

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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POLAND: PROSECUTED DOCTOR WHO PROVIDED AN ABORTION ACTED LAWFULLY AND UPHELD PATIENT'S HUMAN RIGHTS

Amnesty International urges the Polish authorities to discontinue the prosecutorial investigation into the conduct of Dr Gizela Jagielska who provided a lawful late-term abortion in October 2024 at her hospital in Oleśnica, in the South-West of Poland. Dr Jagielska provided this medical treatment on the ground of risk to the patient's health, a lawful ground for obtaining an abortion under Polish law at any point in the pregnancy. Under Article 4(a)1(1) of the Polish Act on Family Planning, Human Embryo Protection, and Conditions of Legal Pregnancy Termination, "a pregnancy termination may be performed only by a medical doctor, in the event that the pregnancy poses a threat to the life or health of the pregnant woman". Importantly, the abortion took place in the third trimester of the pregnancy as, according to the patient's statements to the media, she was provided with misleading and incomplete information and not treated adequately by other medical professionals for a prolonged period of time earlier in the pregnancy, which delayed her access to the timebound and urgent medical care she needed and had a right to receive. The patient also reported having been refused access to abortion at another medical facility prior to contacting Dr Jagielska, as well as having been detained at a psychiatric hospital without consent and spending three days in isolation.

On 9 April 2025, the District Prosecution Service in Oleśnica announced that it was opening an investigation into Dr Jagielska's conduct under Article 152 of the Polish Criminal Code, which states:

"§ 1. Whoever, with the consent of a woman, terminates her pregnancy in violation of the provisions of the Act, shall be subject to the penalty of imprisonment for up to 3 years.

§ 2. The same penalty shall be imposed on anyone who provides assistance to a pregnant woman in terminating her pregnancy in violation of the provisions of the Act or persuades her to do so.

§ 3. Whoever commits the act specified in § 1 or 2, when the conceived child has achieved the capacity to live independently outside the body of the pregnant woman, shall be subject to the penalty of imprisonment for a term of 6 months to 8 years."

Dr Gizela Jagielska has since been exposed to physical and verbal attacks, threats, smears and intimidation in person and online, including anti-Semitic attacks, and had her personal information, including her home address, exposed publicly, together with calls inciting to violence against her. On 16 April 2025, Grzegorz Braun, a Member of the Polish and European Parliaments, broke into the hospital in order to conduct a "citizen's arrest" of Dr Jagielska and physically prevented her from leaving her office and conducting her professional duties for a period of time.

Instead of investigating Dr Jagielska's conduct, the Polish authorities should continue to investigate the physical and online attacks on her and protect her safety. Furthermore, the Ministry of Health should investigate the detention of Dr Jagielska's patient in a psychiatric hospital, as well as the adequacy and timeliness of the medical treatment provided to Dr Jagielska's patient which resulted in severe delays in her accessing lawful and timebound healthcare which she needed and had the right to receive. The Ministry of Health should also put into place internal accountability mechanisms to ensure such delays do not happen in the future, that patients' human rights are not violated, and their health and life are not put at risk.

Abortion is an integral part of comprehensive sexual and reproductive health services and as essential healthcare, it should not be treated as a crime. Access to abortion is a human right as per international human rights law and standards. It is a right implicating all other human rights, including the right to physical and mental integrity, the right to health and the right not to be unlawfully and arbitrarily killed through the withdrawal of safe services or subjected to ill-treatment. It is essential for the dignity of all women and girls, and of everyone who can become pregnant. Those who defend and enable the exercise of that right, like Dr Jagielska, deserve respect and protection, not prosecution or intimidation.

DEMONISATION OF ABORTION PROVIDERS

Much of the media coverage in Poland and some medical professionals' commentary on the prosecutorial investigation of Dr Jagielska has centred on the question of abortion provision later in pregnancy. Polish law, namely the Act on Family Planning, Human Embryo Protection, and Conditions of Legal Pregnancy Termination states that healthcare providers in Poland can provide abortions if a pregnant woman's health or life is at risk or if the pregnancy is a result of a crime. There is no gestational limit for when the pregnancy can be terminated if it is due to a risk to the pregnant person's health or life.¹ "Gestational limits" is a term that refers to the gestational age by which an abortion is legally permitted. "Gestational age" is the common term used during pregnancy to describe the stage of development of one's pregnancy. It is generally measured in weeks, from the first day of the woman's or pregnant person's last menstrual cycle to the current date. A typical pregnancy can range from 38 to 42 weeks, but pregnancy development is also a very individual process.

Some Polish medical professionals have put pressure on the Polish Minister of Health to publicly agree with their statements and their interpretation of Polish law and medical practice. On 10 April 2025, the Polish Society of Gynaecologists and Obstetricians (*Polskie Towarzystwo Ginekologów i Położników*) wrote to the Minister of Health Izabela Leszczyna, arguing that during late pregnancy when "foetal viability" may have been reached, pregnancies should under no circumstances be terminated but rather "the termination should be conducted in a way that could save [the foetus], for instance through early labour induction or a Caesarean section".² The Society's letter to the Minister proposes that "after the foetus has reached the ability to survive outside of the mother's body and if the ground of risk to the woman's life or health is present, the termination of pregnancy, even though completely lawful, cannot however mean deliberately causing the death of the foetus".³ It is important to note that according to medical standards, while gestational age can offer some insights into the likelihood of a foetus' possibility of survival, foetal viability also depends on many other complex factors. Therefore, even when all known variables are taken into account, accurately predicting survival remains uncertain.⁴

The Chairperson of the Society, Professor Piotr Sieroszewski, who according to the information provided to the media by the patient, was among doctors from whom she sought medical treatment before becoming Dr Jagielska's patient and who, according to the patient, refused when she asked for an abortion,⁵ told the Polish Press Agency: "We have asked the Minister [of Health] to determine with the help of lawyers what can and cannot be done in the case of pregnancy after 24 weeks, when we are already dealing with a foetus that can survive on its own. We live in a state of law and we cannot act against the law."⁶

While abortions in later pregnancy are generally rare, there are many reasons why people need them. Many European states do not impose any gestational limits for abortions for medical reasons, in either situations of risk to life or to health of the pregnant person or their pregnancy. The Centre for Reproductive Rights has found that where the pregnant person's health or life are at risk, the standard practice across Europe is to not impose gestational limits.⁷ In line with international human rights law and standards, states are required to ensure access to safe and legal abortion to protect women's, girls' and every pregnant person's life and health at all stages of pregnancy without discrimination.

For example, the United Nations Human Rights Committee in its General Comment 36 on the Right to Life has prohibited states from regulating abortion in a manner that runs contrary to their duty to ensure that women, girls and all pregnant people do not have to undertake unsafe abortions, and has affirmed that "[a]lthough States parties may adopt measures designed to regulate voluntary terminations of pregnancy, such measures must not result in violation of the right to life of a pregnant woman or girl, or her other rights under the Covenant. Thus, restrictions on the ability of women or girls to seek

¹ Act on Family Planning, Human Embryo Protection, and Conditions of Legal Pregnancy Termination, 7 January 1993, isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19930170078.

² Polish Society of Gynaecologists and Obstetricians, Letter of the Board of the Polish Society of Gynecologists and Obstetricians, 11 April 2025, www.ptgin.pl/aktualnosc/interpelacja-zarzadu-glownego-polskiego-towarzystwa-ginekologow-i-poloznikow.

³ Polish Society of Gynaecologists and Obstetricians, Letter of the Board of the Polish Society of Gynecologists and Obstetricians, 11 April 2025, www.ptgin.pl/aktualnosc/interpelacja-zarzadu-glownego-polskiego-towarzystwa-ginekologow-i-poloznikow.

⁴ American Society of Obstetricians and Gynaecologists, "Facts Are Important: Understanding and Navigating Viability", <https://www.acog.org/advocacy/facts-are-important/understanding-and-navigating-viability>.

⁵ Gazeta Wyborcza, "Anita: Zamknęli mnie na oddziale psychiatrycznym. Miałam urodzić chore dziecko i oddać je do badań", 17 March 2025, wyborcza.pl/7,75398,31655606,anita-zamkneli-mnie-na-oddziale-psychiatrycznym-mialam-urodzic.html.

⁶ Onet, "Głośna sprawa aborcji w dziewiątym miesiącu. Ginekolodzy zwrócili się do resortu zdrowia" (after Polska Agencja Prasowa – Polish Press Agency), 15 April 2025, wiadomosci.onet.pl/kraj/glosna-sprawa-aborcji-ginekolodzy-zwrocili-sie-do-resortu-zdrowia/h0ykd8j.

⁷ Centre for Reproductive Rights, "European Abortion Laws. A Comparative Overview", September 2023, reproductiverights.org/european-abortion-laws-comparative-overview/.

abortion must not, inter alia, jeopardise their lives, subject them to physical or mental pain or suffering which violates [ICCPR] article 7, discriminate against them or arbitrarily interfere with their privacy.”⁸

Further, over the years public health and social science research has demonstrated that gestational limits may constitute an arbitrary and discriminatory barrier to accessing services, which has a disproportionate impact on the human rights of women and girls.⁹ The negative impact of gestational limits on access to quality health care has been recognized by the World Health Organization.¹⁰ Gestational limits can deny people who need abortions access to services, disproportionately impacting those from poorer and/or marginalized backgrounds. Health professionals can also be arbitrarily precluded from considering all medical and clinical options with the best interest of their patient in view and there is a tendency to over apply the legal requirement of gestational limits due to the chilling effect they can have.

In its Abortion Care Guideline, the World Health Organization has pointed out that gestational limits are not evidence-based and that a pregnancy can safely be terminated regardless of gestational age.¹¹ It has also stressed that “gestational age limits have been found to be associated with increased rates of maternal mortality and poor health outcomes” and reminded states that “international human rights law requires States to reform law in order to prevent unsafe abortion and reduce maternal mortality and morbidity.”¹² Accordingly, the World Health Organization recommends against laws and regulations that prohibit abortion based on gestational age limits.¹³ It also recommends full decriminalisation of abortion, noting that criminalisation of providing abortion assistance or care “can cause health workers to act cautiously, fearing criminal prosecution. As a result, they may be hesitant to provide abortion care even in cases of rape, incest and fatal foetal impairment, when denial of abortion could constitute torture, cruel and inhuman treatment or punishment.”¹⁴

The United Nations Human Rights Committee has also found in its 2005 decision in *KL v Peru*, that compelling a 17-year-old girl to carry an anencephalic foetus to term violated her right to be free from cruel and inhuman treatment, arbitrarily interfered with her private life, and failed to provide her with the special care she needed as a child.¹⁵ In finding a violation of torture and other ill-treatment, the Committee recognized that *KL* suffered deep depression which was found to have severely affected her development and future mental health. International human rights bodies have found restrictions on access to abortion in law or in practice to be a violation of state obligations.¹⁶ Governments have been held accountable for not ensuring that abortion is available in cases when the life or health of women and girls is in danger, in cases of fatal foetal impairment and in cases of rape or incest.¹⁷

NEED FOR ACCESS TO ABORTION FOR MEDICAL REASONS AT ANY STAGE OF PREGNANCY

A key aspect of the case at hand is the fact that according to the patient’s statements to the media, she was denied access to the timely care she needed and had a right to due to the numerous failures of the medical professionals she encountered along the way and the lack of lawful abortion provision in Poland in cases of severe or fatal foetal impairment, leading to her only being able to access an abortion at 36 weeks’ gestation. In this case, the foetus had the most severe form of *osteogenesis imperfecta*, a congenital bone disorder, which would have meant the foetus would have died, while suffering greatly shortly after birth if the pregnancy continued.¹⁸

⁸ United Nations Human Rights Committee, General Comment 36 on article 6: right to life, CCPR/C/GC/36, 3 September 2019, para. 8, docs.un.org/en/CCPR/C/GC/36.

⁹ De Londras, F., Cleeve, A., Rodriguez, M.I. et al. “The impact of gestational age limits on abortion-related outcomes: a synthesis of legal and health evidence,” BMC Global and Public Health 3, 7, 2025, doi.org/10.1186/s44263-025-00124-2.

¹⁰ World Health Organisation, “Safe abortion: Technical and policy guidance for health systems” (2nd ed., 2012), p. 93-94, iris.who.int/bitstream/handle/10665/70914/9789241548434_eng.pdf.

¹¹ World Health Organization, “Abortion Care Guideline”, 2022, para 2.2.3, iris.who.int/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1.

¹² World Health Organization, “Abortion Care Guideline”, 2022, p 28, iris.who.int/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1.

¹³ World Health Organization, “Abortion Care Guideline”, 2022, iris.who.int/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1.

¹⁴ World Health Organization, “Abortion Care Guideline”, 2022, p 25, iris.who.int/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1.

¹⁵ United Nations Human Rights Committee, Views: *KL v Peru*, Communication No. 1153/2003, U.N. Doc. CCPR/C/85/D/1153/2003 (22 November 2005), para 6.2, 6.4, 6.5, digitallibrary.un.org/record/575355?ln=en&v=pdf.

¹⁶ See, for example, *LC v Peru*, CEDAW Committee, 2011; *KL v Peru*, Human Rights Committee, 2005; *LMR v Argentina*, Human Rights Committee, 2007.

¹⁷ *KL v Peru*, Human Rights Committee, 2005; *LC v Peru*, CEDAW Committee, 2011; *LMR v Argentina*, Human Rights Committee, 2007; Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Ireland, U.N. Doc. CCPR/C/IRL/CO/4 (19 August 2014), para 9.

¹⁸ Interview with Dr Gizela Jagielska’s lawyer Sabrina Mana-Walasek, 23 April 2025; Gazeta Wyborcza, “Anita: Zamknęli mnie na oddziale psychiatrycznym. Miałam urodzić chore dziecko i oddać je do badań”, 17 March 2025,

In October 2020, when the compromised Constitutional Tribunal ruled to invalidate the constitutionality of access to abortion on the ground of severe or fatal foetal impairments, Amnesty International warned the Polish authorities that the ruling would only lead to further harm to women, girls and everyone who can become pregnant, and violate their human rights and stressed that the decision was contrary to international human rights law and standards.¹⁹ The resulting removal of the legal basis for abortions in cases of severe or fatal foetal impairment contributes to situations such as those in which the patient at the centre of this case was subjected to and compelled to endure.

Amnesty International stresses that the European Court of Human Rights (hereinafter “the Court”) has consistently found – including in several cases against Poland – that the state failure to implement existing abortion laws, and barriers to accessing abortion are violations of the European Convention on Human Rights. In *RR v Poland*, for example, a case concerning the state’s failure to guarantee a woman access to timely prenatal diagnostic examinations and information that were a “necessary prerequisite”²⁰ for determining whether to exercise her right to abortion, the Court found that Poland had violated her rights to freedom from inhuman and degrading treatment and respect for her private life. In assessing the case, the Court noted that “it should be borne in mind that the Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective”.²¹ The Court concluded: “The State is under a positive obligation to create a procedural framework enabling a pregnant woman to exercise her right of access to lawful abortion... In other words, if the domestic law allows for abortion in cases of foetal malformation, there must be an adequate legal and procedural framework to guarantee that relevant, full and reliable information on the foetus’ health is available to pregnant women.”²²

Not only has Poland not implemented this or other relevant European Court of Human Rights judgments to this day, it has also further restricted access to abortion when its compromised Constitutional Tribunal’s ruling came into force in 2021, completely removing the foetal impairment ground from abortion legislation. Under international law, this is a prohibited, retrogressive measure. To prevent future violations of women’s, girls’ and all pregnant people’s human rights, Amnesty International is once again urging the Polish authorities to urgently amend its abortion legislation and ensure access to abortion for all who need it in practice, without discrimination.

ABORTION RIGHTS DEFENDERS AND ABORTION PROVIDERS ARE HUMAN RIGHTS DEFENDERS

Human Rights Defenders (HRDs) are all those who, individually or in association with others, act to defend human rights. They all have a right to be protected, supported and enabled to go about their legitimate activities defending human rights, as recognized in the UN Declaration on Human Rights Defenders.²³

However, many states are still failing to meet their obligations to recognize and protect HRDs, particularly those who face intersectional discrimination, threats and specific challenges related to who they are and the rights they defend, such as women human rights defenders (WHRDs)²⁴ and amongst them, those who defend abortion rights, including health care providers. Their activities are part of their everyday professional responsibilities, however, the hostility and restrictions around abortion means that many of them “do more than just their job”. They purposefully enable access to a range of human rights undermined and threatened by the denial of the right to abortion. By doing so, they are active Human Rights Defenders. Some of the healthcare workers see abortion provision as part of their professional duties and the duty to “do no harm”, but also as contributing to a non-discriminatory, rights-based approach to providing essential health services.²⁵

wyborcza.pl/7,75398,31655606,anita-zamkneli-mnie-na-oddziale-psychiatrycznym-mialam-urodzic.html, Gazeta Wyborcza, “ Anita: Chcemy, żeby osoby, które zgotowały nam ten koszmar, poniosły za to odpowiedzialność”, 16 May 2025, wyborcza.pl/7,75398,31928744,anita.html, Onet, “Pani Anita podjęła dramatyczną decyzję. Dziś nazywają ją “morderczynią”,” 30 April 2025, www.onet.pl/styl-zycia/onetkobieta/pani-anita-podjela-dramatyczna-decyzje-dzis-nazywaja-ja-morderczynia/5thceht,2b83378a.

¹⁹ Amnesty International, Press Release, “Poland’s Constitutional Tribunal Rolls Back Reproductive Rights”, 22 October 2020, www.amnesty.org/en/latest/press-release/2020/10/polands-constitutional-tribunal-rolls-back-reproductive-rights/.

²⁰ *RR v Poland*, (App No. 27617/04) (2011), para 199.

²¹ *RR v Poland*, (App No. 27617/04) (2011), para 191.

²² *RR v Poland*, (App No. 27617/04) (2011), para 200.

²³ UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1998. See also the Declaration on Human Rights Defenders +25, www.ohchr.org/en/instruments-mechanisms/instruments/declaration-right-and-responsibility-individuals-groups-and.

²⁴ WHRDs are women human rights defenders working on any human rights issue and human rights defenders of all genders working on rights related to women, gender and sexuality.

²⁵ For example, 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, www.amnesty.org/en/documents/pol40/7420/2023/en/ ; V. Boydell et al, “The hostilities faced by

As outlined above, Dr Jagielska has been exposed to physical and verbal attacks, threats, smears and intimidation and had her personal information, including her home address exposed publicly, together with calls inciting violence against her. Amnesty International's research shows that these types of attacks happen wherever abortion is stigmatised, restricted and/or criminalised and the attacks on and the prosecution of Dr Jagielska in Poland is a case in point.²⁶ While Human Rights Defenders such as Dr Jagielska remain under threat, the abortion rights of women, girls and everyone who can become pregnant are adversely impacted.

All abortion rights defenders, including abortion care providers such as Dr Jagielska, have a right to carry out their work and activities free from physical and mental harm or fear of such harm, without discrimination. They are entitled to protection from threats, intimidation, harassment, and/or attacks on their reputation and motivations. Their right to their own private and family lives must also be protected.

The Polish authorities should comply with their international legal obligations to ensure that the actions of people attacking Dr Jagielska and inciting violence against Dr Jagielska are promptly investigated and brought to justice. The authorities should also develop, adopt and implement laws and policies that put in place comprehensive and appropriate measures to recognize and protect all Human Rights Defenders, including abortion rights defenders. Those healthcare staff who fail to maintain professional standards and ethics (for example, by insulting and stigmatizing abortion rights defenders, engaging in abusive or derogatory rhetoric in the workplace or online, refusing to provide impartial and accurate advice on abortion, and/or intentionally misleading patients about treatment and care options) should also be held accountable.²⁷

Amnesty International also continues to urge the Polish authorities to reform its abortion legislation, ensure universal access to abortion and other comprehensive sexual and reproductive health services, goods and information, as well as enact a regulatory framework aligned with the World Health Organization's Abortion Care Guideline (2022)²⁸ that includes: full decriminalization of abortion; access to abortion care in diverse settings and by a range of trained providers; access to self-managed abortion, information, and support (which may be facilitated also by NGOs or networks of activists); and availability of abortion goods, financial and human resources.

BACKGROUND

Poland has one of Europe's most restrictive abortion laws in Europe. Abortion is only permitted to safeguard the life or health of the pregnant person or where the pregnancy results from rape. Prior to the 2020 Constitutional Tribunal's ruling and its 2021 entry into force, it was also lawful in situations of "severe and irreversible foetal defect or incurable illness that threatens the foetus' life." Even in situations in which abortion is lawful in Poland, multiple barriers combine to severely limit access to such healthcare in practice.

Timeline of events

- 17 March 2025: Poland's largest-selling daily Gazeta Wyborcza publishes an interview with "Anita", the patient who had a termination at the Oleśnica hospital. The piece mentions that Dr Gizela Jagielska was the one to perform it;
- 19 March 2025: Minister of Health Izabela Leszczyna announces that she has directed the National Health Fund and the Patients' Ombudsperson to carry out an inspection into the conduct of a hospital in Łódź where the patient was first treated;
- 9 April 2025: District Prosecution Service in Oleśnica announces that it is opening an investigation into Dr Jagielska's conduct under Article 152 of the Polish Criminal Code;
- 10 April 2025: Polish Society of Gynaecologists and Obstetricians writes to the Minister of Health arguing that during late pregnancy when "foetal viability" may have been reached, pregnancies should under no

those on the frontlines of sexual and reproductive health and rights: a scoping review", *BMJ Global Health*, Volume 8, November 2023, gh.bmj.com/content/8/11/e012652.

²⁶ 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, www.amnesty.org/en/documents/pol40/7420/2023/en/.

²⁷ Amnesty International, "Key principles and actions to safeguard abortion care providers as human rights defenders", 28 November 2024, Index Number: POL 30/8739/2024, www.amnesty.org/en/documents/pol30/8739/2024/en/.

²⁸ WHO, Abortion Care Guideline, 2022, www.who.int/publications/i/item/9789240039483.

circumstances be terminated but rather “the termination should be conducted in a way that could save [the foetus], for instance through early labour induction or a Caesarean section”;

- 16 April 2025: Grzegorz Braun, MEP and then presidential candidate, breaks into the Oleśnica hospital and prevents Dr Jagielska from leaving her office;
- 17 April 2025: District Prosecution Service in Oleśnica announces that it is opening an investigation into Grzegorz Braun’s conduct.