

# Resolution on the de facto ban on the right to abortion in Poland

2020/2876(RSP) - 26/11/2020 - Text adopted by Parliament, single reading

The European Parliament adopted by 455 votes to 145, with 71 abstentions, a resolution on the *de facto* ban on the right to abortion in Poland.

The text adopted in plenary was tabled by the EPP, S&D, Renew, Greens/EFA and GUE/NGL groups.

Poland has one of the most restrictive policies regarding access to contraceptive supplies, family planning, counselling and the provision of online information. It is one of the few countries that requires a prescription for emergency contraception, which is often denied by doctors on the grounds of personal beliefs. It is estimated that up to 200 000 women terminate pregnancies each year in Poland and are forced to undergo clandestine abortions, relying mostly on medical abortion pills without the necessary professional medical supervision and advice.

## *Constitutional Tribunal's ruling*

Following a legal challenge by MPs from the ruling Law and Justice party against the 1993 law permitting abortion in cases of severe foetal disabilities, Poland's Constitutional Tribunal declared, in October 2020, the law unconstitutional. Parliament strongly condemned this ruling and the setback to women's sexual and reproductive health rights (SRHR) in Poland. It affirmed that the ruling puts women's health and lives at risk. Restricting or banning the right to abortion by no means eliminates abortion, but merely pushes it underground, leading to an increase in unlawful, unsafe, clandestine and life-threatening abortions. The resolution insisted that the performance of an abortion should not be included in the criminal code, as this has a chilling effect on doctors who refrain from providing services out of fear of criminal sanctions.

## *Fundamental rights and Istanbul Convention*

Recalling that women's rights are fundamental human rights, the Polish Parliament and authorities are urged to refrain from any further attempts to restrict SRHR. The denial of these rights is a form of gender-based violence. It also condemned the recent decision by the Polish Minister of Justice to officially start Poland's withdrawal from the Istanbul Convention. The Polish authorities are urged to ensure the effective and practical application of that Convention, including the provision of a sufficient number of quality shelters for women who are victims of violence and their children, taking into account the escalation of gender-based violence during the COVID-19 pandemic, as well as access to essential support and health services, including sexual and reproductive healthcare.

## *Conscience clause*

Parliament deplored the increased use of the conscience clause, which is resulting in the absence of reliable referral mechanisms for those seeking abortion services and slow appeals processes for those who are denied such services. Gynaecologists frequently invoke the conscience clause when asked to prescribe contraceptives, thus effectively restricting access to contraception in Poland. The use of this clause also obstructs the successful treatment of a child during pregnancy or immediately after.

The Commission was called on to:

- carry out a thorough assessment of the composition of the Constitutional Tribunal, the unlawfulness of which constitutes grounds for challenging its rulings and thus its ability to uphold the Polish Constitution;
- along with the Council, provide adequate funding for national and local civil society organisations to foster grassroots support for democracy, the rule of law and fundamental rights in Member States, including Poland;
- act with determination on the recently agreed conditionality for the future multiannual financial framework for 2021-2027;
- support Member States in guaranteeing universal access to sexual and reproductive health services, including abortion;
- guarantee SRHR by including abortion rights in the next EU Health Strategy;
- submit a proposal to add gender-based violence to the list of EU crimes;

Lastly, Parliament welcomed the provisional agreement of 5 November 2020 on legislation establishing a mechanism that would allow the suspension of budget payments to a Member State violating the rule of law.