

POLAND

SUBMISSION TO THE UN COMMITTEE ON THE ELIMINATION
OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN,
93RD PRE-SESSIONAL WORKING GROUP, 7 - 11 JULY 2025,
LIST OF ISSUES PRIOR TO REPORTING



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Amnesty International presents this submission to the UN Committee on the Elimination of Discrimination against Women in advance of the adoption of lists of issues prior to reporting on Poland in July 2025. The submission has a specific focus on the severe limitations to abortion access and persecution of women human rights defenders in Poland. Amnesty International also analyses the threats of gender-based violence and the relevant legislation in Poland. It should not be seen as an exhaustive account of the organization's concerns on the wider topic of discrimination against women.

1. INTRODUCTION

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2. WOMEN'S RIGHT TO HEALTH AND ACCESS TO FREE, SAFE AND LEGAL ABORTION IN POLAND (ARTICLES 10(H), 12(1), 14(B) AND 16(E))

2.1 ABORTION LAW

Poland has one of Europe's most restrictive abortion laws, which further deepens the power imbalances between men and women or others who can become pregnant - who often suffer disproportionately from the consequences of unwanted pregnancies. The law undermines access to lawful abortion when the pregnancy results from sexual violence, it also leads to harassment and intimidation of those who legally exercise their right to abortion¹. On 22 October 2020, Poland's discredited Constitutional Tribunal ruled that abortion on grounds of "severe and irreversible foetal defect or incurable illness that threatens the foetus' life" was unconstitutional. The ruling eliminated one of few legal grounds for abortion under Poland's highly restrictive law and its entry into force means that there is now effectively a near-total ban on abortion in Poland. Previously, over 90% of the approximately 1,000 lawful abortions annually performed in Poland were on this ground². Following this change in law, abortion in Poland is only legal when the health or the life of the pregnant person is at risk or when the pregnancy is the result of rape or incest. Performing own abortion or possession of abortion pills for a self-managed abortion is not a crime under Polish law, but any person or doctor who assists pregnant people with an abortion outside the two grounds permitted in law and outside of a permissible medical setting and in violation of regulations on medicines, would also commit an offence. In practice, it is almost impossible to have access to a lawful abortion in Poland³. Those who

¹ Cf. Anna Frydrychewicz, "Będą ratować płód, a nie mnie". *Młode Polki szczerze o obawie przed zajściem w ciążę*, Onet, 16 March 2023,

² Julia Theus, Drastycznie zaniżone dane. Oficjalnie tylko 161 kobiet przerwało ciążę w 2022 roku. To fałsz, OKO.press, 28 July 2023, <https://oko.press/161-tyle-kobiet-oficjalnie-przerwalo-ciaze-w-ostatnim-roku>

³ Magdalena Chrzczonowicz, 46 tys. osób mogło przerwać ciążę w ostatnim roku dzięki Aborcji Bez Granic [NOWE DANE], OKO.press, 22 October 2023, <https://oko.press/aborcja-bez-granic-raport>

may become pregnant, particularly those in difficult socio-economic situations, have to seek to access abortion in other ways⁴.

2.2 CRIMINALIZATION OF ABORTION

The criminalized approach to abortion in Poland creates barriers to other essential sexual and reproductive health services such as miscarriage care and post-abortion care. Consequently, women whose life or health is at risk, as well as victims of rape and sexual violence are denied proper medical care. Shocking cases have come to light in the media showing the effects of fear of criminal liability. According to media reports, in May 2023 a 33-year-old woman went to a hospital suffering pregnancy complications, and was denied treatment because hospital staff prioritized the potential life of her foetus above her own health and life⁵. She died a possibly preventable death days later. She is one of at least six women to have died in similar circumstances since January 2021 according to media reports⁶. In July 2023, J, a 32-year-old woman at the time, spoke to the media about the distressing and humiliating treatment she experienced months prior at a hospital in Kraków. According to her testimony, after taking abortion pills in April, she consulted her psychiatrist about her persistent anxiety. Shortly thereafter police showed up at J's apartment. The police confiscated her laptop and cell phone and escorted her to a hospital, where female officers made her undress, squat, and cough, while she was still bleeding. The police were looking for evidence on who helped Joanna with her abortion and in recent ruling the President of the Personal Data Protection Office found the police liable for breach of her privacy⁷.

Even though the ruling of the Constitutional Tribunal spurred the country's largest public protests in decades⁸ led by women Human Rights Defenders, efforts to decriminalize abortion remain unsuccessful. In July 2024 the Parliament rejected the bill removing Article 152 of the Polish Criminal Code which criminalizes helping someone else with an abortion outside the limited legal grounds⁹.

On 9 August 2024 the Prosecutor General published new Guidelines on conducting proceedings regarding refusals to terminate a pregnancy and medical abortion¹⁰, followed by the guidelines of the Minister of Health for hospitals¹¹. The new guidelines do not

⁴ Center for Reproductive Rights, Poland: A Year On, Abortion Ruling Harms Women Anniversary Marks Ongoing Assault on Women's Rights, Rule of Law, 19 October 2021, <https://reproductiverights.org/poland-a-year-on-abortion-ruling-harms-women/>

⁵ Euronews, "Poland launches investigation into abortion-related death of pregnant woman", 6 August 2023, www.euronews.com/2023/06/08/poland-launches-investigation-into-abortion-related-death-of-pregnant-woman

⁶ Human Rights Watch, "Poland: Abortion Witch Hunt Targets Women, Doctors", 14 September 2023, www.hrw.org/news/2023/09/14/poland-abortion-witch-hunt-targets-women-doctors

⁷ Decision of the President of the Personal Data Protection Office No DS.523.4750.2023
<https://uodo.gov.pl/decyzje/DS.523.4750.2023>

⁸ Amnesty International, *Polska: Rok po wydaniu orzeczenie aborcyjne szkodzi kobietom*, 22 October 2021
<https://www.amnesty.org.pl/polska-rok-po-wydaniu-orzeczenie-aborcyjne-szkodzi-kobietom/>

⁹ <https://www.sejm.gov.pl/sejm10.nsf/agent.xsp?symbol=glosowania&NrKadencji=10&NrPosiedzenia=15&NrGlosowania=9>

¹⁰ Wytyczne Nr 924 w sprawie zasad postępowania powszechnych jednostek organizacyjnych prokuratury w zakresie prowadzenia spraw dotyczących odmowy dokonania przerwania ciąży oraz tzw. aborcji farmakologicznej, 9 August 2024, <https://www.gov.pl/attachment/43d4d07f-8d6b-468a-a5a871a0f74ea94e>

¹¹ Wytyczne w sprawie obowiązujących przepisów prawnych dotyczących dostępu do procedury przerwania ciąży, <https://www.gov.pl/attachment/f3219080-ab81-45f6-a25b-025982525aee>

change the very restrictive conditions under which a lawful abortion can be performed¹² and they can be easily changed or amended by the next Prosecutor General, or Minister of Health.

To conclude, the situation in Poland in terms of access to abortion did not change since CEDAW published its comprehensive inquiry report on 26 August 2024.¹³ The recommendations contained in this report have not been implemented.

RECOMMENDATIONS TO THE POLISH AUTHORITIES:

- Provide access to comprehensive sexual and reproductive health services, goods and information, and enact a regulatory framework for abortion care aligned with the 2022 WHO Abortion Care Guideline.
- Decriminalize assistance with abortion in all circumstances,
- Remove Article 152, which criminalizes abortion, from the Polish Criminal Code.
- Remove all other barriers which prevent pregnant people from accessing lawful abortion services.

3. FAILURE TO PROTECT WOMEN HUMAN RIGHTS DEFENDERS (ARTICLES 2 AND 3)

3.1 DEFENDERS SUPPORTING SELF-MANAGED ABORTION

Women human rights defenders, especially those who support self-managed abortion face harassment and persecution for their work. For example, in November 2021, the then Prosecutor General brought charges against JW, a doula, an activist and cofounder of Women on the Web and Abortion Dream Team, an informal initiative to educate and destigmatize abortion - for “helping with an abortion” and “possession of medicines without authorisation for the purpose of introducing them into the market”¹⁴. JW supported a pregnant woman, who said she had been subjected to domestic violence, to access abortion pills. The woman never used the pills as they were found by her partner who notified the police. However, JW was charged with and found guilty of the offence of assisting with an abortion. JW was sentenced to 8-months of community service. She appealed the verdict, and as on 13 February 2025 the Court of Appeal’s decision was to refer the case back to a lower instance court, where her case is still pending. Following this judgement Amnesty International reiterated¹⁵ its calls to the Prosecutor General to drop the charges against JW¹⁶. It was the first time in Europe when an activist is being prosecuted

¹² Amnesty International, Dlaczego rok po dojściu koalicji Donalda Tuska do władzy dostęp do bezpiecznej, legalnej aborcji nadal jest w Polsce odległym marzeniem?

<https://www.amnesty.org.pl/dlaczego-rok-po-dojsciu-koalicji-donald-tuska-do-wladzy-dostep-do-bezpiecznej-legalnej-aborcji-nadal-jest-w-polsce-odleglym-marzeniem/>

¹³ Press releases: Treaty bodies Poland violated women’s rights by unduly restricting access to abortion, UN committee finds, 26 August 2024 <https://www.ohchr.org/en/press-releases/2024/08/poland-violated-womens-rights-unduly-restricting-access-abortion-un>

¹⁴ Amnesty International, Poland: Charges against activist accused of aiding an abortion must be dropped, 13 July 2022 <https://www.amnesty.org/en/latest/news/2022/07/poland-charges-against-activist-accused-of-aiding-an-abortion-must-be-dropped-2/>

¹⁵ PILNA AKCJA: Stań w obronie Justyny wspierającej osoby potrzebujące aborcji!
<https://www.amnesty.org.pl/akcje/stan-w-obronie-justyny/>

¹⁶ <https://www.amnesty.org.pl/ponad-760-tys-glosow-wsparcia-dla-justyny-wydrzynskiej/>

for aiding an abortion by providing abortion pills and when a human rights defender advocating for access to abortion has been sentenced under such law. At this time, there are several other cases brought against family members or activists who allegedly helped with abortion being investigated or being processed in courts in Poland¹⁷.

RECOMMENDATION TO THE POLISH AUTHORITIES:

- With a view to fulfil the obligation to respect and protect the right of all abortion rights defenders to conduct their legitimate activities without fear of legal sanction, the Prosecutor General should review and discontinue proceedings against all individuals investigated or charged with either having an abortion, miscarriage, or obstetric emergency or for providing or facilitating access to abortion information, medication, or services¹⁸.

4. FAILURE TO UPHOLD RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY FOR WOMEN (ARTICLE 3)

In October 2020, the Constitutional Tribunal’s ruling on the unconstitutionality of one of the grounds for permitting lawful abortion triggered mass peaceful demonstrations.¹⁹ Protests were met with a largely disproportionate reaction from the authorities reflective of structural inequalities and biases against women within the police, who responded with unnecessary force against protesters and journalists, including the use of batons and pepper spray²⁰. Women human rights defenders and civil society organizations advocating for the ruling to be overturned and for reform of Poland’s abortion law faced threats of violence and several protesters were prosecuted for creating an “epidemiological threat” due to protesting during the Covid-19 pandemic²¹. The January 2021 publication of the ruling led to further protests. During demonstrations held on 27 January in Warsaw, the police arrested 20 protesters and filed 250 cases against them. Charges included assault on a police officer, violation of physical integrity and insulting police officers. The police took the arrested protesters to stations outside Warsaw, which hindered their timely access to lawyers²².

¹⁷ Amnesty International, An unstoppable movement: A global call to recognize and protect those who defend the right to abortion, 24 November 2023 (Index Number: POL 40/7420/2023)

<https://www.amnesty.org/en/documents/pol40/7420/2023/en/>

See also: Rzeczpospolita: Partner pomógł kobiecie w aborcji. Dostał wyrok bezwzględnego więzienia,

www.rp.pl/prawo-karne/art316711-partner-pomogl-kobiecie-w-aborcji-dostal-wyrok-bezwzględnego-wiezienia

¹⁸ Key Principles and Actions to Safeguard Abortion Care Providers as Human Rights

Defenders <https://www.amnesty.org/en/documents/pol30/8739/2024/en/>

¹⁹ Amnesty International, *Polska: Rok po wydaniu orzeczenie aborcyjne szkodzi kobietom*, 22 October 2021

<https://www.amnesty.org.pl/polska-rok-po-wydaniu-orzeczenie-aborcyjne-szkodzi-kobietom/>

²⁰ Amnesty International, *Policja musi wyjaśnić nadużycia wobec pokojowych demonstrantów*, 4 February 2021

<https://www.amnesty.org.pl/policja-musi-wyjasnic-naduzycia-wobec-pokojowych-demonstrantow>

²¹ Human Rights Watch, *Poland: Escalating Threats to Women Activists*, 31 March 2021

<https://www.hrw.org/news/2021/03/31/poland-escalating-threats-women-activists>

²² Amnesty International, *Policja musi wyjaśnić nadużycia wobec pokojowych demonstrantów [Police must explain abuses against peaceful protesters]*, 4 February 2021

<https://www.amnesty.org.pl/policja-musi-wyjasnic-naduzycia-wobec-pokojowych-demonstrantow>

Amnesty International recommends that the Government of Poland should ensure that any restriction on public assemblies is consistent with international law and that the Code of Petty Offences is not misused to suppress the freedom of assembly²³.

RECOMMENDATIONS TO THE POLISH AUTHORITIES:

- Drop all charges against women human rights defenders and refrain from bringing any other charges with the intention to criminalize them for providing support to people seeking an abortion.
- Ensure that any restriction on public assemblies is consistent with international law. Decisions to ban a demonstration should only be the last resort after a thorough assessment where no less restrictive means could achieve the desired aim.
- Ensure that any use of force must comply with the principles of non-discrimination, legality, necessity and proportionality, and precaution, and those using force must be accountable for each use of force
- Ensure that the Code of Petty Offences is not misused to suppress the freedom of assembly.

5. VIOLENCE AGAINST WOMEN (ARTICLE 2 (C&D) AND GR 35)

5.1 DEFINITION OF RAPE

In June 2024, the Polish Parliament passed an amendment to the Criminal Code, introducing a new definition of rape that criminalizes sexual intercourse without consent. According to the new law, rape is defined as subjecting another person to sexual intercourse through violence, unlawful threat, deception, or by any other means despite their lack of consent. The new law came into force on 13 February 2025. The long-awaited amendment introduces a concept of consent into Article 197 of the Polish Criminal Code. The previous wording of the definition of rape in the Polish Criminal Code had detrimental consequences as trials tended to focus on establishing whether the alleged perpetrator used force, unlawful threat or deceit to overcome the victim's "resistance". This wording often resulted in the authorities focusing not on the survivor's absence of consent, but rather on the level of opposition, how that was communicated, and for how long²⁴. The new law recognizes that sex without consent is rape, bringing it in line with international human rights standards.

However, the revised law continues to overlook a significant inequality in the Criminal Code, in breach of international human rights law. Article 198 penalizes taking advantage of a person's vulnerability or mental disability or disorder to subject them to sexual intercourse or to make them submit to another sexual act or perform such an act. This is a mitigated form of rape which carries a penalty of 6 months to 8 years imprisonment while the base form carries a penalty of 2 to 15 years. As a consequence sexual violence against persons

²³ Ibidem.

²⁴ Judgment of the Supreme Court of 18 February 2014 (case no. II KK 19/14), <http://www.sn.pl/sites/orzecznictwo/Orzeczenia3/II%20KK%2019-14.pdf>

with mental disabilities or disorders is punished less severely. This only adds to a systemic disregard for the rights of persons with disabilities²⁵.

Rape is an equally brutal and harmful act committed against persons with mental disabilities and disorders, and everyone, no matter their mental health status, should be equally protected from sexual violence. The wording of Article 198 may lead to an interpretation that when people with disabilities are raped, the fact they have such disabilities should be considered a mitigating circumstance, thus focusing on their purported helplessness, potential dependence or disability rather than their sexual autonomy and right to be free from violence.

RECOMMENDATIONS TO THE POLISH AUTHORITIES:

- When conducting criminal proceedings implement the amended definition of rape in the Criminal Code which recognizes that sex without consent is rape.
- Reform all sexual offences contained in Chapter XXV of the Polish Criminal Code so that all instances of rape carry the same criminal sanction.

5.2 TECHNOLOGY-FACILITATED GENDER-BASED VIOLENCE

Technology-facilitated gender-based violence poses a threat to anyone, regardless of age or gender, but it is clear that it most often affects young women and girls, limiting their ability to enjoy equal opportunities in social and economic life, which increasingly takes place online. Women and girls are left isolated with a feeling of helplessness when faced with cyberbullying. A survey of 1088 people commissioned by Amnesty International in February 2023 found that one in 10 people in Poland (9.5%) has personally experienced cyberbullying, and young girls aged 18-24 experience it almost twice as often (17.8%). A similar disparity occurs in regard to witnessing online violence. Some 18% of the population say they have witnessed online violence, while as many as 38.2% of young girls say they have encountered cyberbullying in their environment. The data shows that various forms of cyberbullying disproportionately affect girls. Similar conclusions are drawn from the analysis of the primary drivers of online violence. The top five reasons for cyberbullying included: appearance (46.7%), sexual orientation (38.1%), financial situation (34.4%), gender (31.5%) and gender identity (30%). Appearance – as a factor associated with the occurrence of cyberbullying – was disproportionately more common among women (53.3% vs. 38.3% men) and girls (74.7% vs. 55% boys). Over 70% of respondents also recognized that gender-based violence affected women and girls (71.8%), followed by non-binary and transgender people (51.8%), while only one in three people noticed cyberbullying directed at men or boys (32.9%). The survey also indicates that respondents believe that those who face gender-based violence online cannot count on help from neither online platforms nor public authorities²⁶. The Polish government, especially the

²⁵ Amnesty International, Polska: Definicja gwałtu oparta na zgodzie to kluczowy krok w pożądanym kierunku, jednak nie chroni najbardziej narażonych osób, 8 July 2024 <https://www.amnesty.org.pl/polska-definicja-gwaltu-kluczowy-krok-jednak-nie-chroni-najbardziej-narazonych/>

²⁶ Amnesty International, Cyberprzemoc krzywdzi naprawdę, 30 March 2023 <https://www.amnesty.org.pl/badania-prawie-co-piata-mloda-dziewczyna-doswiadczyła-cyberprzemocy/> - findings of the survey of 1088 people conducted by SW Research agency in February 2023 commissioned by Amnesty International

Office of the Government Plenipotentiary for Cybersecurity, should take action introducing a clear definition of cyber-violence and implementing relevant protective measures into Polish legal system.

An opportunity to introduce protection against cyber-violence emerges as Poland is obligated to implement the Digital Services Act. The general date of applicability of the EU regulation - aimed to create a safer digital space where the fundamental rights of users are protected - was 17 February 2024. However, over a year later Poland is yet to designate the Digital Services Coordinator facing an infringement procedure and further delaying enforcement of the DSA in the country²⁷.

RECOMMENDATIONS TO THE POLISH AUTHORITIES:

- Immediately implement Digital Services Act in Poland.
- Introduce protection mechanisms against technology-facilitated gender-based violence by introducing the definition of cyber-violence and implementing relevant protective measures into Polish legal system.

5.3 HATE CRIMES

For years Polish criminal law did not sufficiently protect against hate crimes, especially those committed on grounds of gender, gender identity and sexual orientation²⁸. Poland does not recognize a general need of protection from criminal offences motivated by bias against a person's gender. This is well illustrated by the wording of Article 119 of the Criminal Code, which states that: § 1. Whoever uses violence or unlawful threat against a group of persons or an individual because of their national, ethnic, racial, political, religious affiliation or because of their lack of religious identity, shall be subject to a penalty of imprisonment from 3 months to 5 years. Similarly, Article 257 of the Criminal Code criminalizing hate speech and violations of bodily integrity only mentions grounds of national, ethnic, racial, religious affiliation, or lack of religious identity. These provisions exclude several marginalized groups who often experience hate crimes in Poland, including LGBTI persons, women or human rights defenders²⁹.

On 26 March 2025 Polish Parliament adopted an amendment that extends the list of protected characteristics to also include age, disability, gender and sexual orientation. The amendment extends the scope of hate crimes provisions also to cases when the discriminatory motive is based on assumption or association to the protected characteristic. However, on 17 April 2025 Poland's President referred the new regulation to the discredited Constitutional Tribunal, which leaves its entering into force uncertain. Moreover, the amendment, regardless the voices of civil society organizations, excludes

²⁷ European Commission, Shaping Europe's digital future, <https://digital-strategy.ec.europa.eu/en/policies/dsa-dscs>

²⁸ Amnesty International, They Treated Us Like Criminals. From Shrinking Space to Harassment of LGBTI Activists, (Index: EUR 37/5882/2022), 20 July 2022, <https://www.amnesty.org/en/documents/eur37/5882/2022/en/>

²⁹ Amnesty International: Poland: Targeted by hate, forgotten by law: Lack of a coherent response to hate crimes in Poland, 17 September 2015, Index Number: EUR 37/2147/2015 and

Amnesty International: Poland: "They Treated Us Like Criminals": From Shrinking Space to Harassment of LGBTI Activists, 20 July 2022 Index Number: EUR 37/5882/2022

gender identity which poses a serious threat that trans and binary people will be still denied the much-needed protection. In that regard Amnesty International recommends that the Polish authorities continue their work to further extend the scope of protection against hate crimes.

RECOMMENDATIONS TO THE POLISH AUTHORITIES:

- Amend the existing law on hate crimes in order to ensure that the list of protected characteristics is an open-ended list and, as a minimum, explicitly includes gender, age, disability, sexual orientation and gender identity.

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