



Committee on the Rights of the Child  
Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais Wilson - 52, rue des Pâquis  
CH-1201 Geneva  
Switzerland

16 August 2021

### **Information on Poland for the 88<sup>th</sup> Session of the Committee on the Rights of the Child on Poland**

The Federation for Women and Family Planning<sup>1</sup> presents this submission to the Committee on the Rights of the Child to prepare its review of Poland's compliance with its obligations under the Convention on the Rights of the Child.

Following its most recent review of Poland in 2015, this Committee recommended that Poland “ensure unimpeded access to sexual and reproductive health services” and specifically called for legal reform of Polish laws on abortion to make the conditions for abortion less restrictive.<sup>2</sup> It also called on Poland to provide comprehensive, age-appropriate education on sexual and reproductive health.<sup>3</sup>

Not only Poland has failed to take meaningful action in response to these recommendations, but it took actions to the contrary, going clearly against these recommendations. The most poignant evidence of ignoring international human rights bodies' calls regarding access to abortion care was a ruling issued on 22 October 2020 by the politicized Constitutional Tribunal which decided to further restrict access to abortion in Poland. The ruling banned abortion in cases of “severe and irreversible fetal defect or incurable illness that threatens the fetus' life” which is already affecting adolescent girls in Poland whose situation tends to be even more vulnerable in terms of access to

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<sup>1</sup> The Federation for Women and Family Planning (FWFP) is a non-governmental organization based in Poland that works locally, regionally and internationally on advancement of women's reproductive rights through monitoring, advocacy and educational activities as well as strategic litigation before domestic and international courts.

<sup>2</sup> Committee on the Rights of the Child, Concluding Observations: Poland, para. 39(b), U.N. Doc. CRC/C/POL/CO/3-4 (2015).

<sup>3</sup> Committee on the Rights of the Child, Concluding Observations: Poland, para. 39(a), U.N. Doc. CRC/C/POL/CO/3-4 (2015).

information, financial resources and their frequent dependency on adults who have custody over them.

This submission highlights serious concerns about Poland's compliance with the Convention's Articles 2, 16, 24, 28 and 37 as a result of its highly restrictive legal framework on abortion, longstanding and ongoing failures to guarantee access for adolescent girls to safe and legal abortion services in practice, hindered access to other sexual and reproductive health services (gynecological care and access to contraception) as well as failures to ensure access to comprehensive evidence-based sexuality education for all children.

### **1. Poland's further legal restriction on access to abortion introduced in 2020 undermine compliance with CRC Articles 2, 16, 24 and 37**

Poland has had one of the most restrictive abortion laws in Europe<sup>4</sup> which became even more restrictive following the recent legislative changes. Access to abortion is regulated by the 1993 Family Planning Act and is now permitted in only two circumstances: 1) when the pregnancy endangers the life or health of the woman or adolescent girl; 2) when the pregnancy results from a crime, abortion is permitted during the first 12 weeks of pregnancy.<sup>5</sup> Until 22 October 2020 abortion was also permitted when there was a high probability of a severe and irreversible fetal impairment. On 22 October 2020 (case no. K 1/20) Poland's "Constitutional Tribunal" issued a "judgment"<sup>6</sup> which after its publication in the Journal of Laws on 27 January 2021 entered into force. As a result the fetal condition ground for abortion was deleted from the Act on Family Planning of 1993.

Abortion is criminalized in all situations beyond the two exceptional circumstances and doctors or anyone else who helps a woman or adolescent girl to obtain an abortion outside of the scope of the law is liable to a three-year prison sentence.<sup>7</sup>

Access to abortion for adolescent girls has been already impeded before the CT's ruling of 22 October 2020. Adolescent girls' access to legal abortion care in Poland was undermined by the punitive and stigmatizing environment generated by the criminalization of abortion and by the highly restrictive nature of the law. In the previous submission to this Committee of 1 November 2019, Federation has underlined that the stark effects of the restrictive legal framework has been compounded by a lack of effective regulation of conscience-based refusals of care by doctors, various extrastatutory authorization requirements and absence of any guidelines and procedures that would facilitate access to legal abortion services.

These severe difficulties which women and adolescent girls in Poland face in access to legal abortion services have been addressed by the European Court of Human Rights in three judgments

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<sup>4</sup> CENTER FOR REPRODUCTIVE RIGHTS, *The World's Abortion Laws*, available at <https://reproductiverights.org/worldabortionlaws>.

<sup>5</sup> Law of Jan. 7, 1993 on Family Planning, Human Embryo Protection, and Conditions of Legal Pregnancy Termination

<sup>6</sup> The quotation marks are added to reflect the serious concerns regarding the legality and legitimacy of the Tribunal following controversial judicial reforms. The reasons for these concerns will be presented in the following part of the submission.

<sup>7</sup> Polish criminal code, arts. 152-154.

against Poland.<sup>8</sup> One of these cases, *P. and S. v. Poland*, concerned an adolescent girl who became pregnant following sexual assault and faced multiple barriers and repeated harassment over several weeks as she sought to enforce her right to an abortion under Polish law. Most recently, in March 2021 the Council of Europe's Committee of Ministers has expressed again serious concern about Poland's longstanding failure to ensure that women and girls in Poland can access legal abortion care in practice. The Committee of Ministers has urged Poland to implement three landmark judgments on women's access to abortion from the European Court of Human Rights and give effect to women's entitlements to abortion under Polish law. On foot of Poland's failures, the Committee of Ministers has also decided to intensify its scrutiny of the steps the country needs to take to implement all three judgments<sup>9</sup>.

Adolescent girls in Poland are prohibited from making an autonomous decision to end a pregnancy safely and legally, especially following the recent restriction introducing quasi total ban on abortion. In consequence, adolescent girls who do not fall within the exceptional circumstances outlined above are faced with three choices: (a) undergo clandestine, and potentially unsafe abortion in Poland; (b) source safe and legal abortion services in another country and travel out of Poland at their own expense to obtain those services; (c) carry an unwanted pregnancy to term.

## **2) The consequences of the judgment of 22 October 2021 quasi banning abortion in Poland**

Access to abortion care became even more difficult after the ruling of the illegitimate Constitutional Tribunal of 22 October 2020. „This ruling will have devastating consequences for women and adolescent girls in need of such terminations, especially those who are socio-economically disadvantaged and migrant women in irregular situations who do not have the means to go abroad for abortion services" the UN experts said in the communication issued after the ruling<sup>10</sup>.

According to the recent abortion statistics for 2020 made accessible to the Federation by the Ministry of Health, there were a total of 1074 abortions carried out in 2020. Within this number, 21 abortions have been carried out for women/adolescents below 18 years old, 19 of which on the fetal condition ground. This means that in 2021 even these 19 women/adolescent girls would not have access to legal abortion care in Poland. For the purpose of comparison, in 2018 a total of 57 legal abortions were performed in Poland for girls under 18.<sup>11</sup>

The 2020 statistics show that there were no legal abortions carried out on grounds of sexual assault which maintains the trend of the last 10 years when only between 0 and 3 legal abortions have been performed each year on the ground of sexual assault<sup>12</sup>. The current law requires that a prosecutor certifies the sexual assault of an adolescent girl who has become pregnant as a result of the assault and wishes to end the pregnancy. There are regular reports of prosecutors refusing to

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<sup>8</sup> *Tysiąc v. Poland*, No. 5410/03 Eur. Ct. H.R. (2007); *R.R. v. Poland*, No. 27617/04 Eur. Ct. H.R., paras. 159-160 (2011); *P. and S. v. Poland*, No. 57375/0 Eur. Ct. H.R. (2012).

<sup>9</sup> [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=09000016809332a1](https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016809332a1)

<sup>10</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26434&LangID=E>

<sup>11</sup> In 2018, according to official statistics there were 3.3 million girls under 18 in Poland, see Demographic Yearbook of Poland 2019, p. 161.

<sup>12</sup> The research published in 2018 demonstrates that every 5<sup>th</sup> Polish woman experienced rape <http://www.fundacjaster.org.pl/upload/Raport-STERu-do-netu.pdf>

issue certification of the assault, thus effectively preventing access to legal abortion services in these circumstances.

These are official statistics that do not reflect abortion reality in Poland.

The available data collected by the organizations helping women to get access to abortion show to some extent how the quasi total abortion ban affects women seeking access to abortion. The data available gives general overview of the situation and is not divided by age groups. However, it is possible to assume that adolescent girls may be affected more severely than average because of their age, vulnerability, dependency on adults and access to information or financial means necessary to access medical abortion or abortion care in the clinic abroad. Socio-economically disadvantaged and migrant women in irregular situations would be most impacted by lack of access to legal terminations of pregnancy.

The most recent and only partial official statistics for January and February 2021<sup>13</sup> show that there were 112 so called “induced miscarriages” carried out in the public health care system while in the same period of 2020 there were 255. The decline is expected to be even greater since February was the first full month the decision of the flawed Tribunal came into force (only in February the number fell from 130 to 30). As regards the prenatal testing, during these first 2 months there were 4 thousands patients less than during the same period in the last year. This is due to the general decrease in the number of pregnancies but also due to the fact that doctors do not encourage women to have the tests done as for the lack of options after receiving the results of the tests (as it has been confirmed by many doctors the Federation spoke to or who have been interviewed by the media recently)<sup>14</sup>. For lack of medical assistance in the Polish facilities, women having any concerns as to the state of their pregnancy, often decide to go directly to clinics abroad helping them with diagnostic and abortion care if needed.

In the 6 months from the issuing of the ruling, reports have already emerged of denial of abortion care to women who are entitled to obtain care under the law on the grounds of a risk to their life or health, further extending and exacerbating the obstacles that women face in accessing legal abortion care in Poland. One of the most acute impact of the compromised decision is the chilling effect on doctors who risk up to 3 years of imprisonment for performing abortion outside the legal framework. The Federation forges a path for an extensive interpretation of the ground for abortion which refers to the threat to women’s life/health so that it could cover mental health problems related to pregnancy. However, this appears to be a long term advocacy process that does not solve the current problem of access to abortion for adolescent girls.

Moreover, the burden of providing information, help, resources and access to abortion fell on the NGOs, informal groups and initiatives in Poland or abroad that help Polish women in accessing medical abortion and abortion care abroad. On top of all the legislative barriers indicated and other factors hampering access to SRHR services, Covid-19 pandemic exacerbated the difficulties relating to access to services abroad for the costs of travel increased by the necessity to do expensive tests and made these services available only to these persons who have financial resources and who can access information on services. This creates insurmountable obstacles in

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<sup>13</sup> Obtained from the National Health Fund upon request from journalists, not yet accessible from the source.

<sup>14</sup> <https://www.gazetaprawna.pl/wiadomosci/kraj/artykuly/8166757,legalne-aborcje-w-polsce-statystyki.html>

access to abortion for adolescent girls, lacking access to financial resources and from the rural areas where often access to gynecologist constitutes a serious challenge.

From 22 October 2020 to 22 April 2021, the Federation for Women and Family Planning has consulted around 2, 000 persons. Federation's employees and helplines every day assist women in all kind of reproductive health queries: on access to abortion but also about pregnancy care, contraception (including emergency contraception and access to intrauterine device), prenatal testing which is performed drastically less since the decision of the illegitimate Tribunal. The questions refer also to legal penalties for helping in abortion, ordering pills, legal issues around access to benefits/services after having abortion care in Poland or abroad. The Federation's helpline provides SRHR assistance by gynecologists, sexuality educators, psychologists and lawyers. Sexuality educators at the Federation are stormed with questions from young people regarding basic information on contraception, sexual initiation and prevention of sexually transmitted diseases.

Abortion Without Borders Initiative (AWB), a network of organisations in Poland and abroad helping Polish women in access to medical abortion or abortion care abroad helped persons in unwanted pregnancies order/use abortion pills or travel abroad. During 6 months from the decision of the ruling on abortion, Abortion Without Borders, announced that they have assisted 17,000 women in access to abortion, 600 of which left for abortion care to the clinic abroad<sup>15</sup>.

## **2) Poland's failure to ensure access to other SRHR services undermining compliance with CRC Articles 2, 16, 24 and 37**

### **Barriers in access to gynecological care**

In Poland, the age of informed consent is 15 years, sex with a person below this limit is punishable<sup>16</sup>. At the same time, adolescents need permission from a legal guardian to consult gynecologist until they reach 18. This is a major handicap for many young people who need medical consultation and don't want to share it with their parents or guardians. For this reason many young people decide to postpone the consultation even in urgent matters, according to the reports of the sexuality educators of the Ponton group<sup>17</sup> working at the Federation.

The Federation and Ponton group regularly receive information from the Federation's helpline users that access to gynecologists in some parts of Poland is very difficult. The only available official report regarding this issue has been made by the Supreme Chamber of Control in 2018 and it confirms that access to gynecologists for women is severely hindered, especially in the rural areas<sup>18</sup>. According to the data of the National Health Fund of 2016, there were no gynecology and obstetrics clinics in many rural communes. In the couple of controlled voivodships, there were even 27,000 women who were assigned to 1 gynecological clinic. In the extreme cases women had 50 km distance from the closest gynecologist. Alarmed by this situation and following the personal

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<sup>15</sup> <https://oko.press/od-wyroku-tk-z-pomocy-aborcynjnego-dream-teamu-skorzystalo-17-tys-osob/>

<sup>16</sup> Article 200§1 of the Polish Criminal Code.

<sup>17</sup> <https://ponton.org.pl/en/>

<sup>18</sup> Please see tables indicating the number of how many rural commune have no access to gynecologist in 2016 per voivodship <https://www.nik.gov.pl/aktualnosci/wiejska-droga-do-ginekologa.html>

reports of refusal of care from adolescent girls allegedly based on lack of staff specialized to treat minors in some of the facilities, in 2020 the Federation addressed National Health Fund to find out what were the reasons of refusal to consult adolescent girls in these facilities<sup>19</sup>. It transpired from the answer that such refusals were unlawful since there were no need for gynecological specialistaion to treat adolescents. In the same letter, the National Health Fund informed that there were only 48 contracted National Health Fund gynecological facilities to treat adolescent girls in the entire Poland, which makes approximate number of 1-9 facilities available depending on voivodship<sup>20</sup>.

In consequence, having consideration to all these factors together, young people not only need parental consent to get the help they need, they also need to be lucky to have a gynecological clinic close by, and medical staff willing to consult them. In one of the Federation's publications, this phenomena has been called institutional violence<sup>21</sup>. Restricting access to sexual and reproductive health care inevitably puts the health and sometimes lives of young persons at risk and translates into an increase in various diseases and infections.

### **Barriers in access to contraception**

Barriers in access to gynecological care impact adolescent's access to contraception. According to the Contraception Atlas 2020<sup>22</sup> according to which Poland fares the worst and has the lowest contraceptive availability rate (35.1%). For the purpose of comparison, this rate in Western countries is almost twice as high (Belgium - 96.4%, Germany - 75.1%, France - 90.1%, Italy - 59.3%). According to the same report, Poland is the only European country to increase restrictions to contraception in the past four years in Europe. Women and adolescent girls face the following barriers in access to contraception: the poor system of reimbursement of modern means of contraception: prescriptions are compulsory for all contraceptive pills, including emergency contraception, requirement of parental consent for a teenager's medical visit, lack of school education on contraception.

### **3) Failures to guarantee access to comprehensive, evidence-based sexuality education undermine compliance with Articles 2, 16, 24, 28 and 37**

Poland does not provide mandatory, comprehensive and evidence-based sexuality education as recommended by this Committee.<sup>23</sup> Sexuality education in Poland is regulated by the 1993 Family Planning Act's Article 4.1 which states that courses on "human sexual life, principles of conscious and responsible parenthood, the value of the family and prenatal life and on means and methods of conscious procreation" shall be introduced into school curricula.

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<sup>19</sup> [https://federa.org.pl/poradnie\\_dziewczeta/](https://federa.org.pl/poradnie_dziewczeta/)

<sup>20</sup> <https://federa.org.pl/wp-content/uploads/2020/05/2020.59412.AJA-RPW-28538-Federacja-na-rzecz-kobiet-ginekologia-dla-dziewcz%C4%85t-odp-v.-2.pdf>

<sup>21</sup> Przemoc Instytucjonalna w Polsce. O systemowych naruszeniach praw reprodukcyjnych, Federacja na rzecz Kobiet i Planowania Rodziny [Institutional Violence in Poland, Systemic violations of reproductive rights, Federation for Women and Family Planning] (2019); to be published in December 2019. <https://federa.org.pl/przemoc-instytucjonalna/>

<sup>22</sup> <https://federa.org.pl/wp-content/uploads/2020/10/Atlas-Antykonceptyjny-2020.pdf>

<sup>23</sup> CRC, *Gen. Comment No. 20*, para. 61.

Lessons on sexuality are provided under the course title “Preparation for family life”, which is taught for 14 hours a year in grades 4-8 of primary school and in grades 1-3 of secondary schools and high schools. These classes are not mandatory, and parents may withdraw their children from the course.<sup>24</sup>

### **Ultra-conservative agenda of the new Minister of Education**

The tendency towards even more conservative teachings has been accentuated with the appointment of the ruling party member P. Czarnek for the Minister of Education in October 2020. Following party instructions, he took up a mission to „free Polish schools from ideology”. Sexuality education is the main field of the Minister’s determination to fully implement and institutionalise the catholic sexual ethics, which stigmatizes abortion, promotes natural methods of family planning at the expense of contraception and opposes to IVF.

In the Ministry formulated „Fundamental principles for the implementation of the State's educational policy in the school year 2021/2022” the first priority is „schools’ support for the educational role of the family through the proper organization of the Preparation for family life course [...]”. In 2021 the Minister took patronage over, inter alia, three events which give clear oversight of his priorities in education: bioethics competition organized by anti-choice communities and the catholic church; three competitions of the Polish Association of human life defenders and Congress of teachers of Preparation for family life. The Minister was present at the Congress where he promised to raise importance of the Preparation for family life course.

Increasingly far-right groups are mounting campaigns against sexuality education in Poland<sup>25</sup> which receive support from the ruling Law and Justice party politicians and ministers, including the Minister of education. Ordo Iuris Legal Institute<sup>26</sup>, ultra-conservative think tank which is closely linked to the State institutions receives support from Minister of Education P. Czarnek who lectured at various events/conferences organized by Ordo Iuris.

Far right campaigns associate sexuality education with a threat of pedophilia and encourage parents to withdraw their children from sexuality education classes in school and refuse to allow them to attend sexuality education courses provided by civil society. These campaigns have led to fear among parents, increased the stigma around sexuality education and reluctance of teachers to provide sexuality education.

The Minister of education is also clearly anti-LGBT+ community. In 2021 after the Warsaw Pride, he commented that it was „far from normal and demoralizing” and stated that „promoting deviations is not sexuality education”. He is also in favour of the Hungarian law model to be enacted in Poland which bans teaching of homosexuality at schools<sup>27</sup>. The education curricula in no way address existence or challenges faced by the LGBT+ community. This institutional

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<sup>24</sup> A 2009 report by the Ponton Group of Sex Educators found that nearly 40% of young persons interviewed had never received any formal sexuality education. See Ponton Group of Sex Educators, *What Does Sex Education Really Look Like in Poland?* (Warsaw, 2009), <https://bit.ly/31McMpM>.

<sup>25</sup> PROTECT CHILDREN! CAMPAIGN OF THE ORDO IURIS INSTITUTE, <https://bit.ly/2JiPGk8>.

<sup>26</sup> [https://en.federa.org.pl/wp-content/uploads/2020/07/Ordo\\_Iuris\\_Cultural-and-religious-counterrevolution.pdf](https://en.federa.org.pl/wp-content/uploads/2020/07/Ordo_Iuris_Cultural-and-religious-counterrevolution.pdf)

<sup>27</sup> <https://wyborcza.pl/7,75398,27260648,czarnek-promowanie-zaburzen-seksualnych-nie-jest-edukacja-seksualna.html>

stigmatization of children and adolescents belonging to the LGBT+ community adds to the very serious challenges they are exposed to in Poland. Polish NGO, Campaign Against Homophobia in its of 2018 research<sup>28</sup> exposed that 70% of LGBT+ teenagers have suicidal thoughts and 50% symptoms of depression. Several cases of suicides committed by teenagers have been reported and were discussed by the media<sup>29</sup>.

Minister's agenda is shared by the Ombudsman for the Rights of Children<sup>30</sup>.

### **Shortcomings in curriculum, textbooks and training of teachers**

The curriculum of the Preparation for Family Life course is not evidence-based and does not equip children with essential information around sexuality, modern contraception, abortion, responsible sexual behavior, and consent.

Instead, the curriculum seems to promote natural family planning methods and demonize masturbation and its content gives significant attention to the family. It cites the spiritual values of Pope John Paul II that center around the family and sacredness of life from conception.<sup>31</sup> The curriculum is usually not adapted to the age of students and students in secondary and high schools are taught the same issues as children in primary school.

Textbooks are often out of date and their content is also not factual but instead is often based on Catholic doctrine and perpetuates myths and stereotypes. Women are presented mainly as mothers but the role of men as fathers is rarely addressed.

The course is often conducted by teachers of other school subjects, such as biology, science, ecology but also history and civics and even religion. Teachers tend to lack professional and social competence and knowledge to lead sexuality education. Often there are important differences between schools as to what is taught in the course. The language used during the course and the scope of issues raised during lessons are very stereotypical and patriarchal<sup>32</sup>.

Furthermore, for the school year 2021-2022 the Minister announced that school libraries will get funding to order books which aim "to promote family and value of life"<sup>33</sup>.

### **Draft bill proposes to criminalize provision of sexuality education**

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<sup>28</sup> <https://kph.org.pl/wp-content/uploads/2019/07/Situation-of-LGBT-A-Persons-in-Poland-10.07.pdf>

<sup>29</sup> More about the reality of the LGBT+ young community: <https://krytykapolityczna.pl/kraj/mlodziez-lgbt-najczesciej-ponizaja-ich-rowiesnicy-ale-to-dorosli-sankcjonuja-te-nienawisc/https://wiadomosci.onet.pl/tylko-w-onecie/milosc-w-czasach-zarazy/nbqxxwm>

<sup>30</sup> In June 2021 the Ombudsman reported to the Sejm on his activities and praised the year 2020 for being a year for life, referring to the ruling on abortion of the illegitimate Constitutional Tribunal.

<sup>31</sup> Ministry of National Education, *General education core curriculum with commentary*, WARSAW: MINISTRY OF NATIONAL EDUCATION, EDUCATION DEVELOPMENT CENTER (2017), <https://bit.ly/2Wklbi4>

<sup>32</sup> <https://oko.press/zalewska-broni-czarnka-w-wdz-sa-elementy-edukacji-seksualnej-zobacz-co-to-za-edukacja/>



A draft bill entitled “Stop Pedophilia” is currently pending before the Polish Sejm (parliament).<sup>34</sup> The draft bill is the result of a civic initiative led by “Pro-Right to Life” and proposes to amend Art. 200b of the Penal Code.<sup>35</sup> The bills seeks to ban "demoralization and sexualization of children."

The proposed amendment would threaten all persons – doctors, educators, teachers, health professionals - who are engaged in providing any form of sexuality education, information or sexual and reproductive health care to adolescents with a 3-year prison sentence.

If endorsed, this draft amendment would deprive adolescents of access to information and education about their sexuality and could further undermine their access to sexual and reproductive health services. It would expose adolescents to significant risks to their health and wellbeing. While the age of consent in Poland is 15 years, the draft amendment would criminalize provision of information and education to all children under the age of 18, thus exposing adolescents over the age of consent who are sexually active to particular risks. Instead of equipping children with knowledge and tools on how to react to pedophile behaviors, they would be left without necessary support in facing sexual abuses.

Numerous UN human rights bodies have repeatedly expressed concern about shortcomings in provision of sexuality education in Poland and called on State authorities to ensure access to comprehensive evidence-based sexuality education.<sup>36</sup> In its most recent concluding observations this Committee explicitly called on Poland to provide comprehensive, age-appropriate education on sexual and reproductive health. Similarly, the Council of Europe Commissioner for Human Rights has also urged the Polish authorities to ensure that mandatory, comprehensive sexuality education that is age-appropriate, evidence-based, scientifically accurate and non-judgmental be taught in all schools in Poland.<sup>37</sup>

Poland has not taken any effective measures in response to these repeated recommendations to guarantee access to comprehensive evidence-based and age appropriate sexuality education.

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<sup>34</sup> On 15 October 2019 the first reading of the draft bill was held in the Sejm and it has been sent for further deliberation in the Parliamentary Commission on Changes in Legislation.

<sup>35</sup> Art. 200b §1. Whoever publicly promotes or approves of the pedophile behavior is subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

§2. The same punishment shall be imposed on anyone who publicly propagates or approves of the minors' sexual intercourse. §3. If the perpetrator commits the act specified in §2 by means of mass communication, he/she shall be subject to the penalty of deprivation of liberty for up to 3 years. §4. The amendment reads: “Whoever promotes or approves of a minor undertaking sexual intercourse or other sexual activity, acting in connection with his occupation or professional activities related to upbringing, education, treatment or care of minors or acting on the premises of a school or other establishment or educational institution, is subject to the penalty of deprivation of liberty for up to 3 years.” See <https://bit.ly/2JkH10L>.

<sup>36</sup> CESCR, *Concluding Observations: Poland*, U.N. Doc. E/C.12/POL/CO/6 (2016); CRC, *Concluding Observations: Poland*, U.N. Doc. CRC/C/POL/CO/3-4 (2015); CEDAW, *Concluding Observations: Poland*, U.N. Doc. CEDAW/C/POL/CO/7-8 (2014); CESCR, *Concluding Observations: Poland*, U.N. Doc. E/C.12/POL/CO/5 (2009); CEDAW, *Concluding Observations: Poland*, U.N. Doc. CEDAW/C/POL/CO/6 (2007).

<sup>37</sup> See Letter by the Council of Europe Commissioner for Human Rights to Poland’s Prime Minister, available at <https://bit.ly/2NbzvpZ>.

**We hope that the Committee will address these issues in its upcoming review of Poland's implementation of the Convention and will consider making the following recommendations to the State party:**

- **Reform its laws to fully decriminalize abortion and legalize abortion on request, and adopt accompanying guidelines and procedures to ensure adolescent girls can access safe abortion services in a timely manner and without unnecessary authorization or certification requirements.**
- Adopt a series of effective measures to guarantee that abortion services and other sexual and reproductive health services are available and accessible throughout Poland and that doctors' conscience-based refusals of care do not jeopardize adolescent girls' access to reproductive health care, in particular:
  - (a) explicitly prohibit medical institutions from refusing to provide reproductive health services;
  - (b) adopt new legislation, and as necessary amend the Polish Constitution, to establish a legal referral obligation on all medical providers refusing care on grounds of conscience or religion;
  - (c) require all hospitals employ doctors and healthcare providers willing to perform abortions and to organize the provision of services in a manner that ensures adolescent girls can access abortion services without undue delay;
  - (d) require hospitals to notify the Ministry of Health, on a quarterly basis, as to the number of doctors and healthcare providers in the hospital who are refusing care on grounds of conscience or religion and regularly monitor the practice of conscience-based refusals of care;
  - (e) ensure barriers free access to gynecological care for all adolescents;
  - (f) ensure access to contraception for all adolescents who need it, including emergency contraception.
- Reject the draft bill "Stop Pedophilia" and the introduction of any retrogressive measures affecting the sexual and reproductive health and rights of adolescents.
- Ensure the provision of mandatory, comprehensive, age appropriate and evidence-based sexuality education across the education system.
- Guarantee that the curriculum for comprehensive sexuality education takes a holistic approach to sexual and reproductive health and rights and address a wide range of issues including gender equality, sexual diversity and sexual violence, prevention of unintended and early pregnancy and STIs.
- Provide teachers and education professionals with continuing specialized training.
- Regularly monitor and report on the execution of the Family Planning Act of 1993, collect data and perform research on access to the sexual and reproductive health services

- Support the organisations and informal groups providing help to women and adolescents in terms of access to sexual and reproductive health services.