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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие**

Посещение Польши

Доклад Специального докладчика по вопросу о насилии в отношении женщин и девочек, его причинах и последствиях* **

Резюме

Специальный докладчик по вопросу о насилии в отношении женщин и девочек, его причинах и последствиях Рим ас-Салем посетила с официальным визитом Польшу с 27 февраля по 9 марта 2023 года. В настоящем докладе она рассматривает пробелы и проблемы в выполнении обязательств государства по ликвидации насилия в отношении женщин и девочек, его причин и последствий, а также рекомендует меры по предотвращению насилия в отношении женщин и девочек в стране и борьбе с ним.

* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен.

** На основании достигнутой договоренности настоящий документ издается позднее предусмотренного срока его опубликования в связи с обстоятельствами, не зависящими от представляющей его стороны.



Приложение

Доклад Специального докладчика по вопросу о насилии в отношении женщин и девочек, его причинах и последствиях о ее поездке в Польшу

I. Introduction

1. The Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, conducted an official visit to Poland from 27 February to 9 March 2023, at the invitation of the Government. The main objective of the visit was to assess the situation of gender-based violence against women and girls in the country, as well as the laws, policies and services to prevent and combat it, in order to provide recommendations to strengthen these efforts to fully implement the international obligations of Poland on violence against women and women's human rights.
2. The Special Rapporteur would like to extend her sincere appreciation to the Government of Poland for the invitation to conduct a visit and for its constructive engagement and cooperation before and during her visit.
3. During her visit, the Special Rapporteur met with several high-ranking government officials, including from the Ministry of Foreign Affairs, the Ministry of Family, Labour and Social Policy, the Ministry of Justice, the Ministry of the Interior and Administration, the Ministry of Education and Science, the Ministry of Health and the Chancellery of the Prime Minister. She also met with members of the two chambers of Parliament (the Sejm and the Senate) and with representatives of the National Prosecutor's Office. In addition, the Special Rapporteur met with the Voivodeship Offices of Lubelskie and Małopolskie. She also visited a detention centre and a primary school in Lublin, a refugee centre in Kraków, and a support centre for victims of domestic violence in Rusocin, near Gdańsk.
4. During the visit, the Special Rapporteur also met with representatives of international organizations, including relevant United Nations agencies, with representatives of human rights institutions, civil society organizations and professional associations, and with Polish and foreign-national women and girl victims of violence.
5. The Special Rapporteur would like to express her gratitude to the United Nations Resident Coordinator Office, the Office of the United Nations High Commissioner for Refugees, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Population Fund and the United Nations Development Programme for their extensive support both before and during the visit and to all representatives from international entities and civil society organizations for generously sharing their time and knowledge.
6. The visit of the Special Rapporteur came after the fourth cycle of the universal periodic review of Poland in November 2022. The Special Rapporteur therefore hopes that the recommendations outlined in the present report will be implemented in conjunction with those provided by the Working Group on the Universal Periodic Review¹ and by other special procedure mandate holders who have conducted visits to Poland in recent years,² as a means of developing a road map to assist the Government in its efforts to eliminate violence against women and girls and to uphold the rights of women in the public and private spheres, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Declaration on the Elimination of Violence against Women and Goal 5 of the Sustainable Development Goals, in particular target 5.5.
7. The present report is based on information gathered during and after the visit and thus provides an analysis of the laws and policies that were in place at that time, and under the

¹ [A/HRC/52/15](#).

² See [A/HRC/41/33/Add.2](#), [A/HRC/38/38/Add.1](#), [A/HRC/53/26/Add.1](#) and [A/HRC/43/50/Add.1](#).

aeigis of the previous Government.³ The Special Rapporteur recognizes that following the October 2023 elections, the new Government⁴ announced a number of proposals that would seek to ensure the continued advancement of the rights of all women and girls in Poland. Considering the significant period of time that has elapsed since the end of the visit, the Special Rapporteur looks forward to learning about further developments in this regard.

II. Manifestations of gender-based violence against women and girls

A. Domestic violence

8. Domestic violence continues to pervade society in Poland, with the 2014 European Union Agency for Fundamental Rights survey indicating that from the age of 15, 19 per cent of women in Poland have experienced physical and/or sexual violence, while only 28 per cent have reported the most serious incident to the police. Poland has one of the lowest rates of reporting of domestic violence in Europe among European Union member States.⁵

9. Domestic violence is still considered mostly a private matter and not an issue of public concern in most parts of the country. Incidents of domestic violence are still underreported, owing in part to the lack of public awareness about this problem, fear of retaliation and stigmatization, the lack of trust in law enforcement agencies, and the limited knowledge about existing services and protection mechanisms for victims of violence. These concerns are exacerbated for Roma women.

B. Denial of access to sexual health and reproductive rights

10. In 1993, Poland reversed the trend of liberalization of abortion laws, with the promulgation of the Act on Family Planning, Protection of the Fetus and Conditions for the Admissibility of Abortion.

11. On 22 October 2020, the country's Constitutional Tribunal ruled that abortion on the grounds of "severe and irreversible fetal defect or incurable illness that threatens the life of the fetus" was unconstitutional. The ruling by the Constitutional Tribunal followed a case filed by Members of Parliament and formally supported by the Prosecutor General. The ruling came into force on 27 January 2021. The ruling eliminated one of the only remaining legal grounds for abortion and its entry into force means that there is now effectively a near-total ban on abortion.

12. The restrictive right to abortion has resulted in at least seven pregnant women having died⁶ as a result of being denied life-saving care during obstetric emergencies, since 2021.⁷ Women and adolescent girls who encounter multiple and intersecting forms of discrimination are at particular risk, including women with low incomes and women living in rural areas, and women from racial and ethnic minorities as well as migrant and refugee women and women with disabilities are disproportionately affected.

13. The Special Rapporteur has profound concerns about women's access in practice to legal abortion, as well as the barriers and the appalling treatment they face. The failure by the authorities to provide access to reliable information on the conditions and procedures for accessing lawful abortion is also of concern, as is the potential prosecution of individuals and

³ Led by the Law and Justice Party.

⁴ The new coalition Government is composed of the Civic Coalition, Third Way (Trzecia Droga) and The Left (Lewica).

⁵ European Union Agency for Fundamental Rights, Survey on violence against women in the European Union (2012), available at <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>.

⁶ The Ministry of Justice has advised that criminal proceedings are ongoing in these cases.

⁷ See <https://reproductiverights.org/european-court-human-rights-poland-abortion-access/>.

institutions who facilitate abortions. This has had a chilling effect on physicians and health-care workers, who potentially face legal ramifications for their care decisions.

14. Reports received indicate that there have been cases in which a seriously ill fetus has been allowed to die by the treating gynaecologist, rather than performing an abortion. Instances of medical misconduct in such cases are rarely investigated, leading to a prevailing sense of impunity.

15. The Special Rapporteur also received reports of reprisals against service providers, civil society organizations and individuals aiding women and girls in obtaining access to abortions. One such case is that of woman human rights defender Justyna Wydrzyńska, who was convicted on 14 March 2023 by Warsaw Praga Południe District Court of “helping in the performance of an abortion” on the basis of article 152.2 of the Penal Code and “possession of unauthorized drugs with the aim of introducing them to the market” under article 124 of the Pharmaceutical Law, and was sentenced to eight months of community service for 30 hours a month.⁸ The case marked the first time in recent history when an abortion rights defender in Europe had been prosecuted and convicted for assisting with access to abortion.

16. On 15 March 2023, the Special Rapporteur issued a joint statement strongly condemning the sentencing of Justyna Wydrzyńska and calling on the then Government to drop the charges, revise its legislation with a view to decriminalizing abortion, ensure access to essential medicines required for safe self-management of abortions, and cease the targeting of human rights defenders, particularly those advocating against the country’s restrictive abortion law.

17. As the Special Rapporteur indicated in a letter she addressed to the Ministry of Justice following her visit, access to abortion is a human rights issue, and access to safe and legal abortion is intrinsically linked to women’s and girls’ right to life, health, equality, dignity and privacy. Some form of limitation on abortion is within the State’s discretion. However, worldwide, the majority (59 per cent) of women of reproductive age live in countries that broadly allow abortion. For countries with gestational limits, a 12-week limit is the most common. In the European Union, almost every country has legalized abortion on request or on broad social grounds.

18. The right to access abortion was reasserted by the European Court of Human Rights, which held that rollbacks on legal entitlements to abortion in Poland that had taken effect in 2021, following a ruling in 2020 by the illegitimate Constitutional Tribunal, violated a woman’s right to respect for privacy under the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). The European Court of Human Rights ruled that because she had been denied access to abortion in Poland following the 2021 rollbacks, her rights had been violated, and it ordered Poland to provide compensation to the woman. The European Court of Human Rights, in 2007, 2011 and 2012, ruled against Poland and its restrictive laws and policies around abortion and reproductive rights, in *R.R. v. Poland, P. and S. v. Poland* and *Tysiąc v. Poland*. Poland has failed to implement these decisions effectively, all of which found Poland to be in violation of the European Convention on Human Rights with respect to women’s reproductive rights. Since the Constitutional Tribunal ruling came into force in January 2021, more than 1,000 women have turned to the European Court of Human Rights in an effort to assert their rights.

19. The Special Rapporteur welcomes the pledge by the new Prime Minister to take action to repeal the ban, with the introduction of two bills to legalize abortion up to the twelfth week of pregnancy. The lives, rights and well-being of women in Poland must be prioritized and the restrictive law on abortion must be removed so that they can safely make personal decisions about their pregnancies.

⁸ See <https://reproductiverights.org/poland-abortion-human-rights-defender-justyna-wydrzynska/>.

C. Violence against women in politics

20. The Special Rapporteur welcomes the improvements in the political representation of women resulting from the adoption of the Electoral Code in 2011, which requires that at least 35 per cent of candidates of each sex be represented on political party lists in elections based on proportional representation at the European, national and local levels. Significantly, the Electoral Code contains enforcement measures, specifically that electoral lists not meeting the requirement will not be registered.

21. The October 2023 elections saw progress in women's representation, with a record number of 136 women elected to sit in the Sejm – the country's more powerful lower house of parliament. This means that now, 29.6 per cent of the chamber's 460 members are female, above the global average of 24.3 per cent but below the European Union-wide figure of 32.7 per cent. However, the number of women in the 100-seat Senate fell from 24 to 17.⁹

22. The Special Rapporteur is concerned by reports indicating that during the 2023 parliamentary elections female candidates were frequently targeted with threats, including of sexual and physical violence. One of the main barriers preventing women from participating in political and public life is the risk of being subjected to gendered violence or harassment. These acts tend to be treated as isolated incidents, rather than manifestations of widespread, structural discrimination against women in political and public life.

D. Trafficking of women and girls

23. Poland has ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others¹⁰ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹¹

24. Considerable progress has been made in developing the legislative and policy framework relevant for the action against trafficking in human beings.¹² The Law on Foreigners has introduced the possibility of granting a temporary and then permanent residence permit, including to children, under the general rules for victims of trafficking in human beings. A temporary residence permit is granted to a foreigner if he or she fulfils all the following conditions: (a) the individual is staying on the territory of Poland; (b) has commenced cooperation with a competent authority, and in the case of a minor foreigner, has been granted victim status in proceedings on a human trafficking crime; and (c) has severed contacts with persons suspected of committing an offence of trafficking.

25. Poland remains a country of origin, transit and destination of victims of trafficking, with women and children¹³ subjected to forced labour for sexual exploitation. Support and protection for victims of trafficking is provided by the National Intervention and Consultation Centre for Victims of Human Trafficking (Krajowe Centrum Interwencyjno-Konsultacyjne dla Ofiar Handlu Ludźmi). Led by non-governmental organizations (NGOs) and financed by the Ministry of the Interior and Administration, it is subject to an annual open tender in accordance with article 13 of the act of 24 April 2003 on public benefit activities and

⁹ See <https://notesfrompoland.com/2023/10/19/record-number-of-female-mps-in-polands-parliament-after-elections/>.

¹⁰ Ratified in 1952.

¹¹ Ratified in 2003.

¹² See <https://rm.coe.int/greta-evaluation-report-on-poland-3rd-evaluation-round-greta-2023-08-a/1680ab7039>.

¹³ According to official data, the police identified 63 men and 20 women as victims of trafficking in human beings in 2017, with the figures for other years as follows: 52 women and 44 men in 2018, 32 women and 66 men in 2019, 3 men and 7 women in 2020, 5 men and 18 women in 2021, and 12 men and 19 women in 2022. The Border Guard identified 27 men and 16 women in 2017, 49 men and 16 women in 2018, 27 women and 71 men in 2019, 13 women and 30 men in 2020, 22 women and 48 men in 2021, and 25 women and 85 men in 2022.

voluntary work for NGOs. The police have been responsible for implementing the national action plan against trafficking in human beings since the first action plan in 2003.

26. Despite numerous requests, the Special Rapporteur was unable to obtain detailed data on the achievements in combating trafficking, along with the challenges. Reports indicate the serious risk of and actual trafficking of women and children from Ukraine, the identification of victims, and the number of traffickers who have been apprehended, and yet the prosecution rates that have been reported appear to be low. Very few victims of trafficking are referred to local service providers, which indicates serious limitations and failures.

E. Sexual violence and sexual harassment in the workplace

27. The Code of Criminal Procedure was amended to introduce prosecution *ex officio* of sexual offences and provide for special hearing procedures for victims of sexual violence, with the aim of minimizing their revictimization, and ensuring the questioning of victims only once throughout the proceedings in a supportive environment with the presence of a psychologist. The Special Rapporteur is concerned that there is no time limit, and that the hearing may take place more than three months after the crime was committed. The often lenient punishment for perpetrators of sexual crimes also deters victims/survivors from reporting, as does the lack of rape crisis or sexual violence referral centres.

28. Poland has achieved significant progress in promoting gender equality in both the public and the private sphere, including in increasing women's economic empowerment. The Labour Code provides for protection against discrimination on the ground of gender, among other grounds.

29. Despite this progress, according to official statistics,¹⁴ 1,043 cases of rape against women and girls were reported in 2022, while a report published by the Zamenhof Institute¹⁵ in May 2022 indicated that 59 per cent of female journalists in Poland had suffered sexual harassment at some point in their careers. Although public awareness about violence against women has increased in recent years, there remain harmful stereotypes about sexual harassment which often result in victims being blamed. Sexual harassment in public spaces is also not sufficiently addressed.

III. Groups of women and girls who are at particular risk of violence

30. During her visit, the Special Rapporteur paid special attention to the situation of women and girls who encounter multiple and intersecting forms of discrimination and violence and experience higher rates of all forms of violence against them, particularly those who are from Roma communities, those who are refugees or asylum-seekers, those with disabilities and those who are lesbian, bisexual transgender or intersex, as well as those living in remote rural areas and women human rights defenders. The aforementioned disadvantaged and marginalized groups of women face multiple forms of discrimination, and as a result they often endure extreme forms of marginalization, exclusion and denial of their social and economic rights, and their rights to political participation and representation are curtailed. Their vulnerable economic status, combined with patriarchal values, exposes them to various forms of violence.

A. Roma women and girls

31. The Special Rapporteur is particularly concerned that Roma women and girls face multiple and intersecting forms of discrimination, violence, poverty and social exclusion.

¹⁴ See <https://stat.gov.pl/en/topics/justice/justice/victims-of-rape-and-domestic-violence,1,1.html>.

¹⁵ See [https://uploads-ssl.webflow.com/63f8cb1ac40c6521d5270f6e/6410918a325d33df5599307e_OFF%20THE%20REC%20ORD_Raport%20Instytutu%20Zamenhofa%20\(1\).pdf](https://uploads-ssl.webflow.com/63f8cb1ac40c6521d5270f6e/6410918a325d33df5599307e_OFF%20THE%20REC%20ORD_Raport%20Instytutu%20Zamenhofa%20(1).pdf).

Furthermore, Roma women continue to face discrimination in the fields of education, housing and health, and their average situation is worse than that of Roma men. The Special Rapporteur notes that eliminating violence against Roma women and girls is inextricably linked with addressing the extreme poverty that Roma communities continue to face.

32. Despite the specific challenges faced by Roma communities, they are not afforded the space to voice their concerns in public, nor are their needs taken into consideration in policymaking. The response of Poland to coronavirus disease (COVID-19) initially failed to consider their specific needs. Roma women who are active as community leaders are frequently subjected to hate speech, discouraging them from partaking in public life further.

33. In a patriarchal society, Roma women and girls are also more reluctant to speak up and report gender-based violence for fear of further entrenching the stigmatization of their community. In instances where Roma women and girls do come forward to report cases of gender-based violence, they are often met with disdain, due to the deeply rooted stereotypes that seek to suggest that violence against women and girls is common and culturally acceptable among Roma communities.

34. Enrolling Roma children in school remains a major challenge. The Special Rapporteur welcomes efforts in preventing child and forced marriage but calls for a redoubling of efforts to reach more girls at risk¹⁶ through education. The schooling programme renewed by the then Ministry of the Interior in 2022 and 2023 aims to prepare teachers to facilitate Roma children's integration, and is also aimed at the recruitment of school assistants, social workers and translators from Roma communities to assist Roma children in the classroom, which are positive steps. However, concerns remain around the tangible success of such programmes, especially in view of the lack of available data.¹⁷

B. Women and girls that are lesbian, bisexual, transgender or intersex

35. Women and girls that are lesbian, bisexual, transgender or intersex face multiple and intersecting forms of discrimination. Reports of harassment, workplace retaliation, discrimination and bullying on the grounds of sexual orientation are of concern, as are reports of technology-facilitated violence. The absence of legal standards recognizing sexual orientation and gender identity and the fact that these grounds are not recognized as grounds of discrimination means that victims do not feel safe reporting violence. Many support services targeting lesbian, bisexual, transgender and intersex persons do not receive State funding.

36. Furthermore, the proliferation of strategic lawsuits against public participation¹⁸ against lesbian, gay, bisexual, transgender and intersex activists raises serious concerns, where cases are initiated by the State through the National Prosecutor's Office. This has had a chilling effect on civil society organizations defending the rights of persons that are lesbian, gay, bisexual, transgender or intersex, with the time and resources spent on providing legal aid to activists significantly increased.

37. At present, legal gender recognition is possible by bringing an action against one's parents pursuant to article 189 of the Code of Civil Procedure. The bill on gender recognition was adopted by Parliament 15 days before the 2015 parliamentary elections. The President of Poland used his veto prerogative to stop this bill. A presidential veto can be overruled by a three-fifths majority in the Lower House (the Sejm), however this was not obtained.

38. As of March 2019, some administrative units (mainly in the Lubelskie, Łódzkie, Małopolskie, Podkarpackie and Świętokrzyskie Voivodeships) had declared themselves as LGBTI-free zones, in order to ban equality marches and other LGBTI events – declaring them to be contrary to traditional family values. The Special Rapporteur was heartened to

¹⁶ The minimum legal age of marriage is 18. However, there is the possibility for girls to get married under the age of 16, with permission from a court. There is no such exception for boys.

¹⁷ Data from 2002: 50 per cent of the Roma community in Poland over the age of 13 had not completed primary education.

¹⁸ See <https://srdefenders.org/poland-bart-staszewski-slapps-for-legitimately-defending-lgbt-rights-joint-communication/>.

learn that a grass-roots campaign conducted by established NGOs, as well as activists, along with mounting internal pressure from civil society and the country's Ombudsman, and an explicit threat from the European Commission to withhold European Union funds from local constituencies¹⁹ unless they repealed their anti-LGBTI proclamations, had led to their almost complete disappearance. The Special Rapporteur is hopeful that the new Government will distance itself from the discriminatory policies of the previous Government, and that steps will be taken to prioritize equality and protection against discrimination against persons that are lesbian, gay, bisexual, transgender or intersex.

C. Women human rights defenders

39. Poland has traditionally had a vibrant and active civil society with rights-based women's organizations, including those representing the rights of minority ethnic groups, of women human rights defenders, of journalists, of migrant and refugee women and girls, and of women and girls of diverse sexual orientation. While civil society organizations and initiatives have remained active, the space for advocacy, policy dialogue and participation in decision-making is shrinking, with reports suggesting that women's organizations are being increasingly targeted by retrogressive policies and legislative initiatives.

40. Prior to the 2023 elections, women human rights defenders were increasingly facing charges, often brought by high-ranking officials and ultra-conservative groups, of "offending religious feelings". The charges were based on their legitimate work in protecting gender equality, lesbian, gay, bisexual, transgender and intersex rights, and sexual and reproductive health and rights, as well as sexuality education. The influence of faith-based organizations such as Ordo Iuris has been significant in contributing to the pushback against gender equality, especially through its public media campaigns.

41. The role of NGOs and women human rights defenders is critical, particularly in ensuring that the rights of migrant and refugee women and girls, women and girls with disabilities and women and girl victims of trafficking are upheld and in providing access to sexual and reproductive health and rights. The Special Rapporteur regrets the former Government's reluctance to take full responsibility for the aforementioned groups of women and girls, and hopes that, going forward, measures will be taken to ensure that fully funded support services are made available to address the current challenges.

D. Women and girls with disabilities

42. In recent years, a number of measures have been taken to advance the rights of persons with disabilities. The Act on Guaranteeing Accessibility to Persons with Disabilities, of 19 July 2019, requires all public entities to comply with the minimum requirements of architectural regulations and information and communication regulations. In 2021, the then Government adopted the Strategy for Persons with Disabilities 2021–2030. The purpose of the Strategy is to include persons with disabilities in social and professional life through comprehensive action to be taken in eight priority areas – independent living, accessibility, education, employment, living conditions and social services, health care, awareness-raising and coordination.²⁰

43. The various segments of the population with disabilities, including women and girls, face different and specific challenges in Poland. Shelters for victims of domestic violence are not adapted for women with visual or auditive impairments, or wheelchair users. Accommodation solutions are also inadequate in shelters for migrant and refugee women and girls with disabilities.

¹⁹ See <https://rm.coe.int/memorandum-on-the-stigmatisation-of-lgbti-people-in-poland/1680a08b8e>.

²⁰ [A/HRC/WG.6/41/POL/1](#), para. 81.

E. Women in detention

44. According to information received, many of the women and girls in detention in Poland have been victims of multiple and intersecting forms of violence, sexual assault, trauma and abuse. While there is provision for mother-and-child programmes in some detention centres, the lack of adequate medical care for children within some facilities is of concern. Overcrowding, as well as a lack of adequate facilities, such as a separate meeting area for receiving visitors, and access to health care (in particular psychosocial care), inadequate re-entry programmes to prevent reoffending and the lack of alternatives to custodial sentences, are also of concern.

F. Refugee and migrant women and girls

Ukrainian refugees

45. The Special Rapporteur commends the generous policy of Poland of receiving and granting temporary protection to Ukrainians fleeing the armed conflict in their country. Polish citizens and civil society organizations have assumed the bulk of this responsibility in a remarkable show of solidarity and humanity. Currently, it is estimated that at least 1 million refugees are registered in Poland, the majority women and children, representing some 2.5 per cent of the total population of Poland.²¹ In 2022, the Polish Parliament adopted the Act on Assistance to Ukrainian Citizens in the context of the Armed Conflict in Ukraine; the Act provides broad protection to Ukrainian nationals and their spouses (to the exclusion of third-country nationals).

46. While commending the efforts of the Government to guarantee access to the territory for persons in need of international protection, in the context of the refugees who have arrived in Poland from Ukraine, the Special Rapporteur is concerned about the lack of a strategy to deal with gender-based violence, and of activities for the identification of, prevention of and response to situations of all forms of violence against Ukrainian women and girls. This includes a high risk of trafficking of women and girls from Ukraine, particularly for purposes of exploitation and sexual assault.²² The gender-blind and insufficiently differentiated policies in place in Poland, coupled with the lack of a gender-sensitive approach, impacts on the extent to which the Polish authorities, and other relevant stakeholders, can respond effectively to the needs of those women and girls who are most at risk of being left behind.

47. Women's rights organizations in Poland have been instrumental in responding to the refugee crisis provoked by the armed conflict in Ukraine. Despite legal and regulatory restrictions, these organizations have been providing life-saving services, including counselling, legal aid, and referrals for sexual and reproductive health issues. These services are critical for Ukrainian women and girls who arrive in Poland with urgent needs, especially those who are survivors of domestic abuse and conflict-related sexual violence.

48. An amendment to the special act on assistance to citizens of Ukraine in connection with the armed conflict means that starting from 1 March 2023, refugees from Ukraine who have stayed in Poland for over 120 days are required to cover 50 per cent of their accommodation cost in collective shelters. Starting from 1 June 2023, the payment was increased to 75 per cent for refugees who have remained in the country for over 180 days.²³

49. However, not all refugees have become financially independent and able to cover the cost of their stay in Poland. At the time of the Special Rapporteur's visit, the process for requesting exemption from such payment was not clear, and nor was information on the

²¹ See <https://reliefweb.int/report/poland/unhcr-poland-fact-sheet-february-2024#:~:text=Nearly%20one%20million%20refugees%20from,the%20total%20population%20of%20Poland.>

²² See [https://www.hrw.org/news/2022/04/29/poland-trafficking-exploitation-risks-refugees.](https://www.hrw.org/news/2022/04/29/poland-trafficking-exploitation-risks-refugees)

²³ See [https://reliefweb.int/report/poland/poland-amendments-ukrainian-refugee-hosting-laws-showcase-need-continued-humanitarian-support.](https://reliefweb.int/report/poland/poland-amendments-ukrainian-refugee-hosting-laws-showcase-need-continued-humanitarian-support)

necessary procedures, resulting in anxiety among the Ukrainian community, and for the most vulnerable, who were falling through the cracks.

50. The needs of Ukrainian women and girls transiting through or residing in Poland, and who are likely to have experienced different forms of sexual violence during the armed conflict, or domestic violence before the armed conflict, must be properly attended to. The fear of stigmatization and retraumatization prevents many of them from reporting their plight. Furthermore, Ukrainian survivors of rape suffer from the same restricted access to abortion in the country as Polish women and girls and are largely unable to access gender-based violence related services, including clinical management of rape.

51. It is estimated that there were between 200,000 and 400,000 Roma living in Ukraine before the armed conflict, dispersed throughout the country.²⁴ Tens of thousands are now estimated to be in Poland, where they suffer from compounded discrimination. The role of assisting them has fallen largely on the shoulders of Roma organizations and activists. While most State-provided services and reception facilities do not explicitly bar Roma from access, it is a common experience for Roma refugees to be racially stigmatized in refugee reception centres, where they are suspected of giving false information, of “pretending” to be refugees.²⁵

Non-Ukrainian refugees and migrants

52. Estimates by the Office of the United Nations High Commissioner for Refugees in mid-2023 indicated that there were 989,877 refugees, 3,820 asylum-seekers and 1,425 stateless people in Poland. The top three countries of origin for refugees were Ukraine (976,414), Belarus (6,729) and the Russian Federation (2,284), with others coming from the Syrian Arab Republic, Iraq, Türkiye, Afghanistan and Tajikistan.²⁶ The Special Rapporteur is concerned at the differential treatment of non-Ukrainian refugees and asylum-seekers, as compared with those coming from Ukraine.

53. In May 2021, the Government of Belarus announced that it would open its borders and facilitate visas to allow migrants through. In October 2021, the then Government of Poland introduced changes to the relevant laws on migration and international protection, and began pushing back thousands of refugees, and other persons seeking safety and international protection in Poland, to Belarus.²⁷ The pushback reached its height in the autumn of 2021, and resulted in six people dying over a three-month period, reportedly including a 28-year-old Ethiopian woman. Many of the most vulnerable women and girls, particularly pregnant women, older women and unaccompanied girls, were affected significantly. The Special Rapporteur continues to be concerned about the lack of gender-sensitive asylum and reception procedures.

54. While the number of migrants along this border has reportedly decreased significantly, pushbacks and lack of access to effective asylum procedures have continued. On 15 February 2024, the Polish Border Guard announced the establishment of search and rescue teams tasked with providing medical and humanitarian aid to migrants stranded in a forested border area.²⁸

55. Article 181 (1) of the Law on Foreigners offers some scope for a temporary residence permit for foreign women victims of domestic violence who are not eligible for a three-year residence permit under article 158. This provision offers the right to remain in Poland for up to six months, where the applicant’s stay is required due to specific circumstances. Women who have obtained leave to remain in Poland for up to six months on the basis of article 181

²⁴ See <https://zentralrat.sintiundroma.de/en/wp-content/uploads/sites/2/2022/10/2022-report-ukrainian-roma-refugees-in-poland-en-web-version.pdf>.

²⁵ Ibid.

²⁶ See <https://data.unhcr.org/en/documents/download/106307>.

²⁷ See <https://www.hrw.org/report/2021/11/24/die-here-or-go-poland/belarus-and-polands-shared-responsibility-border-abuses>.

²⁸ See <https://www.hrw.org/news/2024/03/13/really-help-migrants-poland-should-stop-pushbacks-belarus-border>.

are barred from applying for any other temporary residence permit, making this an option that delays deportation rather than preventing it.

56. Although the time limit set in law for the Head of the Office for Foreigners to decide on the asylum application is six months, this period can be extended to 15 months if the case is considered complicated, if many asylum-seekers are applying at the same time or if the asylum-seeker did not fulfil the obligation of presenting all the evidence and documents or attending the interview. The number of decisions issued within the six-month time limit was 9,134 in 2022 (excluding accelerated procedures).²⁹

57. The Special Rapporteur regrets that she was not granted access to detention or reception facilities, despite her request, where non-Ukrainian asylum-seekers and refugees are housed. She is concerned, however, by the consistent reports of serious difficulties experienced by non-Ukrainian women and girl migrants and asylum-seekers trying to enter Poland.

58. Non-Ukrainian asylum-seekers who are admitted into the country are placed in severely overcrowded guarded detention facilities where access to adequate health care, including sexual and reproductive health services, psychosocial support, translation and information services is limited. According to information received, the poor conditions have exacerbated the trauma that many of those placed in these facilities suffer from, including as a result of events they have experienced in their own countries. While survivors of torture and/or trauma and persons with serious mental health issues can be released after an assessment by a psychologist, in accordance with the national legislation, this appears not to be implemented in practice. Under some conditions, families can be placed in open facilities.

59. The detention of children, pregnant women and individuals with mental health concerns in closed immigration facilities is not in line with international standards. Although children with accompanying adults are placed together, the detention of unaccompanied children with unrelated adults is concerning. Detention of children and other vulnerable individuals, including girls, violates the principle of the best interests of the child and also exacerbates trauma.³⁰

IV. State response and measures to address violence against women

A. Incorporation and implementation of the international legal framework on violence against women

60. Poland is party to eight of the nine core human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women, ratified in 1980, together with the Optional Protocol thereto, ratified in 2003.

61. As a member of the Council of Europe, Poland has ratified the European Convention on Human Rights and is subject to the jurisdiction of the European Court of Human Rights. It is also a party to regional human rights treaties, most notably the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention),³¹ since 2015, as well as the European Social Charter, since 1997; the Council of Europe Convention on Action against Trafficking in Human Beings, since 2008; the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment

²⁹ See <https://asylumineurope.org/reports/country/poland/asylum-procedure/procedures/regular-procedure/>.

³⁰ See <https://asylumineurope.org/reports/country/poland/detention-asylum-seekers/legal-framework-detention/detention-vulnerable-applicants/>.

³¹ The Special Rapporteur welcomes the decision by Poland not to withdraw from the Istanbul Convention for the time being, despite some worrying comments made publicly by government officials regarding its alleged inadequacy with religion and promotion of controversial ideologies about gender.

or Punishment, since 1994; and the Framework Convention for the Protection of National Minorities, since 2000.

62. Article 87 (1) of the Constitution of Poland recognizes the supremacy of international law, whereby “the sources of universally binding law of the Republic of Poland shall be: the Constitution, statutes, ratified international agreements, and regulations”.

63. Article 33 (2) of the Constitution adopted in 1997 grants women and men equal rights, in particularly with regard to accessing education, employment and promotion.

B. Constitutional, legislative and policy framework

Legislative framework and policies on combating and preventing violence against women

Act on Equal Treatment, 2010

64. The Act of 3 December 2010 to implement some European Union regulations concerning equal treatment (or “Act on Equal Treatment”) specifies areas and methods of counteracting violations of equal treatment due to sex, race, ethnic origin, nationality, religion, denomination, beliefs, disability, age or sexual orientation. However, these provisions are mainly limited to the employment field and access to goods and services, and do not cover health and education.

Anti-Violence Act, 2020

65. In November 2020, new legal provisions introduced by the then Minister of Justice and largely adopted by Parliament came into effect. The “Anti-Violence Act” incorporates protective measures for instances of domestic violence. The amendment introduces three noteworthy measures designed to immediately separate perpetrators of domestic violence from their victims, by enabling law enforcement officials to enforce the following:

- (a) A restraining order delineating the minimum distance that the perpetrator must maintain from the victim;
- (b) A prohibition on contacting the victim;
- (c) A ban on entering and remaining in the premises where the victim typically or routinely resides (such as educational, caregiving and sports facilities, or the workplace), along with the places where the children in their care reside (such as schools).

66. The decision to issue an order to promptly separate perpetrators of domestic violence from their victim(s) is grounded in a risk assessment conducted by the police, independently for both adults and children, utilizing a standardized tool. The police are responsible for conducting regular checks throughout the duration of the order’s validity to ascertain the perpetrator’s adherence to the orders, which additionally can be enforced through coercive measures. Once notified by the police via the Blue Card procedure, an interdisciplinary team coordinates the services provided to the victims at the local level.

67. By enhancing the security of victims and placing their rights and needs at the forefront of concern, the Anti-Violence Act is in line with article 52 of the Istanbul Convention, which stipulates that the competent authorities shall be granted the power to order a perpetrator of domestic violence “to vacate the residence of the victim or person at risk for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk. Measures taken pursuant to this article shall give priority to the safety of victims or persons at risk.”

68. The Act also creates a separate civil procedure, therefore victims and plaintiffs are exempted from paying court fees, as in a criminal procedure. This initiative aims to facilitate the process for victims, taking into consideration the preference of some not to launch a criminal procedure. The civil procedure provides an opportunity to receive psychological counselling and legal support. Moreover, the Ministry of Justice initiated a new programme dedicated to assisting victims of violence, and allocated funds to victim support centres.

Act on Counteracting Domestic Violence, 2023

69. The most significant law regulating the issue of domestic violence is the Act on Counteracting Domestic Violence of 29 July 2005, previously called the Act on Counteracting Family Violence. It was amended on 9 March 2023, drawing on the consequences of the COVID-19 pandemic. The Special Rapporteur welcomes the adoption of more adequate terminology to broaden the scope of intervention – “domestic” in lieu of “family” violence.

70. The Special Rapporteur is encouraged by three main changes that bring the law into line with the international obligations of Poland:

(a) The expansion of the existing range of forms of domestic violence to include economic violence and cyberviolence, which allows experts, legislators and law enforcement officials to better grasp the scope of violence against women and girls and address its complexity;

(b) The expansion of the existing range of persons to whom the provisions of the amended act will apply, which will now include former spouses and partners or any other person remaining, currently or formerly in a lasting emotional or physical relationship, regardless of shared residence and housekeeping;

(c) Regulation of the situation of children who witness domestic violence to also count as victims of domestic violence, based on psychologists’ observation that witnessing domestic violence as a child will affect them throughout their lives and entail the risk of reproducing patterns of violence.

71. While the Special Rapporteur understands that the law refers to victims as “people affected by violence” in an attempt to address the stigma surrounding such cases, she believes that the wording undermines the fact that most victims of domestic violence are women. Similarly, she is concerned by the use of the term “user of violence” and suggests that it be replaced with the word “perpetrator of violence”. Both terms proposed by the Special Rapporteur are in line with the wording of the Istanbul Convention, which Poland has ratified.

72. Moreover, enhancing safety for victims of violence includes the crucial measure of disarming perpetrators and potential recidivists, together with the restraining order. Previously, regulations stipulated that weapons were confiscated only when they had been directly involved in the violent acts. The current emphasis is on proactive prevention, a shift that is exemplified by the introduction of new measures through amendments to the Act on Counteracting Domestic Violence in March 2023, to work directly with perpetrators of violence. These include psychological and therapeutic programmes aimed at “stopping the perpetrator from continuing to use violence and developing self-control and non-violent conflict-management skills”. Perpetrators who refuse to join these programmes face fines or even jail. The law also allows for the seizure of firearms, ammunition and gun permits from perpetrators of domestic violence.³²

Criminal Code

73. Article 53 of the Criminal Code recognizes the possibility of aggravating circumstances for a crime “committed on the basis of hatred due to the victim’s national, ethnic, racial or religious affiliation or because of his or her lack of religious denomination”. In article 119 of the Criminal Code, racist or xenophobic violence or threats are defined as an “unlawful threat towards a group of people or a particular person because of their national, ethnic, racial, political or religious affiliation, or because of their lack of religious beliefs”. Such acts are subject to the penalty of deprivation of liberty for a term of between three months and five years.³³

³² See <https://notesfrompoland.com/2023/03/17/poland-introduces-tougher-new-rules-on-domestic-violence/>.

³³ OSCE Office for Democratic Institutions and Human Rights, Hate crime legislation in Poland, available at <https://hatecrime.osce.org/hate-crime-legislation-poland>.

74. Current hate crime legislation does not explicitly recognize acts of public incitement to violence, hatred or discrimination, or acts of defamation, or threats, against a person or a group of persons on the grounds of their sex, gender or sexual orientation. However, plans by the Ministry of Justice are being finalized to expand the list of hate crimes covered by the Criminal Code to include sex and sexual orientation and gender identity. The project was expected to be transmitted to Parliament in late April 2024.

75. Judges are required to consider “the motivation and manner of conduct of the perpetrator” of a hate crime, as well as the “behaviour of the victim”, to assess whether the punishment should be more severe or not. The sex and/or gender of the victim does not count when determining aggravating circumstances and reflects sex and gender blindness within the judicial system. One such example is in the way in which femicides or gender-related killings are monitored, as they do not constitute a separate category and are recorded as homicides.

National Action Plan for Equal Treatment 2022–2030

76. The Special Rapporteur notes that the National Action Programme for Equal Treatment 2022–2030, adopted in May 2022 and launched by the Government Plenipotentiary for Equal Treatment, is a positive step, as its purpose is to eliminate discrimination, to influence the creation and application of the existing legal framework, and to influence social behaviour to ensure that the principle of equal treatment, as defined in article 32 of the Constitution, is respected. The participation of regional units, bodies and organizations in the process is also a welcome initiative.

77. Despite this positive development, the Special Rapporteur notes that violence against women and girls continues to be seen almost solely through the prism of domestic violence in national legislation and programmes. The lack of a comprehensive multi-annual strategy for counteracting gender-based violence in all its manifestations in the public and private spheres was also reported.

National Action Plan on Women, Peace and Security

78. The National Plan on Women, Peace and Security 2018–2021 has not yet been updated to reflect the new priorities in view of the armed conflict in Ukraine and the associated refugee influx into Poland, the increase in the number of non-Ukrainian asylum-seekers, and the need for enhanced protection and support for victims of conflict-related sexual and gender-based violence.

Data collection

79. The Central Statistical Office of Poland (Główny Urząd Statystyczny), along with the police and the Ministry of Justice, are able to provide data on domestic violence, however there are indications that the data are inconsistent and lack sufficient and standardized disaggregation by sex or gender. Although the Blue Card procedure allows for the collection of reported cases of domestic violence by type of violence, these data are not disaggregated by sex, age, and the relationship between the victim and the perpetrator.

80. The Special Rapporteur regrets that sex- and gender-blind laws, programmes, policies and attitudes prevent adequate understanding of the phenomenon of violence against women and girls, by failing to recognize that it is perpetuated predominantly by males and that the majority of the victims are female, thus hampering the design of relevant and effective policies. She further regrets that the Ministry of Family, Labour and Social Policy does not encompass the foreign population in its approach, which leads to a lack of information and data on gender-based violence among this demographic of non-nationals in Poland.

C. National machinery for the advancement of women and girls and independent human rights institutions

Office of the Commissioner for Human Rights

81. The Office of the Commissioner for Human Rights (the Ombudsman) was created in July 1987 and has been accredited with A status since 2016. According to article 80 of the Constitution, everyone has the right to apply to the Commissioner for Human Rights under the rules set out in the relevant Act of Parliament, for assistance in protecting freedoms or rights violated by public authorities.

82. Since 2016 and up until the Special Rapporteur's visit, the Commissioner for Human Rights and his Office had been facing institutional and individual threats, including significant budgetary constraints and the undermining of functional immunity. The pressure being placed on the Commissioner and his staff was related to the engagement by the Office on issues related to human rights, democracy and the rule of law. Such pressure is unacceptable and is not compatible with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) of the United Nations.

D. Independence of the judiciary

85. The lack of judicial independence and politicization of the public prosecution service since 2015 has been a long-standing issue of concern and has risked contravening the procedures of the Treaty on European Union. While steps were taken to comply with rule-of-law milestones set out by the European Commission in July 2022 as a condition for releasing European Union funds to Poland under the Recovery and Resilience Facility, they were less than adequate. The adoption of the Law on the Supreme Court in June 2022 failed to address the concerns, and rather than establishing a new body tasked with re-establishing an independent and transparent disciplinary system for judges, the new Chamber of Professional Responsibility remains in the hands of Supreme Court judges nominated by the newly established and politically influenced National Council of the Judiciary.

86. Similarly, proposed amendments to the Law on the Supreme Court also failed to address the deficiencies of the National Council of the Judiciary. Instead, the reform passed authority for disciplinary proceedings against judges onto the National Administrative Court, which fails to respect the principle of separation of individual branches of the judiciary and exceeds the mandate of the National Administrative Court to control the activities of the public administration, granted in the Constitution.

87. On 6 July 2023, the European Court of Human Rights issued a landmark decision upholding judicial independence in Poland in the case of *Tuleya v. Poland*. The decision effectively affirmed the need for Poland to change course in its approach on the independence of the judiciary. The Court found that unwarranted disciplinary proceedings brought against Judge Igor Tuleya were in violation of his right to a fair trial, his right to freedom of expression and his right to respect for private life. The Court found a violation of article 6 (1) (right to a fair trial), article 8 (right to respect for private life) and article 10 (freedom of expression) of the European Convention on Human Rights.

88. The Special Rapporteur welcomes the judgment and encourages the authorities to promptly implement the judgment and reverse the measures taken in recent years with a view to strengthening the rule of law in the country.

E. Provision of shelters and access to essential services

89. The Act on Counteracting Domestic Violence provides for "a safe shelter in a specialist centre of support to victims of domestic violence for a person affected by domestic violence".³⁴ A system of coordination, responsibility and funding is in place at the central

³⁴ See art. 3 (4) of the Act on Counteracting Domestic Violence, of 2005.

and local level, with two types of shelters. Many State-run facilities are managed by institutions, including faith-based organizations on behalf of the State such as those that pertain to the Catholic Church. In the absence of a sex- and gender-sensitive implementation policy, the reliance on faith-based organizations may not result in the delivery of an adequate victim-centred approach.

90. The central Government delegates the administrative responsibility and provides funding to local governments to manage shelters. The voivodeship authority oversees and monitors the management of these centres at the local level.

91. The Special Rapporteur was impressed by the high quality of services available in the shelters that she visited, including access to health care, psychological support, and activities for victims and the children accompanying them. She also welcomes the planned efforts to improve the infrastructure of shelters to accommodate the needs of women and girls with disabilities.

92. However, despite this progress, reports received indicate profound disparities in the quality and quantity of shelters across the country. It was also clear that the occupancy rate was low, suggesting challenges in the outreach to actual victims of violence, and in the awareness of their rights about the referral mechanisms available. The Special Rapporteur was also informed of a lack of specialist support centres and crisis intervention centres offering tailored assistance to women and their children, particularly access to psychosocial support to help them navigate the trauma they have experienced.

F. Blue Card procedure

93. In June 2021, Poland launched the aforementioned procedure for intervention and support in cases of domestic violence, called the Blue Card procedure (Niebieska Karta), based on the Act on Counteracting Domestic Violence. According to data provided by the police, in 2021 more than 82,000 procedures were initiated – a number in decline in most regions since 2019.

94. The revision of the Act on Counteracting Domestic Violence in 2023 brought positive changes to the Blue Card procedure. The new law provides an enhanced diversity of expertise among members of the Monitoring Team for Counteracting Domestic Violence, the advisory body at the ministry level, and a clearer division of tasks between the interdisciplinary teams operating in municipal self-governments and the newly created diagnostic and support groups. The reduced size of the team – in comparison with the five experts composing an interdisciplinary team – is aimed at creating a safer environment and an atmosphere of trust by adopting a more individual and subjective approach.

95. While the developments are positive, the Special Rapporteur received reports suggesting that the decrease in the use of Blue Cards may be related to a lack of trust in the system, as interdisciplinary teams in practice fail to protect all victims from further violence. Such a decrease needs to be further analysed, particularly in view of the fact that a procedure can be launched multiple times within one family, which could potentially entail a relatively lower recidivism rate among perpetrators.

96. The Special Rapporteur welcomes the budget increase reported by the Ministry of Family, Labour and Social Policy for the programme on countering domestic violence. She notes, however, that the extension of the Blue Card procedure to cover cases of cyberviolence following the amendment of the Act on Counteracting Domestic Violence in 2023 is likely to result in an increased number of procedures launched and new tailored working methods. The funding allocated to the cooperation mechanisms for prevention, intervention and protection should therefore be expanded.

G. Prevention of gender-based violence against women and girls

97. Poland was at the forefront of the drafting and adoption of the Convention on the Rights of the Child in 1979. However, policies and laws integrating a child-sensitive approach are often sex- and gender-blind, with girls' specific needs often falling through the

cracks between the women's and children's rights agendas. Most of the cases of violence against girls appear not to be reported due to the lack of adequate identification and referral procedures, the fear of stigma, and the lack of education on gender equality in schools.

98. Educational campaigns and programmes in schools do not raise the issue of unequal gender relations, thereby failing to address violence as a continuum. Sexism and misogyny are not mentioned, in the general education on violence, as causes of violence that adolescent girls can experience, including online. While the school curriculum emphasizes values such as "integrity", "cooperation" and "altruism", and focuses on equipping children with "the skills and social attitudes required to build relationships with family and friends" that are free of violence, sex- and gender-based violence and violence based on intersecting grounds are not part of the curriculum.

99. The Special Rapporteur was further concerned at reports indicating a record number of suicide attempts among children and adolescents in 2022. A recent study found that 48.6 per cent of the population surveyed, aged 11 to 20, had experienced suicidal thoughts, while 16.6 per cent had already attempted suicide. The survey also found that 28.7 per cent of the lesbian, gay, bisexual and transgender youth population surveyed had attempted suicide, while 74.1 per cent had had suicidal thoughts.

100. The Special Rapporteur received reports concerning an overall lack of adequate policies and procedures to keep children safe; while safeguarding policies to detect and support children struggling with mental health issues, bullying and abuse are limited.

101. The restrictive sexuality education in schools mirrors the controlled nature of access to age-appropriate sexual and reproductive health services in Poland. Reports of schools and students being exposed to reprisals and punishment for providing sexual health information to those under 18, with potential prison sentences of up to three years, are concerning. The Special Rapporteur hopes that the new Government will take steps to guarantee age-appropriate sexuality education in schools, and to ensure the right to freely access such education.

H. Rehabilitation programmes for perpetrators

102. Rehabilitation programmes tailored for perpetrators of domestic violence in Poland are in place when a Blue Card procedure is launched, involving multiple agencies with a diversity of expertise. The programme is a positive step that emphasizes the State's responsibility to prevent domestic violence, as well as the importance of holding perpetrators accountable. The programmes provide psychological counselling, educational content and training, with the objective of enabling perpetrators to cultivate healthy and non-violent relationships when they return to a home environment. This initiative is aligned with article 16 of the Istanbul Convention in this regard.

103. Perpetrators who persistently refuse to participate in corrective and educational or psychotherapeutic programmes are subject to regulations in both the Act on Counteracting Domestic Violence and the Code of Petty Offences, which impose sanctions in the form of restriction of liberty or fines. The Special Rapporteur notes, however, the need to increase the engagement of perpetrators of violence in the rehabilitation schemes that the Ministry of Family, Labour and Social Policy has devised, for which participation is estimated at only 10 per cent. Thorough monitoring efforts and the collection of secure data are welcome in this regard.

V. Recommendations

104. On the basis of the findings above and in a spirit of cooperation and dialogue, the Special Rapporteur on violence against women and girls, its causes and consequences, offers the Government of Poland the following recommendations:

On comprehensive and coordinated policies:

(a) Ensure a State-wide effective, comprehensive and coordinated set of policies to prevent and combat all forms of violence covered by the Convention on the Elimination of All Forms of Discrimination against Women and the Istanbul Convention, and increase funding for measures to prevent and combat violence against women and girls, ensure that all central government agencies systematically introduce budget lines dedicated to measures to prevent violence against women and girls, and ensure funding of NGOs running support services and activities to prevent violence against women and girls;

(b) Strengthen efforts aimed at ensuring systematic and institutionalized coordination among the relevant ministries, the focal points for gender equality, and provincial and local women's offices, as well as among all relevant stakeholders, including the Commissioner for Human Rights, and NGOs;

(c) Appoint one or more coordinating bodies equipped with clear mandates, powers and competences as well as the necessary human and financial resources to ensure the coordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence covered by the Istanbul Convention;

On data collection:

(d) Establish a mechanism to collect comparable disaggregated data on violence against women and girls, including gender-related killings of women, femicide, and suicides of women, by setting up a system for collecting data from all jurisdictions, to include data that is, at a minimum, disaggregated by age, sex, gender, ethnicity, and residence status and indicates the relationship between the victim and the perpetrator;

(e) Introduce a procedure for collecting information on any suspicious deaths that could be the result of domestic violence, in order to prevent future cases by ensuring protection for victims;

(f) Support national media in issuing guidelines for reporting on extreme incidents of domestic violence, including information on how to respond and on helpline resources as means of increasing awareness of and support for victims of domestic violence through media coverage;

(g) Expand the scope of data collected by law enforcement agencies and the judiciary to cover all forms of violence against women, and ensure that they address all forms of violence covered by the Istanbul Convention, through sufficient data;

On protection and support for women victims of domestic violence:

(h) Increase awareness among the population regarding the services available for victims for domestic violence and the referral mechanisms available;

(i) Urgently ensure that sufficient State-funded crisis centres, including rape crisis centres and other services, are established, in line with the European Union Victims' Rights Directive and to support NGOs and civil society organizations offering shelter and other forms of support to victims of violence;

(j) Conduct regular safety audits, with resident participation, to increase protection measures within shelters;

(k) Screen, train, and provide resources to all actors involved in collective centres to identify at-risk individuals, and design practical and effective referral mechanism routes so that those at risk or with specific needs can be provided with the support and attention they need;

(l) Guarantee the effectiveness of protection orders and urgently ensure that urgent protection orders are issued immediately;

On sexual violence:

(m) Take steps to amend the current definition of rape and ensure that it is based on the absence of consent, and that it is in line with international standards, as provided for by the Convention on the Elimination of All Forms of Discrimination against Women, the Istanbul Convention, and general recommendation No. 35 (2017) of the Committee on the Elimination of Discrimination against Women;

(n) Take immediate steps to ensure that the necessary legislative and other measures are taken to ensure that the statute of limitations for initiating any legal proceedings with regard to rape and other sexual violence continues for a period of time that is sufficient and commensurate with the gravity of the offence in question, to allow for the efficient initiation of criminal proceedings after the victim has reached the age of majority;

On sexual and reproductive health rights:

(o) Take concrete steps to bring abortion laws in line with international practice and put in place effective measures to guarantee that abortion care is accessible in practice for all women in Poland, irrespective of their nationality or legal status;

(p) Immediately repeal any law aiming to further restrict sexual and reproductive rights, or criminalizing those who assist others in undergoing an abortion;

(q) Ensure that women have physical, economic and informational access to sexual and reproductive rights, notably through the strict regulation of the use of the conscientious objection, and the provision of scientifically accurate comprehensive sexual education in all schools, and by subsidizing emergency contraception and everyday contraception for women and girls;

On persons that are lesbian, bisexual, transgender or intersex:

(r) Address the stigma and discrimination faced by, and the lack of protection measures in place for, persons that are lesbian, bisexual, transgender or intersex, including by raising public awareness of their rights, in cooperation with civil society;

(s) Adopt a law that spells out a procedure for legal gender recognition in line with international standards of freedom from discrimination, equal protection before the law, privacy, identity, and freedom of expression on the one hand, while also adopting appropriate safeguards and risk assessments, as well as the best interests determination for children;

(t) Prevent and sanction practices deemed to effectively be “conversion therapies”, ensuring that such efforts do not result in criminalizing same-sex attraction or enquiries into pre-existing trauma or the neurodiversity of persons who may be interested in transitioning legally and/or medically;

(u) Ensure that civil society organizations working on the rights of persons that are lesbian, bisexual, transgender or intersex are able to do without fear of reprisal;

On migration and asylum:

(v) Take measures to ensure effective implementation of the legal possibilities offered by the Law on Foreigners to migrant women who are victims of domestic violence;

(w) Introduce legal amendments to ensure that women asylum-seekers are granted entry into Poland and have access to the asylum procedure irrespective of whether they apply at border crossings, from within the territory of Poland or from detention, and ensure that all asylum procedures are gender-sensitive;

(x) Uphold the principle of non-refoulement of victims of violence against women, in particular at the border crossing points with Belarus and Ukraine;

(y) Ensure that victims of violence who are in need of protection, regardless of their status or residence, are not returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment;

(z) Ensure alternatives to detention for families, and unaccompanied children;

(aa) Strengthen measures to identify asylum-seekers and refugees with specific needs and ensure that they receive the assistance they need;

On trafficking:

(bb) Strengthen the investigative capacity of the police, to ensure that victims of trafficking are properly identified, protected and assisted, including through the establishment of specialized shelters, and that those who may be in need of international protection have access to asylum procedures;

(cc) In line with recommendations of the Council of Europe's Group of Experts on Action against Trafficking in Human Beings, develop and maintain, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, a comprehensive and coherent statistical system on trafficking in human beings, by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases;

(dd) Establish witness protection schemes for women victims so as to encourage them to testify against their traffickers;

On independent human rights bodies:

(ee) Respect the independence of the Commissioner for Human Rights, recognize the importance of this mechanism for the promotion of the rights of all women and provide it with adequate resources for it to fulfil its mandate effectively, in compliance with the Paris Principles;

(ff) Reiterating the recommendation by the Committee on the Rights of the Child,³⁵ ensure that the Office of the Ombudsman for Children is provided with the resources necessary to ensure that it can effectively, independently and fully implement its mandate for the promotion, protection and monitoring of children's rights;

On prevention:

(gg) Strengthen human rights education and gender equality education in schools, and adopt campaigns and programmes that seek to increase the understanding of gender equality and the rights of women in society;

(hh) Devise intervention programmes targeting perpetrators of sexual violence and develop common minimum standards for programmes for perpetrators that place the safety and human rights of women and girl victims at their core;

On Roma minorities:

(ii) Adopt targeted action on Roma women and girls to prevent their dropping out of school, and enhance outreach to them as well as their social inclusion and integration;

(jj) Adopt educational programmes and awareness-raising campaigns on sexual and reproductive health to prevent early pregnancies;

(kk) Investigate and prosecute early marriages of girls below the age of 16 years;

³⁵ CRC/C/POL/CO/5-6, para. 13.

(ll) **Ensure sustained financial assistance to organizations working for the protection of Roma people, including refugee women and girls;**

On women human rights defenders:

(mm) **Ensure an enabling environment for women’s rights defenders, and guarantee their protection from all forms of reprisal, in line with international law and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.**
