are closely related to the decision-making process carried out by collegiate bodies or are linked to the activities taken by members of the Committee at an earlier stage. This decision-making model, which PKA has been successfully implemented for many years, allows to protect overriding values or principles resulting from PKA's mission, as well as safeguards against an infringement on the agency's independence. In addition, the plenary assembly of the PKA adopted in December 2021 the Strategy for 2021-2025, maintaining the general transitive long-term strategic goals. At the same time, the plenary assembly, after consultations among internal and external stakeholders, decided to amend the PKA's Statute, thus creating conditions for further improvement activities resulting from the implementation of long-term strategic goals through the possibility of appointing the PKA's Quality Council responsible for systemic monitoring and evaluation of the work of PKA's members and experts.

The maintenance of PKA's strategic goals in December 2021 resulted in further enhancement of previously set PKA's operational tasks e.g. 1) appointment of a Program Council composed of internal and external stakeholders, responsible for improving the PKA's analytical and research activities, that is in line with the PKA's analytical and research

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activity development concept adopted in 2020; 2) reactivation in a new formula of cooperation of the PKA's Advisory Board, which includes external stakeholders and representatives of employers and students; 3) re-engineering of feedback mechanism for program evaluation carried out both among internal and external stakeholders of the Committee relying on the results observance in 2019/2020.

Referring to the above-mentioned areas of cooperation with PKA's external stakeholders, it should be emphasized that the broad inclusion of stakeholders' group in PKA's activities, both in the form of participation in decision-making and / or opinion-making and advisory bodies, and in the form of consultations on the proposed solutions strengthen PKA's independence by permanently embedding feedback mechanism from external stakeholders in the multi-level check-and-balance system.

2. Evidence confirming compliance with ESG 3.3.

With regard to organizational and operational independence, there are a lot solid evidences confirming compliance with the ESG 3.3 standard, including:

- 2.1.** Operational independence and organizational autonomy of the Polish Accreditation Committee has been guaranteed by the law in the act of 20 July 2018 Law on Higher Education and Science.
- 2.2.** Organizational arrangements and operational procedures of PKA, specific powers of its bodies, detailed criteria and procedure for evaluation, and the method for the appointment of reviewers are laid down in the Statutes adopted in PKA's plenary assembly.
- 2.3.** Strategic decisions remain the competence of collegiate bodies and general assembly of PKA (i.e. Strategy, Statute, detailed criteria and evaluation procedures, quality standards, decisions on processes' results, selection of candidates for experts).
- 2.4.** Candidates for PKA's members are presented by various stakeholders, statement of the expiry of the mandate of a member of the Polish Accreditation Committee which may only take place in the cases specified in Art. 252 (2) Act of July 20, 2018 - Law on Higher Education and Science, constitutes the exclusive competence of the PKA's President.
- 2.5.** External experts are appointed by autonomous decisions of PKA according to the procedure stipulated in PKA's Statute. The process of selection and appointment of experts is transparent, multilayered and is not affected by state authorities, HEIs or other stakeholders.
- 2.6.** PKA is independent and acts autonomously. It has full responsibility for its operations and the outcomes without third party influence.

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- 2.7. Decision-making process of formal outcome is independent - PKA adopts independent resolutions and no external institution can impact the decision making process.
- 2.8. Relevant stakeholders background, particularly students take part in quality assurance processes, as well as in decision-making and / or consultative-advisory bodies.
- 2.9. The system check-and-balance is built in multilayered decision-making process and competences of individual and collegiate bodies. Its effectiveness has been confirmed in practice by PKA in the face of the change analyzed by the Register Committee.

3. Summary

In conclusion, PKA treats respectfully doubts of the Register Committee regarding its independence in the context of the appointment of a new President. PKA regrets, however, that only at this stage of the procedure they were formulated by the Register Committee in a manner that allowed PKA to fully understand them and to provide explanations contained in this Additional Representation, which is based on the one hand on the formal and legal circumstances regulating the activities of agency, and on the other hand on their practical implementation in the face of change. Hopefully it will allow to complete the picture of the PKA's activities with regard to meeting the ESG 3.3 standard.

At the same time, being aware of diversity in formal, legal and organizational dimension of the quality assurance agencies operating in the EHEA, the analysis of compliance with the ESG 3.3 standard should take into account individual agency's context of operation since there are a lot of differences among seemingly analogous situations in the agencies' activities. Unnoticing the context may be harmful for the agency under review.

Referring literally to the provisions of the ESG 3.3 standard, in the light of the above-mentioned facts and evidence, current legal solutions, as well as internal regulations of agency guarantee continuity and independence of the PKA's operation in the face of any potential change specified in the generally applicable provisions of law.

Once again, PKA would like to thank the Register Committee for creating opportunity to submit Additional Representation in relation to the issue of PKA's independence, which from the beginning of PKA's activity has been of particular concern to subsequent Presidents, members and experts of the Polish Accreditation Committee, on the one hand, and on the other hand, is the foundation of trust and its credibility in the entire higher education sector in Poland for external stakeholders, including students, universities, and the socio-economic environment.

Bearing in mind the importance of the independence of the agency's activities, PKA is ready to submit any additional explanations that, in the opinion of the Register Committee, could be necessary at a later stage of the decision-making process.