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**Federation for Women and Family Planning
LaStrada Foundation
ProFemina Association
PSF Women's Center for Women
Women's Rights Center**

**To the Committee on the Elimination of
Discrimination against Women of the United Nations
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The situation of Polish women is not satisfactory in many areas of private and public life. Gender equality has never constituted a priority for any Polish government administration. The present government elected in 2005 presents ultra-right wing, conservative orientation and focuses on promoting so-called **pro-family policies**, which are openly against basic principles of equality and corresponding policies because they view them as anti-family. In this climate, gender issues are being continuously and consistently marginalized and women's advancement is being jeopardized, this is of grave concern to women's NGOs in Poland.

There is a justified concern that the Polish government is not adequately devoted to gender equality issues and does not recognize the importance of eliminating discrimination against women. State authorities do not treat the obligations that stem from the ratification of CEDAW with due seriousness. Furthermore, the Government has not implemented a number of concluding observations by UN Treaty Monitoring Bodies (including two concluding observations by the Human Rights Committee (1999, 2004) and the Committee on Economic, Social and Cultural Rights (1998). Moreover, the National Action Plan for Women of 1997 – a response to the Beijing Platform for Action – is not being and was never implemented.

One of the first actions of the new administration was the **dismissal of Government Plenipotentiary for Equal Status of Women and Men. In its place, the current government has created a** new office of Plenipotentiary for Women, Family and Counteracting Discrimination, but it does not fully continue the mission of the previous office as it focuses on issues concerning families. The extension of the mandate to issues of family and discrimination in general has led to the weakening of the efforts to eradicate gender-based discrimination, and inability of this office to address issues concerning all women in all facets of their lives, not just their role in the family.

Our concerns are also exemplified by the following recent developments regarding reproductive rights: **Currently, the proposal of the League of Polish Families** (ultra-conservative party – member of the ruling coalition) **to totally ban abortion** is being discussed in the Parliament. It is in the form of a draft proposal to amend article 38 of the constitution that ensures *"the legal protection of the life of every human being"* to add the phrase *"from the moment of conception"*. This would mean the ability to completely ban on abortion in Poland. The danger of such legal change seems to be underestimated, even by the Government Plenipotentiary for Family and Women Issues, but we assess it as a serious threat as the entire ruling coalition voted against rejecting the draft. It means that there is political will to make fundamental changes to the Constitution which would hinder women's ability to access health services and exercise their fundamental human rights, in the name of protecting 'life'.

Furthermore, the Minister of Health established a Ministerial Body to promote natural family planning on the false basis that modern forms of contraception are seen as dangerous for women's health and against religious teachings. There is also a draft law **limiting access to hormonal contraceptives** pending in the Parliament. It is being proposed to label hormonal pills with the warning note "harms your health".

Unfortunately, these are only a few examples to illustrate the current political climate and very real and current threats to women's rights in Poland. Present decision-makers will remain in office for nearly three more years. This time will give them the unfortunate opportunity to introduce many discriminatory changes which will negatively affect the situation of women in Poland.

We would like to bring your attention to the following critical issues:

VIOLENCE AGAINST WOMEN: General recommendation 19

Although **domestic violence is among the most frequently committed crimes in Poland**, Polish government's policies regarding domestic violence lack continuity and coherency. What is also missing, the consistent and comprehensive system to prevent and combat domestic violence based on multi-agency cooperation. To the detriment of women and ability to tackle this issue at its roots, Domestic violence is not perceived in the broader context of gender discrimination and inequality between women and men.

NGOs identify the following problematic areas of concern::

- Violence is perceived as a gender-neutral phenomenon strongly linked to alcoholism;
- Criminal proceedings regarding domestic violence cases last too long, meanwhile a woman often lives in the same house with her perpetrator;
- Police lack legal measures to issue barring orders (restraining orders). Procedures for issuing restraining orders by the criminal court are ineffective and take too long;
- Domestic violence cases, which are reported, are often dismissed at the prosecution level;
- In 90 per cent of cases, courts issue a suspended sentence. This is attributed to strong impact of gender-based stereotypes and prejudices during criminal proceedings and in court judgments;
- System of collecting data for domestic violence interventions is insufficient and imprecise. It lacks data on refusals to initiate criminal procedure as well as accurate gender disaggregated data on killings resulting from domestic violence;
- There is insufficient number of services, especially for refugee women and children, who are victims of domestic violence;
- There is limited access to free forensic examinations;
- There is insufficient numbers of specialized places where women can seek refuge or assistance; The number of shelters is far too low to meet the needs - in some regions of Poland, there are no shelters at all.

RECOMMENDATIONS:

1. The law on domestic violence should be amended to make it more comprehensive and efficient by including regulations concerning: a/ authorizing police to issue barring (restraining) orders; b/ civil protection order;
2. Regular monitoring should be carried out on the implementation of the existing law with a focus on the impact of gender-based stereotypes and prejudices on criminal proceedings and court judgments;
3. State policies should address domestic violence as gender-based discrimination and as an inequality issue. Such approach should be reflected in routine training of the police and other criminal and family justice professionals.
4. Multiple assistance for victims of domestic violence is necessary, including legal counseling and medical help;
5. Data collection system needs to be revised to be gender specific;
6. Perpetrators of domestic violence should be persecuted without a formal complaint from the victim;
7. Mediation procedures should not be applied to domestic violence cases.

TRAFFICKING IN WOMEN: Article 6

NGOs identify the following areas of concern:

- Inferior economic position of women and discrimination as a factor conducive to trafficking;
- Insufficient cooperation between different stakeholders: some governmental institutions, NGOs and other institutions;
- Lack of comprehensive research and reliable data;
- Lack of qualified staff, especially in law enforcement institutions;

- Low awareness on the issue of trafficking among the general population, police officers, border guard officers, prosecutors and judges;
- Lack of definition of trafficking in the Penal Code;
- Lack of effective measures for victim protection implemented in practice.

Factors conducive to trafficking

The issue of gender equality and a corresponding effective gender policy are determining factors that influence the level of trafficking in Poland. As a matter of fact, **women are at the highest risk for trafficking**. This is due to the feminization of poverty, gender discrimination, feminization of unemployment and migration, that play a crucial role in the process of recruitment and exploitation of trafficked women. A lot of steps must be taken at national and international level to overcome the discouraging position of women.

Restrictive immigration policies of the European Union affect the situation of trafficked persons in countries of destination. As a result of the restrictive immigration policy, governments tend to treat trafficked persons primarily as unwanted economic migrants who are to be deported right away. Another factor conducive to trafficking is the increasing call for **repressive measures against prostitution**, such as criminalizing clients. This contributes to the marginalization and stigmatization of sex workers and increases their dependency on the services of third parties, thus making them more vulnerable to abuse.

As far as the sex industry is concerned, La Strada observes that trafficked victims tend to be increasingly exploited in more private environments, such as private houses or flats in suburban areas aside from brothels and nightclubs. Moreover, the number of minors exploited in the sex industry is increasing.

Changing patterns of trafficking after the accession to the EU

In order to conform to the EU standards, new member states are obliged to adopt more restrictive immigration policies; and to develop a stronger focus on **combating illegal migration**. As a result, migrants are more vulnerable to violations of their human rights. Under these circumstances, the main objective of the independent NGOs (like LS) seems to be advocacy for human rights of migrants and lobbying for adequate protection and assistance for trafficked persons.

Anti-trafficking policy

The governmental anti-trafficking policy is influenced by the two main instruments of pressure, namely: international – EU anti-trafficking framework; and national as well as international NGOs. The competition between those two stakeholders appears to be problematical in some cases. The flow of information between those two anti-trafficking actors is far from satisfactory. There is a number of factors undermining the elimination of trafficking in persons in Poland, as follows: lack of reliable data, fragmented data, as well as lack of comprehensive research and trained staff, especially law enforcement.

RECOMMENDATIONS:

- And independent office of the National Rapporteur on Trafficking in Persons should be established;
- There is a need to raise awareness on trafficking for forced labour and other forms of exploitation of migrant labour work;
- Policies and programs adopted by the State should address root causes of trafficking such as discrimination, gender based violence, unemployment and restrictive migration policies
- The definition on trafficking from the Palermo Protocol should be incorporated into a special vocabulary that should supplement the Polish Penal Code;
- Legal provisions for migrant victims of trafficking in the law on foreigners should be implemented;
- Anti-trafficking procedures should be not only publicized but also implemented in practice
- Program of victim/witness support should be applied also to domestic (Polish) victims who are returning back to Poland and to all trafficked persons.

WOMEN'S HEALTH PROBLEMS: Article 12

NGOs identify the following areas of concern:

- Lack of compulsory and comprehensive sexuality education in school curricula;
- Lack of family planning counseling services in public health care system;
- Limited access to modern contraceptives due to social and economic barriers;
- Restricted access to contraceptive sterilization;
- Restrictive anti-abortion law significantly limiting women's reproductive rights.

Sexual and reproductive health and rights in Poland are blatantly violated. The anti-abortion law contributes to the development of abortion underground. Already limited access to modern contraception due to social and economic barriers could be further restricted by proposed law limiting access to contraception.

Limited access to safe and legal termination of pregnancy has been indicated as a concern in the concluding observations of the UN Treaty Monitoring Bodies numerous times.

Teenage women are especially affected by the lack of adequate sexuality education due to the threat of premature pregnancy, which constitutes up to 6% of all births in Poland, and a higher risk of contracting sexually transmitted infections (STIs), including HIV/AIDS.

Contraception

The usage of modern contraception is relatively low. Over 45% of Polish women declare they use **natural methods** of family planning that which in fact are not recognized as reliable contraception. One quarter of Polish women use hormonal contraception that **require a prescription**. However, the **primary health care system does not reimburse** doctors for providing contraceptive counseling. Therefore, some regional branches of the National Health Fund simply do not provide those services. Moreover, many doctors refer to the **Conscience Clause** to avoid prescribing hormonal contraception. This provision is overused by doctors and cited as the reason doctors refuse to prescribe contraceptives or "morning-after" pills. Therefore, women must visit private gynecologists. Going to private clinics is significantly more expensive and especially prohibitive for rural women and adolescent girls. In addition, the state has no effective mechanisms to regulate the abuse of the conscience clause by doctors. Another barrier in access to modern contraception is of economic nature. Hormonal pills and condoms are not subsidized from the state budget. In 2006, the Minister of Health established a **Ministerial Task Force to promote natural family planning**, which clearly shows where the unrealistic priorities of the present government are.

Access to safe abortion services

Unsafe abortion poses a major threat to women's health in Poland. The restrictive law has not eliminated and probably has not reduced the number of abortions in Poland. **Illegal terminations are still common.** The scale of the phenomenon can be estimated at between **80,000 and 200,000 abortions per year.**

The anti-abortion law is much stricter *de facto* that it is *de jure*. Women who are entitled to legal abortion under the Act are frequently denied termination. **Doctors often refuse to provide the certificate required for a legal abortion**, refuse providing abortion services or referring for necessary examinations (prenatal tests). Currently, the European Court of Human Rights in Strasbourg is examining the case of Alicja Tysiac, a woman who was denied her right to legal termination of pregnancy, which resulted in the severe damage of her eyesight.

The **major obstacle in obtaining an abortion is the aforementioned Conscience Clause**, to which Polish doctors are entitled to. However, doctors objectors fail to comply with the law which obliges them to refer a woman to another doctor who is not a conscientious objector. In addition, the state has taken no responsibility to regulate and monitor implementation of the law, therefore it is being abused to the detriment of women.

In conclusion, restrictive anti-abortion law remains one of the strongest spheres of discrimination against women in Poland. There is a clear link between the reproductive rights of women and their situation in the labor market. Women who cannot decide freely on the number and spacing of their children, are severely disadvantaged in their socio-economic status.

RECOMMENDATIONS:

- Comprehensive sexuality education programme should be implemented in school curricula;
- National policy on reproductive and sexual rights and health should be adopted and implemented in cooperation with NGOs;
- State policy improving access to all modern forms of family planning should be implemented;
- Restrictive anti-abortion law should be liberalized;
- Conscience Clause provision should be monitored how it is used by medical staff and revised accordingly;
- Complaint mechanisms and procedures should be put in place for women who have been denied reproductive health services;
- Currently ruling coalition should abstain from legal and policy initiatives aiming at further restricting reproductive rights.