



**Poland's Compliance with the Convention Against Torture  
Suggested List of Issues Prior to Reporting Relating to Women's Rights**

**Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

and

**Women's Rights Center**

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence.

**Women's Rights Centre** works for equal status of women and men in public and private life. Women's rights are an inseparable part of fundamental human rights. Any kind of violence against women breaches international law on human rights, no matter if performed by an individual, social group or a government. We dedicate our work to gender equality and empowering women. To protect and promote women's rights we provide legal, psychological and educational help for violence and discrimination victims. We organize regular meetings and workshops on women's rights, disseminate information published by the Foundation, as well as 24-hour helpline for women. Our work stands in line with Sustainable Development Goals promising advances in women's rights and gender equality.

## EXECUTIVE SUMMARY

1. Poland fails to adequately uphold obligations to protect people in need of international protection through its laws and policies. Article 3 of the Convention against Torture and Other Cruel, Inhumane Treatment or Punishment (“The Convention”), obliges State Parties to refrain from expelling, refouling or extraditing a person when there is substantial belief the individual would be in danger of torture. Poland’s current legislation allows for any migrants crossing the border unofficially to be removed. Further, the government has exacerbated human rights violations in neighboring Belarus by barring Belarusians and other foreign nationals in need of international protection from entering Poland and failing to provide asylum to victims of torture who are seeking protection in the European Union.
2. Domestic violence remains prevalent in Poland. Despite advances in legislation for expanded protections, the law still does not cover incidents of violence involving unmarried intimate partners or former and/or non-cohabiting intimate partners. Psychological violence is rarely charged without a corresponding charge of physical violence. System actors treat charges of threats of violence or coercion as separate incidents, instead of patterns of behavior. Due to the gaps in legislation, many victims are left unprotected and without remedies.
3. Women face significant barriers to safe abortion access. A recent Constitutional Court ruling effectively eliminated one of three grounds for legal abortion, leaving many women either to seek unsafe abortion or go outside the country. One woman died as a result of delayed abortion care since the ruling. These restrictions leave women at risk of mental and physical harm amounting to torture or cruel and inhumane treatment.

### **I. Poland fails to uphold its non-refoulement obligations to protect refugees, asylum seekers, and others in need of international protection.**

4. In its 2019 Concluding Observations, the Committee Against Torture (“CAT”) expressed concern that Poland does not always provide access into its territory to people in need of international protection.<sup>1</sup> The Committee was also concerned about Poland’s insufficient capacity to identify and protect asylum seekers and refugees who have survived torture.<sup>2</sup> These concerning conditions are amplified as individuals flee torture in Belarus after the 2020 presidential elections and because Belarus facilitated tourist visas to people from the Middle East who aim to claim asylum in the EU, in particular to individuals from Afghanistan and Iraq.<sup>3</sup>
5. Poland has instituted several obstacles to prevent individuals who seek international protection from entering its territory. Polish authorities constructed razor-wire fences along its border

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<sup>1</sup> Committee Against Torture, *Concluding Observations on the seventh periodic report of Poland*, (29 August 2019), U.N. Doc. CAT/C/POL/CO/7. ¶25(a).

<sup>2</sup> Committee Against Torture, *Concluding Observations on the Seventh Periodic Report of Poland*, 29 August 2019, U.N. Doc. CAT/C/POL/CO/7, para. 25(d).

<sup>3</sup> Human Rights Watch, *Die Here or Go to Poland: Belarus’ and Poland’s Shared Responsibility for Border Abuses*, (United States of America: Human Rights Watch, November, 2021), 1. [https://www.hrw.org/sites/default/files/media\\_2021/11/eca\\_migrant1121\\_web.pdf](https://www.hrw.org/sites/default/files/media_2021/11/eca_migrant1121_web.pdf).

with Belarus.<sup>4</sup> According to an OHCHR spokesperson, Polish legislation stipulates that all individuals who enter the country through unofficial border crossings can be immediately returned,<sup>5</sup> thus restricting access into Poland to a limited number of official border crossings.

6. Even when people succeed in crossing the border, Poland has refused to individually assess asylum claims. Border guards have sent asylum seekers, refugees, and others in need of international protection back across its border with Belarus. Refugees interviewed by Human Rights Watch reported that many of them had crossed into Poland and been driven back to Belarus several times.<sup>6</sup> Security forces in Belarus have barred people from relocating within Belarus and restricted their movement to within the border zone. As a result of both Poland's and Belarus' policies, thousands of Belarusians, Iraqis, Afghans, and others are prevented from seeking protections within the European Union and are currently waiting in limbo at the Poland-Belarus border.<sup>7</sup>
7. Refugees and asylum seekers face inhuman conditions at the border. People have little access to shelter and face hunger, lack of water, and freezing conditions, which have caused serious injuries, sicknesses such as hypothermia, and at least 13 deaths. They also face theft, extortion, and violence by Belarusian and Polish border guards.<sup>8</sup> People who have crossed into Poland and avoided apprehension by border guards often spend days wandering in forests and swamps without food or water.<sup>9</sup>
8. Poland exacerbated these human rights violations with its September 2, 2021 declaration of a state of emergency, which bans access to 183 municipalities near the border. The state of emergency prevents humanitarian assistance from reaching people stranded at the border and bars organizations from carrying out critical human rights monitoring and reporting. While initially set to expire on October 1<sup>st</sup> 2021, and later extended until early December<sup>10</sup> and again until March 2022,<sup>11</sup> a resolution passed in the lower house on November 17<sup>th</sup> risks indefinitely

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<sup>4</sup> Human Rights Watch, *Die Here or Go to Poland: Belarus' and Poland's Shared Responsibility for Border Abuses*, (United States of America: Human Rights Watch, November, 2021), 1-2.

[https://www.hrw.org/sites/default/files/media\\_2021/11/eca\\_migrant1121\\_web.pdf](https://www.hrw.org/sites/default/files/media_2021/11/eca_migrant1121_web.pdf).

<sup>5</sup> U.N. News, *End 'appalling' Belarus-Poland border crisis*, UN rights office urges, U.N. News, 21 December 2021, <https://news.un.org/en/story/2021/12/1108502>.

<sup>6</sup> Human Rights Watch, *Die Here or Go to Poland: Belarus' and Poland's Shared Responsibility for Border Abuses*, (United States of America: Human Rights Watch, November, 2021), 1.

[https://www.hrw.org/sites/default/files/media\\_2021/11/eca\\_migrant1121\\_web.pdf](https://www.hrw.org/sites/default/files/media_2021/11/eca_migrant1121_web.pdf).

<sup>7</sup> Human Rights Watch, *Die Here or Go to Poland: Belarus' and Poland's Shared Responsibility for Border Abuses*, (United States of America: Human Rights Watch, November, 2021), 1.

[https://www.hrw.org/sites/default/files/media\\_2021/11/eca\\_migrant1121\\_web.pdf](https://www.hrw.org/sites/default/files/media_2021/11/eca_migrant1121_web.pdf).

<sup>8</sup> Human Rights Watch, *Die Here or Go to Poland: Belarus' and Poland's Shared Responsibility for Border Abuses*, (United States of America: Human Rights Watch, November, 2021), 1-2.

[https://www.hrw.org/sites/default/files/media\\_2021/11/eca\\_migrant1121\\_web.pdf](https://www.hrw.org/sites/default/files/media_2021/11/eca_migrant1121_web.pdf).

<sup>9</sup> Human Rights Watch, *Die Here or Go to Poland: Belarus' and Poland's Shared Responsibility for Border Abuses*, (United States of America: Human Rights Watch, November, 2021), 13.

[https://www.hrw.org/sites/default/files/media\\_2021/11/eca\\_migrant1121\\_web.pdf](https://www.hrw.org/sites/default/files/media_2021/11/eca_migrant1121_web.pdf).

<sup>10</sup> Joanna Plucinska, Alan Charlish, Pawel Florkiewicz, Anna Koper, Alicja Ptak, Alex Richardson, and Gareth Jones, *Polish president seeks extension of state of emergency on Belarus border*, Reuters, 28 September 2021, <https://www.reuters.com/world/europe/polish-government-ask-president-extend-state-emergency-belarus-border-2021-09-28/>

<sup>11</sup> Zosia Wanat, *Poland's persistent forbidden zone on the border with Belarus*, Politico, 1 December 2021, <https://www.politico.eu/article/polands-persistent-forbidden-zone-on-the-border-with-belarus/>

instituting similar restrictions in the border area even without a state of emergency.<sup>12</sup> This resolution and the current state of emergency severely impede the work of human rights defenders and violate the right to freedom of expression and information and the freedom of movement.<sup>13</sup> A recent January 19 Supreme Court decision in Poland ruled that the ban on media access is unconstitutional. The ruling will influence court decisions in similar trials but cannot abolish the existing laws.<sup>14</sup>

9. By forcing individuals who fear torture back into Belarus, Poland is in breach of the principle of non-refoulement and in violation of Article 3 of The Convention. Refugees from Belarus face particular risks including violence, family separation, and torture as a result of post-election persecution.<sup>15</sup> Following the August 9, 2020 presidential election in Belarus, thousands of individuals protesting election fraud and brutality were arrested and arbitrarily detained. While in detention, Belarusian security forces subjected hundreds of detainees to ill-treatment including torture. Survivors reported experiencing electric shocks, beatings, being forced to maintain stress positions, and rape, and many sustained serious injuries.<sup>16</sup> Poland also subjects refugees from Iraq, Afghanistan, and other countries outside of Belarus to the risk of return to their home countries. Belarus suspended its agreement with the European Union to readmit migrants who entered its territory prior to crossing into the European Union.<sup>17</sup> As a result of Polish pushbacks and the lack of adequate asylum procedures in Belarus, almost 4,000 Iraqi citizens<sup>18</sup> among those in limbo in Belarus have been returned to Iraq. Iraqi citizens seeking international protection, many of whom are Iraqi Kurds, face human rights abuses upon return including torture and cruel, inhumane treatment or punishment. Survivors seeking protections by crossing into the European Union via the Poland-Belarus border face inhuman conditions and refoulement.

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<sup>12</sup> Council of Europe Commissioner for Human Rights, *Commissioner calls for immediate access of international and national human rights actors and media to Poland's border with Belarus to end human suffering and violations of human rights*, Strasbourg 11 November 2021, <https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-immediate-access-of-international-and-national-human-rights-actors-and-media-to-poland-s-border-with-belarus-in-order-to-end-hu>

<sup>13</sup> Council of Europe Commissioner for Human Rights, *Commissioner calls for immediate access of international and national human rights actors and media to Poland's border with Belarus to end human suffering and violations of human rights*, Strasbourg 11 November 2021, <https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-immediate-access-of-international-and-national-human-rights-actors-and-media-to-poland-s-border-with-belarus-in-order-to-end-hu>

<sup>14</sup> EURACTIV with AFP. *Poland's top court slams media ban at Belarus border*, EURACTIV, 19 January 2022. <https://www.euractiv.com/section/global-europe/news/polands-top-court-slams-media-ban-at-belarus-border/>

<sup>15</sup> Human Rights Watch. *Belarus: Systematic Beatings, Torture of Protesters*, Human Rights Watch, 15 September 2020, <https://www.hrw.org/news/2020/09/15/belarus-systematic-beatings-torture-protesters>

<sup>16</sup> Human Rights Watch. *Belarus: Systematic Beatings, Torture of Protesters*, Human Rights Watch, 15 September 2020, <https://www.hrw.org/news/2020/09/15/belarus-systematic-beatings-torture-protesters>

<sup>17</sup> Yuras Karmanau, *Belarus Parliament Votes To Suspend Readmission Of Migrants*, Associated Press, 5 October, 2021, <https://apnews.com/article/european-union-alexander-lukashenko-poland-europe-belarus4c39e7def6408319747ff89b1a8052fa>.

<sup>18</sup> Agence France Press, *Iraq says almost 4,000 repatriated from Belarus borders*, Refugees Daily: Refugees Global Press Review, 16 January 2022, <https://www.unhcr.org/cgi-bin/txis/vtx/refdaily?pass=52fc6fbd5&id=61e519123>

10. **Suggested questions** relating to treatment of refugees and asylum seekers:

- What measures has Poland taken to ensure that that it complies fully with its obligations under article 3 of The Convention and to institute procedures to restore individual assessment of asylum claims?
- Which measures has Poland taken to comply with Articles 6 and 8 of the EU Returns Directive and guarantee that expulsions only occur if a return decision has been issued through a fair process?
- What steps has Poland taken to comply with the European Court of Human Rights' calls in August and September 2021 for Poland to provide food, water, clothing, medical care, and shelter to stranded migrants?
- Which measures has Poland instituted to investigate abuses against migrants and asylum seekers by Polish border officials and hold perpetrators responsible, and what measures has Poland instituted to combat abusive actions by border officials and their commanders?
- What steps has Poland taken to readmit humanitarian aid workers into the municipalities near the border? What steps has Poland taken to restore the right to movement within and between municipalities adjacent to the border?

**II. Poland fails to protect victims of domestic violence.**

11. In its 2019 Concluding Observations, the Committee expressed concern that domestic violence is not treated as a separate crime in the Penal Code and that conviction rates are low. The Committee was also concerned about lack of support and services for victims of domestic violence.<sup>19</sup> The Committee recommended that Poland expressly criminalize domestic violence as well as marital rape, encourage reports of domestic violence, and provide adequate services to victims.<sup>20</sup>
12. The government undertook the important step of criminalizing stalking in 2011 under Article 190a of the Criminal Code, increasing the penalties for the crime in 2020.<sup>21</sup> As many of the current statutes exclude former intimate partners from their scope, the criminalization of stalking is an important mechanism for protecting victims. The introduction of ex-officio prosecution in rape cases is another welcome step and has the potential to decrease the number of statements a victim must make in criminal prosecution.<sup>22</sup> This change is a step forward in potentially reducing the burden and traumatization victims face when reporting sexual violence.
13. Despite these advances, large gaps remain. Both the Law on Combating Family Violence and the National Programme on Equal Treatment view the issue of domestic violence with a

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<sup>19</sup> Committee Against Torture, *Concluding Observations on the seventh periodic report of Poland*, (29 August 2019), U.N. Doc. CAT/C/POL/CO/7. ¶33(a)(b)(c)

<sup>20</sup> Committee Against Torture, *Concluding Observations on the seventh periodic report of Poland*, (29 August 2019), U.N. Doc. CAT/C/POL/CO/7. ¶34(a)(c)(d)

<sup>21</sup> Council of Europe, "GREVIO Baseline Evaluation Report: Poland," <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 60 (accessed Jan. 18, 2022).

<sup>22</sup> Council of Europe, "GREVIO Baseline Evaluation Report: Poland," <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p.70 (accessed Jan. 18, 2022).

“family focused” lens and a “one size fits all” solution, instead of working within a framework that recognizes that the majority of victims are women.<sup>23</sup> This approach limits the type of assistance available to victims and ignores the specific needs of women, such as economic empowerment and housing. The law and programme also neglect to mention dating violence or former and/or non-cohabiting intimate partners, as do the criminal statutes addressing psychological and physical violence.<sup>24</sup> These gaps leaves many victims unprotected. When it comes to psychological violence, addressed by Articles 33 and 207(1) of the Criminal Code, GREVIO reported that these instances are often only charged only when accompanied by physical violence. Finally, the current criminal statutes on threat and coercion are designed to address isolated incidents, not patterns of behavior.

14. Under Poland’s civil law, of particular concern is that of child custody. Both the proposed law and the revised draft National Programme on Equal Treatment, published April 2021, do not take into account the dynamics of domestic violence nor reflect best practice standards. The current Law on Family and Guardianship “sets out the principle that decisions on child custody and any limitations of parental authority shall be taken on the basis of the best interest of the child.”<sup>25</sup> This can become problematic when determining child custody and can be construed as children should have contact with both parents in most circumstances, even when one parent is a victim of abuse. For instance, a civil society petition being debated, titled “Stop Parent Alienation,” would make shared custody the default in cases of separation or divorce.<sup>26</sup> It would also mandate up to 2 years of imprisonment for a parent to impede the visitation rights of another parent.<sup>27</sup> The mandatory shared custody and visitation, if determined to be in the interest of the child, ensures there is continued contact between the parties.<sup>28</sup> When the legal system fails to take into account domestic violence in custody and visitation decisions, it places the victim at continued risk of abuse at the hands of her abuser. Without proper training for systems actors and appropriate infrastructure to prevent an abuser from exerting power and control through visitation and custody, victims remain at serious risk.
15. Poland’s Blue Card procedure and services,<sup>29</sup> a set of measures intended to standardize law enforcement response to domestic violence, are welcomed as a multi-agency cooperation, but there are several areas that need improvement. There is insufficient cooperation between law enforcement and the judiciary, leaving victims vulnerable.<sup>30</sup> The services connected with the Blue Card procedure are gender-neutral, failing to address the specific needs of female victims,

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<sup>23</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 18 (accessed Jan. 18, 2022).

<sup>24</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 60 (accessed Jan. 18, 2022).

<sup>25</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 56 (accessed Jan. 18, 2022).

<sup>26</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 58 (accessed Jan. 18, 2022).

<sup>27</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 58 (accessed Jan. 18, 2022).

<sup>28</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 58 (accessed Jan. 18, 2022).

<sup>29</sup> <https://eige.europa.eu/gender-based-violence/methods-and-tools/poland/blue-card-police-procedure>

<sup>30</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 41 (accessed Jan. 18, 2022).

such as finding employment and long-term housing to reduce their dependency on offenders.<sup>31</sup> The Blue Card procedure also fails to address harassment, intimidation, control or abuse in the context of dating violence or former and/or non-cohabiting intimate partners.<sup>32</sup>

16. Training for law enforcement is lacking. In November 2020, an amendment was passed that enabled law enforcement to issue eviction and restraining orders that remain in place for 14 days.<sup>33</sup> The amendment, while still needing revision, has long been lobbied for by human rights activists.<sup>34</sup> However, proper training is necessary for law enforcement to effectively issue the orders.<sup>35</sup>
17. Poland ratified the Istanbul Convention on August 1, 2015.<sup>36</sup> Claims that the Istanbul Convention promotes “gender ideology” and will destroy the traditional family, however, have led to threats to withdraw from the treaty. These threats became reality in 2020, when Justice Minister Zbigniew Ziobro filed an “official request” with the Ministry for Family, Work and Social Policy (“Labour Ministry”) to begin the process of withdrawing from the Istanbul Convention.<sup>37</sup> These efforts to withdraw from the domestic violence treaty threaten the safety of domestic violence victims and embolden perpetrators.

18. **Suggested questions** relating to domestic violence:

- What steps has the government of Poland taken to ensure former and/or non-cohabiting partners are included in the Criminal Code definitions of domestic violence and psychological violence and on what timeframe?
- What measures has the government of Poland taken to ensure that assistance and services are specialized and meet the specific needs of women victims of violence?
- What trainings on domestic violence has the government of Poland required for individuals determining child custody in instances where domestic violence is involved? How often are these trainings delivered and how are NGOs that serve domestic violence victims involved in such trainings?
- What provisions are in place to determine whether domestic violence is present and to ensure systems actors take such violence into account when determining child custody and visitation?
- Please provide details on the measures in place to reduce harm to victims under the measures envisioned by the “Stop Parent Alienation” petition, i.e. default shared child custody and visitation.

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<sup>31</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 42 (accessed Jan. 18, 2022).

<sup>32</sup> Council of Europe, “GREVIO Baseline Evaluation Report: Poland,” <https://rm.coe.int/grevio-baseline-report-on-poland/1680a3d20b>, p. 61 (accessed Jan. 18, 2022).

<sup>33</sup> Email with NGO, on file with author

<sup>34</sup> Email with NGO, on file with author

<sup>35</sup> Email with NGO, on file with author

<sup>36</sup> Council of Europe, “Chart of Signatures and Ratifications of Treaty 210,” (Accessed July 7, 2021), <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures?module=signatures-by-treaty&treaty=210>.

<sup>37</sup> Claudia Ciobanu, “Poland’s Replacement for Istanbul Convention Would Ban Abortion and Gay Marriage,” *Balkan Insight* (Mar. 15, 2021), <https://balkaninsight.com/2021/03/15/polands-replacement-for-istanbul-convention-would-ban-abortion-and-gay-marriage/>.

- How has the government of Poland ensured it remains committed to the Istanbul Convention and its implementation? What reasons does the government have for considering withdrawal from the Istanbul Convention?
- Please provide details on what, if any, trainings are provided to law enforcement on the effective use of eviction and restraining orders?

### **III. Poland puts women at risk of cruel, inhumane, or degrading treatment by restricting abortion access.**

19. In its 2019 Concluding Observations, the Committee expressed concern about the lack of public information on safe abortion access, a lack of regulation of refusals by doctors to provide abortion, and about cases “where denial of procedure will result in physical and mental suffering so severe in pain and intensity as to amount to torture.”<sup>38</sup> The Committee made several recommendations, including to provide health care for women regardless of whether they have undergone a legal or illegal abortion and to ensure they do not experience criminal sanctions.<sup>39</sup>
20. Poland’s “The Family Planning, Human Embryo Protection, and Conditions of Permissibility of Abortion Act” limits legal abortion to three cases: 1) if the pregnancy poses a threat to the health of the mother; 2) if there is a high probability of severe birth defects; or 3) if the pregnancy is found to be the result of an unlawful act, such as rape or incest.<sup>40</sup> In October 2020, however, the Polish Constitutional Tribunal found that the severe or fatal fetal anomaly exception to the abortion law violated the Polish Constitution.<sup>41</sup> In 2019, prior to the October ruling, an estimated 98 percent of abortions were administered on the grounds of a high probability of birth defects.<sup>42</sup> The ruling effectively constituted a full abortion ban.
21. These obstacles to abortion access have prompted more people to seek abortions outside the country or by unsafe means. Even before the October 2020 ruling, some 100,000 women sought abortions outside the country each year.<sup>43</sup> The Human Rights Committee has found that forcing women to travel to another country for an abortion for non-viable pregnancies, due to criminalization in their home country, amounts to cruel, inhuman or degrading treatment or

<sup>38</sup> Committee Against Torture, *Concluding Observations on the seventh periodic report of Poland*, (29 August 2019), U.N. Doc. CAT/C/POL/CO/7. ¶33(d)

<sup>39</sup> Committee Against Torture, *Concluding Observations on the seventh periodic report of Poland*, (29 August 2019), U.N. Doc. CAT/C/POL/CO/7. ¶33(e)

<sup>40</sup> The Family Planning, Human Embryo Protection and Conditions of Permissibility of Abortion Act of 7 January 1993, Art. 4a. Available online at <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Polish%20abortion%20act--English%20translation.pdf>.

<sup>41</sup> Monika Pronczuk, "Poland Court Ruling Effectively Bans Legal Abortions," *The New York Times* (Oct. 23, 2020 updated Nov. 4, 2020), <https://www.nytimes.com/2020/10/22/world/europe/poland-tribunal-abortion.html>. The provision allowed abortions in cases of fetal abnormalities; the other two exceptions, for rape or to save the life of the mother, are rarely invoked although they remain legal. "Human Rights Defenders Coalition Meeting III," (November 2020). Source on file with authors.

<sup>42</sup> *Poland Enforces Controversial Near-Total Abortion Ban*, BBC News, 28 January 2021, <https://www.bbc.com/news/world-europe-55838210>.

<sup>43</sup> Office of the High Commissioner for Human Rights, “Poland Has Slammed the Door Shut on Legal and Safe Abortions – UN Experts,” (27 October 2021), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26434&LangID=E>.

punishment.<sup>44</sup> Within a mere six months period after the ruling, Abortion Without Borders received calls from 17,000 women in Poland and continues to receive about 800 calls a month from Poland.<sup>45</sup> Women are afraid to seek abortion in medical institutions and some seek abortions through illegal means, which could result in significant harm to their health and wellbeing.<sup>46</sup>

22. Poland's restrictive abortion legislation has had a chilling effect for both women trying to access abortion and medical professionals providing it. Doctors may face up to three years in prison for carrying out an abortion outside the confines of the law.<sup>47</sup> In the most extreme cases, it violates the right to life. In November 2021, a 30-year-old woman died 22 weeks into her pregnancy because doctors did not intervene. Her family claims that the doctors refused to provide medical care to her because they feared facing the ramifications of the abortion law.<sup>48</sup>

23. **Suggested questions** relating to abortion access:

- What steps has the government of Poland taken to ensure women do not experience cruel, unusual, or inhumane treatment amounting to torture when accessing abortion care?
- What measures has the government of Poland put in place to ensure doctors and other medical professionals provide access to safe abortion for women whose lives or health are in danger as a result of pregnancy?
- What steps has the government of Poland taken to ensure doctors do not face criminal sanctions for providing abortion care?
- What steps has the government of Poland taken to remove stigma and barriers around abortion access to prevent discrimination and violence against women?

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<sup>44</sup> Mellet v. Ireland, para. 9; Whelan v. Ireland, para. 9.

<sup>45</sup> *Poland: A Year On, Abortion Ruling Harms Women*, Human Rights Watch, 19 October 2021, <https://www.hrw.org/news/2021/10/19/poland-year-abortion-ruling-harms-women>.

<sup>46</sup> Human Rights Council General Assembly, *Visit to Poland: Report of the Working Group on the issue of discrimination against women in law and practice*, (25 June 2019) U.N. Doc. A/HRC/41/33/Add.2. ¶52.

<sup>47</sup> Federation for Women and Family Planning, "Systemic Rollback on Women's Rights – Update on Poland," <https://en.federa.org.pl/srhr-update-on-poland-apr-2021/>.

<sup>48</sup> *Poland Clarifies Abortion Law After Protests Over Mother's Death*, BBC News, 8 November 2021, <https://www.bbc.com/news/world-europe-59206683>.