United Nations A/HRC/41/33/Add.4

General Assembly

Distr.: General
26 June 2019

English only

Human Rights Council
Forty-first session
24 June–12 July 2019
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Report of the Working Group on the issue of discrimination against women in law and in practice on its visit to Poland

Comments by the State*

* The present document is being issued without formal editing.

GE.19-10766(E)
1910766

Addendum by the Republic of Poland to the draft report of the Working Group on discrimination against women in law and in practice on its mission to Poland

Ad part I "Introduction", paragraph 2

In this part of the report, all the central and local authorities, whose representatives met with experts from the Working Group, were described in detail. At the same time, it was pointed out that during the visit in Poland there were also meetings with civil society organizations dealing with women's rights, but their names were not revealed. This seems unjustified.

Ad part V "Economic and social life", paragraph 24

The procedural actions mentioned in this paragraph were conducted in connection with proceedings into the abuse of authority or default of duties by a public officer, i.e. the act referred to in Article 231(1) of the Criminal Code and concerned the request for the surrender of property that could constitute evidence in the case.

According to the available information, all the secured evidence was surrendered voluntarily. The organisations concerned raised no objections to the retained property record. Once copied, all the electronic carriers were returned on an ongoing basis to the institutions from which they were seized to prevent the paralysis of their work. We would also like to point out the fact that the public prosecutor's office also secured documents in public institutions at an earlier date. The activities took place at the premises of: Śląska Fundacja Błękitny Krzyż, Stowarzyszenie Przeworsk – Powiat Bezpieczny, Lubuskie Stowarzyszenie na Rzecz Kobiet "BABA", Stowarzyszenie Pomocy Bliźniemu im. Brata Krystyna, Katolickie Stowarzyszenie Potrzebującym "AGAPE," Fundacja Centrum Praw Kobiet. Consequently, the activities covered various entities, both organisations designated as women's organisations, as well as those designated otherwise (e.g. catholic organizations).

Taken the above into consideration, there are no grounds for concluding that the activities were aimed at affecting the activity of women's organisations.

Ad part V "Economic and social life", paragraph 38

The information in point 38 is not compliant with the current legal status. It needs to be indicated that compulsory teaching contents on human rights have been established in the core curriculum and implemented at all educational stages, starting from pre-school education. The scope and presentation of the contents correspond to the age, abilities and educational needs of students.

The preamble of the Act of 14 December 2016 - Educational Law[1] stipulates that education in the Republic of Poland is a common good of the whole society and is guided by the principles contained in the Constitution of the Republic of Poland, and the guidelines set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.

The Education Law Act obliges the school to guarantee that the right of every student for his/her dignity is respected as well as to ensure safe and hygienic conditions of education, upbringing and care.

The school teaches and educates in accordance with the core curriculum, which clearly defines the mandatory requirements regarding the knowledge, skills and attitudes that every pupil who completes a given educational stage should be equipped with.

The core curriculum for pre-school education and for general education in primary school, applied since 1 September 2017, puts emphasis on shaping and strengthening pupils' social

[1] Journal of Laws 2018, item 996 consolidated text.

and civic competences and introduces them to the world of values such as dedication, cooperation, solidarity, altruism, building social relations.

General education aims to strengthen the sense of pupils' individual identity, fostering a sense of self-esteem and respect for others, as well as shaping an attitude of openness to the world and other people.

Accordingly, children in kindergarten learn to cooperate, recognize values related to social skills and behaviours, respect the rights and duties of both themselves and other people.

The development of social and civic competences in primary school is mainly based on the implementation of teaching content of school subjects such as Polish, history, civics, geography, physical education, art and music.

For example, at civics classes, while discussing Human Rights, students learn that human dignity is the basis of various moral systems and that it is a source of universal, innate, inviolable and inalienable freedoms and human rights; they analyse the preamble of the Universal Declaration of Human Rights, explore the rights and personal freedoms contained in the Constitution of the Republic of Poland, look into children's rights and provisions of the Convention on the Rights of the Child, talk about examples of the activities of the Ombudsman for Children and the objectives of the UNICEF. They also learn about the role of the Commissioner for Human Rights, discuss the activities of NGOs to protect human rights. Pupils learn how to be tolerant towards minorities and how to oppose intolerance.

Ethics lessons are devoted to teaching respect, understanding and love. Students learn about kindness, altruism, caring, selflessness, volunteering, friendship, gratitude, compassion, empathy, trust, personal integrity, tolerance, common good, cooperation, justice, the rule of law, and solidarity.

Issues concerning the roles of men and women in the context of stereotypes, and, issues related to family functions, fulfilling marital and parental roles, social roles, better understanding of themselves and the immediate environment were included in the core curriculum of the subject education for family life.

In the new core curriculum for secondary schools[2] (which will be applied in schools from the school year 2019/2020), social and civic education is taught at the following classes: Polish, philosophy, history, civics, ethics, education for family life, physical education.

In the core curriculum of civics, chapter Self-understanding, recognizing and solving problems teaches human dignity and rights enjoyed by everyone, citizenship, and actions in social life. It also teaches pupils to recognize cases of human rights violations and social and political problems at local, national, European and global levels and offers ways to address them.

The subject Education for family life teaches contents regarding interpersonal relationships and their importance in social and emotional development. It focuses on mutual respect, rendering mutual assistance, cooperation, empathy, concepts of 'masculinity' and 'femininity', marriage, parenthood, building lasting and happy relationships.

Ad part V "Economic and social life", paragraph 39

Poland does not accept information on the implementation of sexual education in the Polish education system contained in point 39.

It needs to be stressed that following broad consultations with all entities concerned and with citizens, a consensus has been achieved to define mandatory sets of education goals and teaching content in the field of sexual education included in the core curriculum.

[2] Regulation of the Minister of National Education of January 30, 2018 on the core curriculum of general education for general secondary school, technical secondary school and industry grade school (Journal of Laws, item 467).

It should also be pointed out that every country is free to decide how sexual education should be taught in schools.

The goals of education and teaching content in the field of sexual education included in the core curriculum cover a wide spectrum of issues. For this reason they were included in various educational areas and subjects (Emotional area of development, nature, biology, physical education, education for family life). Detailed requirements set out in the core curriculum for individual educational stages correspond to the age, possibilities and cognitive needs of students.

It should also be noted that Polish teachers have the right to choose methods of education and upbringing that they consider as most appropriate from among methods recognized by contemporary pedagogical standards. They are also free to choose textbooks and other teaching aids from among textbooks and aids that have been school-approved.[3]

Ad part VI "Health" paragraph 44

According to the report "rural women face obstacles to access health services and providers, such as gynaecologists".

The Act of August 27, 2004 on health care services financed from public funds and its implementing rules regulates the functioning of the health care system in Poland.

According to the above-mentioned Act, the scope of the National Health Fund's (NFZ) activities includes determining the quality and availability of healthcare services and analysis of its costs to the extent necessary for the proper conclusion of contracts for the provision of healthcare services.

Bearing in mind the importance of the discussed issue (access to healthcare services in rural areas), in the Regulation of the Minister of Health of February 8, 2018 in Appendix No. 1 "List of detailed criteria for the selection of offers along with the conditions setting them and the value assigned to them, such as outpatient specialist care", regarding the proceedings: obstetrics and gynaecology services, in the "Accessibility" Criteria, a new category was introduced "Location of the clinic", in which the condition assessed promotes counselling centers located in towns up to 5,000 residents. It is aimed at promoting bidders whose counselling centres are located in rural areas, applying for NFZ proceedings for the conclusion of a contract for providing health care services, such as outpatient specialist care in the field of obstetrics and gynaecology.

The report stresses also that "woman with disabilities, Roma woman, LBTI+ persons have limited access to health services tailored to their needs". In this context it has to be emphasized that equal access to health protection is a constitutionally guaranteed right.

According to Art. 68 para. 3 of the Constitution of the Republic of Poland of April 2, 1997, public authorities are obliged to provide special health care for children, pregnant women, disabled people and the elderly. The above obligations are reflected in the provisions of the Act of 27 August 2004 on health care services financed from public funds, which defines the tasks of public authorities in the scope of ensuring equal access to healthcare services financed from public funds.

According to the above-mentioned Act, healthcare providers are obliged to provide healthcare services in a way that ensures respect for the principle of fair, equal, non-discriminatory and transparent access to those services and in accordance with medical criteria.

As far as the women with disabilities are concerned, provisions of the Regulation of the Minister of Health of August 16, 2018 regarding the organizational standard of perinatal care, are relevant as they do not differentiate the organization of perinatal care in the case of women with disabilities. Regardless of the level of physical, mental or cognitive abilities of patients, doctors of all specialties (gynaecological-obstetric advice should not be an

[3] Article 12 paragraph 2 of the Act - Teacher's Charter (Journal of Laws of 2018, item 967, consolidated text).

exception) are subject to the same rules of conduct with patients with disabilities as in relation to patients without disability. Both information on specific medical activities as well as acquisition of Patient's consent to their performance, respect for privacy, providing a comfortable changing room and proper communication skills with the patient should be the standard applicable to all patients. Undoubtedly, providing health care for patients with various disabilities requires not only appropriate architectural adaptation of medical entities to their needs, proper organization of patient registration as well as high commitment, understanding and proper communication by medical personnel. Therefore, a project called *Accessibility Plus for health*, financed from the funds of the Operational Program Knowledge Education Development 2014-2020 has been implemented in the Department of e-Health of the Ministry of Health. The aim of this project is to support – at its first stage – 25 hospitals and 125 primary care units in the process of adapting them to the needs of people with disabilities (ultimately 50 hospitals and 250 primary care units units). Availability of the above entities will be comprehensive and will refer to 4 areas of accessibility: architectural, digital, communicational and organizational. Hospitals and primary care units will receive grant support for which they will be eligible to apply in two open calls. The planned date of launching the calls in case of primary care units would be in June 2019, and for hospitals in July 2019.

Ad part VI „Health" paragraph 45

According to the report "the infertility treatment is no longer being funded by the State". It is difficult to agree with this statement, as the health policy programme of the Minister of Health titled: "Comprehensive reproductive health protection programme in Poland" is being implemented in Poland. The main objective of this programme (implemented from 1 September 2016 to 31 December 2020) is to improve the accessibility of high-quality diagnostics and treatment of infertility.

Both, the assumptions of the current program and its objectives result from the recognition of the problem of reproductive health and infertility in a wider spectrum than the "Programme - Treatment of infertility using in vitro fertilization method" which was carried out in 2013-2016. That programme was limited to financing of one of the methods of infertility treatment, omitting issues related to diagnostics and ensuring the availability of services that couples with pregnancy problems could benefit from. The experience gained from the implementation of this program has allowed to conclude that it is necessary to co-finance the development of multifaceted activities related to the diagnosis itself and earlier causative treatment of infertility and to strengthen reproductive health in the population.

This paragraph of the report includes also a statement according to which "women's rights to reproductive self-determination" is seriously restricted. However, the report does not provide any arguments to support this thesis, leaving it impossible to refer to.

Ad Part VI "Health", paragraph 46

According to the report "Adolescent girls face additional barriers in accessing contraceptives, as they require parental consent". It needs to be explained, that the issue of the patient's consent for a health care service is clearly regulated in Poland. The legal basis for the obligation to obtain consent to provide health services are the provisions of the Act of December 5, 1996 on the professions of a doctor and dental practitioner and of the Act of November 6, 2008 on patients' rights and the ombudsman of patients' rights. In light of these regulations, a doctor may conduct an examination or provide other health care services, subject to the exceptions defined in the Act, after obtaining the patient's consent. If the patient is minor or incapable of giving informed consent, the consent of their statutory representative is required, and if the patient does not have a statutory representative or it is impossible to communicate with the representative — a permit from the custody court is required. If it is necessary to examine a minor or a person incapable of giving informed consent, the consent may be expressed by the actual caregiver. If the patient is 16 or older, the patient's consent is required as well. However, if a minor aged 16 or more, an incapacitated person, a mentally ill patient or an intellectually disabled patient, who nevertheless has sufficient insight, objects the medical procedures, then a permit from a custody court will be required alongside the consent of the statutory representative or the

actual caregiver, or if the representative or the caregiver withholds the consent. If the abovementioned people do not have sufficient insight and are not capable of expressing informed consent (due to their condition resulting i.a. from a mental illness, degree of disability or the advancement of reasons for their incapacitation), the decision relating to the consent for examination or other health care services is the responsibility of their statutory representative or the custody court. If the patient is minor or incapable of giving informed consent, does not have a statutory representative or actual caregiver or it is impossible to communicate with these persons, the doctor, after the examination, may proceed to provide further health services — as a rule — only after obtaining the consent of the custody court.

The above-mentioned regulations constitute general principles for granting or refusing the considered consent, therefore they apply to all circumstances relating to the provision of health care services, except for those in relation to which the provisions of separate acts introduce specific regulations.

Moreover, the provisions concerning the patient's ability to express consent for health services are in correlation with the Act of February 25, 1964 the Family and Guardianship Code, according to which a child (and a minor) under the age of 18 shall remain under parental responsibility.

This is related to the fact, that for instance persons under the age of 13 are not capable of directing their own actions and making conscious decisions. If such a patient had an independent (without his/her legal representative) access to reproductive healthcare services, including contraception, it wouldn’t mean that this patient was able to fully assess her/his treatment and the impact it would have on his/her present and future health. It wouldn’t also mean that the person fully understands all aspects of the proposed course of treatment.

The similar situation, however to the lesser extent, is in case of people with limited legal capacity (minors aged 13-18). According to the Polish law parents are generally statutory representatives of a child under their parental responsibility.

Although, the level of mental maturity increases with age and allows for more independent decision-making, but still the child (and minor), due to his or her physical and mental immaturity, requires constant attention necessary for proper, comprehensive development, security, physical integrity or ensuring the proper legal status. Such an attention is an essence of upbringing, that is a parental obligation. Parents in order to fulfil this obligation have the right and responsibility to raise and guide the child. "Guiding a child", as part of parenting means, that parents have the right to decide in important child matters, among others related to all therapeutic activities.

Ad Part VI “Health”, paragraph 47

As far as access to the emergency contraceptive pills (mentioned in the report) is concerned it should be noted, that in 2017 the rules governing access to ATC G03A (hormonal contraceptives for internal use) were unified. By virtue of the Act of May 25, 2017 amending the Act on health care services financed from public funds and certain other acts, which entered into force on 23 July 2017, all hormonal contraceptives for internal use are issued on the basis of a prescription from a doctor.

This is due to the fact that a patient’s use of the medicinal product in question should be preceded by a visit to a doctor specialising in gynaecology, of which a physical examination is an integral part. In addition, the doctor who stores the patient’s medical records is aware of the frequency of prescription of these medicinal products, as well as the occurrence of possible side effects or possible interactions with other medication. Thanks to the regulation, the doctor will be able to assess whether the use of the drug will affect the patient’s health.

It should also be stressed that Article 4(4) of the Directive 2001/83/EC[4] states: "This Directive shall not affect the application of national legislation prohibiting or restricting the sale, supply or use of medicinal products as contraceptives or abortifacients. The Member States shall communicate the national legislation concerned to the Commission." This provision gives Member States **the right to establish restrictions** to both national marketing authorisations **and authorisations granted by the European Commission on the basis of Article 13(1) of Regulation (EC) No 726/2004**[5]**,** which reads as follows: "**Without prejudice to Article 4(4) and (5) of Directive 2001/83/EC**, a marketing authorisation which has been granted in accordance with this Regulation shall be valid throughout the Community".

In conclusion, it should be noted that in line with Article 2(2) of the Act of 7 January 1993 *on family planning, protection of the human foetus and conditions for the admissibility of abortion*, central and local administration authorities, within their respective competences defined in special provisions, are required to guarantee the citizens free access to methods and means for conscious procreation.

Additionally, according to this paragraph of the report, access to emergency contraception in Poland is hampered both by doctors calling on the so-called conscientious objection and refusing, on this basis, to prescribe those pills, as well as by pharmacists, who by invoking this clause refuse to sell the emergency contraception.

It should be clearly emphasized that in Poland the doctor has the right to abstain from performing health services that are inconsistent with his/her conscience (under certain conditions). The nurse and midwife may refuse to perform a medical order and perform other health service that is not in accordance with their conscience or the scope of their qualifications (also under certain conditions)., The pharmacist, however, does not have such a right. Admittedly, there were claims regarding the introduction of the possibility of referring to the so-called "conscience clause" by pharmacists, but they have not contributed to changing the regulations in force in this area.

Ad Part VI "Health", paragraph 48

This paragraph addresses the issue of voluntary sterilisation, pointing out at the same time that "women with intellectual and psycho-social disabilities living in institutions are sterilised" without their free and informed consent.

It should be emphasized that in Poland, surgical sterilisation cannot be treated as a method of contraception, because it involves irreversible loss of the ability of fertilization. The most common type of procedure during surgical sterilisation is the binding of the fallopian tubes. The purpose of this procedure is to close the light or interrupt the continuity of the fallopian tubes. Another method is to attach a clamping clip. The procedures are performed using laparoscopy. Performing a procedure, which leads to losing the ability of conception is only possible if the doctor has established clear health indications (i.e. if the next pregnancy endangers the life or health of the woman). It is the sole responsibility of the doctor to establish clear health indications for such a procedure, as well as the type of procedure to be performed. The doctor declares the health condition of the person concerned after a personal examination of that person, following indications of current medical knowledge, methods and means available to them for prevention, diagnosis and treatment of diseases, and in accordance with the principles of professional ethics and due care.

Simultaneously, it should be pointed out that medical procedures such as bilateral binding and crushing of fallopian tubes, bilateral endoscopic closure of the fallopian tubes or cutting of both fallopian tubes are among the guaranteed services specified in Appendix No 1 to the Decree of the Minister of Health of November 22, 2013 on guaranteed hospital

[4] Directive 2001/83/EC of the European Parliament and the Community code relating to medicinal products for human use of the Council of November 6, 2001.

[5] Regulation (EC) No 726/2004 of the European Parliament and of the Council of March 31, 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency.

health care services. Sterilisation without clear medical indications is prohibited in the Polish law and is subject to punishment pursuant to Article 156(1)(1) of the Act of June 6, 1997 — Penal Code. In light of the provision in question, causing serious damage to health in the form of, i.a, deprivation of human reproductive capacity is punishable by imprisonment for a term of between 1 and 10 years.

In light of the above, it is difficult to understand the statement that "women with intellectual disabilities are subjected to sterilisation without obtaining their free and informed consent" (it is illegal and penalized). The issue of the patient's consent for a health care service is clearly regulated in Poland. The legal basis for the obligation to obtain consent to provide health services is the provision of the Act of December 5, 1996 on the professions of a doctor and dental practitioner and of the Act of November 6, 2008 on patients' rights and the ombudsman of patients' rights. In light of the above regulations, a doctor may conduct an examination or provide other health care services, subject to the exceptions defined in the Act, after obtaining the patient's consent. If the patient is minor or incapable of giving informed consent, the consent of their statutory representative is required, and if the patient does not have a statutory representative or it is impossible to communicate with the representative — a permit from the custody court is required. If it is necessary to examine a minor or a person incapable of giving informed consent, the consent may be expressed by the actual caregiver. If the patient is 16 or older, the patient's consent is required as well. However, if a minor aged 16 or more, an incapacitated person, a mentally ill patient or an intellectually disabled patient, who nevertheless has sufficient insight, objects the medical procedures, then a permit from a custody court will be required alongside the consent of the statutory representative or the actual caregiver, or if the representative or the caregiver withholds the consent. If the abovementioned people do not have sufficient insight and are not capable of expressing informed consent (due to their condition resulting i.a. from a mental illness, degree of disability or the advancement of reasons for their incapacitation), the decision relating to the consent for examination or other health care services is the responsibility of their statutory representative or the custody court. Only a patient whose physical and mental condition makes it possible to comprehend the information provided by the doctor, and afterwards make a decision about whether or not to undergo a specific medical procedure on the basis of the information provided, is capable of expressing consent to a health care service. The doctor is responsible for deciding whether the patient's condition makes it possible for them to express informed consent.

If the patient is minor or incapable of giving informed consent, does not have a statutory representative or actual caregiver or it is impossible to communicate with these persons, the doctor, after the examination, may proceed to provide further health services — as a rule — only after obtaining the consent of the custody court.

The above-mentioned regulations constitute general principles for granting or refusing the considered consent, therefore they apply to all circumstances relating to the provision of health care services, except for those in relation to which the provisions of separate acts introduce specific regulations.

Ad Part VI "Health", paragraph 50

According to this paragraph "the mechanism for resolving disagreements between the doctors and pregnant women in cases of the risk to pregnant woman's or foetal health, the Patients' Ombudsperson appeal procedure, is not effective".

According to the Act of November 6, 2008 on the patient's rights and the Patient's Rights Ombudsman the patient has a right to object against physician's opinion or medical statement. The objection procedure was adopted as a result of the European Court of Human Rights judgement in Tysiac v. Poland and in order to execute it (and also in order to execute the judgement in R.R. v. Poland).

The objection can be submitted to the Medical Commission at the Patient Rights Ombudsman office if the opinion or judgment affects the patient's rights or obligations determined by the law.

The right to object against physician's opinion or medical statement has a general nature and therefore has not been limited to the case of refusal to terminate pregnancy in circumstances specified by the Act of January 7, 1993 on Family Planning, Protection of Human Fetus and Conditions under which pregnancy termination is permissible. The right to object against physician's opinion or medical statement is actually an effective mechanism of legal protection of patient's rights, inter alia for women who have been refused abortion or referrals for prenatal screening or prenatal screening itself despite the referral.

Additionally, it is important to point out that apart from the objection procedure, the Act of November 6, 2008 on patients' rights and the ombudsman of patients' rights established the Patient's Rights Ombudsman to protect the rights of the patient.

The scope of the Ombudsman's activities include i.a.:

1. conducting proceedings in cases of practices infringing collective rights of patients;
2. conducting proceedings under Art. 50-53 (those articles regulate the ability of the Ombudsman to commence a clarifying investigation in cases of acquiring an information at least making a violation of patients' rights probable);
3. performing certain activities in the civil cases;
4. cooperation with public authorities in order to ensure that patients adhere to their rights, in particular the minister responsible for health;
5. providing the competent public authorities, organizations and institutions, and self-
6. governments of medical professions with assessments and proposals to ensure effective
7. protection of patients' rights;
8. cooperation with non-governmental organizations, social and professional organizations the statutory objectives of which include the protection of patients' rights;
9. analysis of patients' complaints in order to identify the risks and areas of the health care system in need of repair.

It should also be mentioned that in November 2018, in all regional branches of the National Health Fund across Poland, the new Patient Information Helpline was launched. A single unique phone number 800 190 590 for the National Health Service and the Bureau of the Commissioner for Patients' Rights. is a nationwide free-of-charge helpline of the Commissioner for Patients' Rights. The Patient Information Helpline is serviced by several dozens of employees of the Fund's voivodeship branches and the Bureau of the Commissioner for Patients' Rights at the same time. The new single number replaces several numbers which have so far functioned in regional branches of the Fund. It guarantees the fast provision of comprehensive and transparent information on the functioning of the health care system in Poland.

The persons calling this Helpline can obtain information about, among others, the rights of the insured persons, the procedure to report infringement of the patient's rights, the contact data of medical establishments and physicians' offices which signed a contract with the National Health Fund, rules governing the provision of services and the functioning of the public health insurance system.

However, referring to the number of objections to an opinion or medical certificate submitted by a patient or his legal representative, it should be noted that in 2016 the Medical Commission operating at the Patients' Rights Ombudsman considered 2 objections. One of them was received at the end of 2015 and referred to a medical certificate indicating the lack of indications for abortions. In all cases, the Medical Committee unanimously ruled against the objection.

Ad Part VI "Health", paragraph 51

This paragraph concerns the regulatory framework on the exercise of contentious objection, which was considered ineffective. It was also noted that "doctors are no longer obliged to provide referrals since the lifting of the requirement by Constitutional Court ruling in October 2015".

In this respect, it should be clearly emphasised that in Poland the use by doctors of the so-called "conscience clause" has been regulated in a manner ensuring, on the one hand, the exercise of the doctor's right to refrain from performing a service contrary to their conscience, and on the other hand, enabling the patient to obtain the service to which they are entitled (as well as the exercise of the patient's right to information). Patients' rights in the above-mentioned scope have not been weakened in connection with the ruling of the Constitutional Tribunal of 7 October 2015, file No K 12/14.

Currently, pursuant to Article 39 of the Act of 5 December 1996 on the professions of a doctor and dental practitioner, a doctor may refrain from performing health services contrary to their conscience, subject to Article 30 of the same Act (in so far as it provides for the obligation of a doctor to provide medical assistance whenever a delay in its provision could result in the risk of loss of life, serious bodily injury or serious disorder of health). The doctor is required to justify and record this fact in the medical records. In addition, a doctor practising their profession on the basis of an employment relationship or in the service is also required to notify their superior in writing in advance. As a result of the above-mentioned ruling of the Constitutional Tribunal, the following provisions of law were repealed:

1) Article 39, first sentence, in conjunction with Article 30 of the Act of 5 December 1996 on the professions of a doctor and dental practitioner, in so far as they impose an obligation on a doctor to perform health services in "other urgent cases" which are incompatible with their conscience;

2) Article 39, first sentence of the Act of 5 December 1996 on the professions of doctor and dental practitioner, in so far as it imposed an obligation on a doctor who refrained from providing health services contrary to their conscience to indicate the real possibility of obtaining such services from another doctor or other medical entity.

Therefore, an analysis was undertaken of the functioning of the provisions, as amended by the Tribunal's judgement, as to whether they safeguard the right of the doctor to refrain from performing such a service, on the one hand, and whether they ensure that the patient receives the service to which they are entitled (and, in this case, also ensure that the patient's right to information is exercised).

In this respect, reference should be made to the applicable provisions of the Act of 15 April 2011 on medical activity. In accordance with Article 14 of the above Act, the entity conducting medical activity publishes information on the scope and types of health care services provided. At the request of the patient, the entity conducting medical activity provides also detailed information on the health care services provided, in particular information concerning the diagnostic or therapeutic methods used and the quality and safety of those methods.

At the same time, it should be noted that health care providers, while providing guaranteed health care services, perform contractual obligations resulting from the agreement concluded in this respect with the National Health Fund. Obligatory provisions of agreements concluded with health care providers have been defined in the General Terms and Conditions of Agreements on the provision of health care services (hereinafter referred to as "GTCA") attached to the decree of the Minister of Health of 8 September 2015 on the general terms and conditions of agreements on the provision of health care services. Pursuant to Article 3 of the GTCA, the provider is required to perform the agreement in accordance with the conditions for providing services specified in the Act and provisions issued on its basis (in particular decrees concerning guaranteed services), general terms and conditions and in accordance with specific terms and conditions of agreements specified by the President of the National Health Fund, and is also required to provide services to the beneficiaries with due diligence and to observe the rights of the patient. Moreover, it should

be pointed out that according to Article 9(1) of the GTCA, the provider provides services throughout the duration of the agreement, in accordance with the work schedule specified in the agreement and the material and financial schedule.

When signing an agreement for the provision of health care services, the provider undertakes to provide all the services defined as guaranteed in the relevant executive decrees to the Act, within the given scope and type of services for which the agreement has been concluded.

It should also be pointed out It is to be underline that in the case of impossibility of providing services, which could not have been predicted earlier, the provider is required to immediately take steps to maintain continuity of services (transferring the patient to another provider which can ensure the indicated service), at the same time notifying the Voivodeship Branch of the Fund on this event and the actions taken.

Moreover, it should be emphasised that according to Article 8 of the GTCA, the provider ensures services in a comprehensive manner, including the performance of the necessary tests, including laboratory tests and imaging diagnostics, as well as medical procedures related to the provision of these services. Therefore, if a doctor practising their profession on the basis of an employment relationship or in the service informs the provider on the refusal to provide the service in the situation specified in Article 39 of the Act of 5 December 1996 on the professions of doctor and dental practitioner, i.e. due to the "contentious objection", the provider is required to ensure the performance of this service in a different way. The manner of providing health care services in a given medical entity should be organised in such a way as to ensure, on the one hand, that doctors are able to exercise their profession in accordance with their conscience and, on the other hand, that patients have undisturbed access to the health services to which they are entitled.

Lack of possibility to provide services constitutes improper performance of the agreement, for which a contractual penalty may be imposed on the provider in accordance with the provisions of Article 29 et seq. of the GTCA, or even termination of the agreement in accordance with the provisions of Article 36 of the GTCA.

As a rule, therefore, all medical entities (hospitals) that have concluded agreements with the National Health Fund are required to provide the services provided for therein — to the full extent and in accordance with the applicable law. The application of the "contentious objection" should not affect this obligation.

In addition, it is also important that conscience is an individual category, so only particular individuals can invoke the contentious objection. It is a right to free (i.e. free from any pressure) self-determination in matters of world view, which is not fulfilled by a collective refusal.

To sum up, if a doctor refrains from performing health care services inconsistent with their conscience, the information obligation regarding the manner of performance of the agreement with the National Health Fund in this respect lies with the provider, i.e. the medical entity, in which the doctor refrained from performing this service.

Ad Part VII "Family and culture", paragraph 60

It should be noted that a change will be introduced in the Programme "Family 500 plus" in 2019. The Programme will be amended by including also the first or only child being raised until turning 18, regardless of the income. At present, the right to a 500+ child-support benefit for the first child (the only or eldest child in the family up to 18 years of age), is conditioned on the criterion of income. The income needs to be no more than PLN 800 net per month per person in the family, or PLN 1,200 net per person in the family if a disabled child is a member of the family.

The scope of the 500+ child-support benefit will be broadened to include more support for families raising children, by enabling them to partially cover the expenses associated with the satisfaction of life needs and upbringing of their children. The solution will enter into force in July 2019.

Ad Part VII "Family and culture", paragraph 64

With reference to the availability of child care facilities for children up to the age of three, it is necessary to pay attention to the ratio of children under care of institutions. The indicator mentioned in the report does not reflect the real situation in Poland. It is recommended to use the data of the Ministry of Family, Labour and Social Policy. The ratio was 8,3% in 2013, 16% in 2017 and 19,8% in 2018. The ratio takes into account places provided by nurseries, children's clubs, day-care providers, and nannies. Since the introduction of annual parental leave in 2013, the ratio is calculated for children aged 1-3 (without three-years-olds), because the number of children up to 1 year in childcare institutions fell to 2%.

Ad Part VII "Family and culture", paragraph 66

In the opinion of Polish authorities, the problem of combating family violence is a significant social issue, and a number of measures have been taken with a view to assuring safety to victims.

Ad Part VII "Family and culture", paragraph 71

The existing system of combating violence in Poland is to a large extent compatible with the premises of the Council of Europe Convention on preventing and combating violence against women and domestic violence. Its objective is to prevent violence and protect the victims. Furthermore, a number of measures are being undertaken with a view to fulfilling all of the Convention's premises. A round-the-clock national helpline has been set up for the victims of violence, and an additional facilities providing assistance to victims have been opened. Despite the fact that the Act on Prevention of Violence in Family makes no direct reference to economic violence, it must, be stressed that such violence is treated as a form of psychological violence and appropriate support is provided to the victims.

Ad Part IX "Conclusions and recommendations", paragraph 82, Recommendations with regard to economic and social life, no 4-5

Based on previous explanations, Poland considers the recommendations for the education system formulated in the *Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Poland* to be unfounded.