**Call for Inputs**

**Deadline 21 December 2019**

**Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity with focus on practices of so-called “conversion therapy”**

 21 November 2019

In accordance with my mandate as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 32/2 and 41/18, I intend to present a thematic report at the 44th session of the Human Rights Council, which will focus on practices of so-called “conversion therapy” on lesbian, gay, bisexual, trans and gender diverse people around the world.

The report will explore the human rights implications of these practices and interrogate their relationship with violence and discrimination based on sexual orientation and gender identity. It will discuss the forms and scope of “conversion therapy” (hereinafter, “C.T.”) as it is practiced across the globe, its impact on the persons that are subjected to it, measures adopted to prevent its practice and to penalize or prosecute those who perform it, and remedies provided to injured parties. Finally, the report will formulate recommendations.

This call for inputs will serve as one of the channels through which the Independent Expert will collect information to inform the preparation of his report to the Human Rights Council. The information-gathering process will also include a literature review and expert meeting, a consultation, and possibly a survey.

**Background**

“C.T.” refers to any purported treatment having the objective or presenting itself with the objective to change a person’s sexual orientation or gender identity. “C.T.” might also be referred to as gay cure, reparative therapy, ex-gay therapy or sexual orientation change efforts. Nowadays, these denominations appear to encompass a wide range of practices, from religious and spiritual interventions to smartphone app-sponsored programs offering a 60-day “gay cure”. Some licensed medical professionals, including psychologists, administer cognitive-behavioural therapies, drugs and, physical interventions such as electric shock treatment or aversion techniques. Recipients of these treatments include lesbian, gay, bisexual, trans and gender diverse people, ranging from children to adults.

These practices appear to be based on the assumption that seeking to change a person’s sexual orientation and/or gender identity deviating from what is seen as the norm in a particular time and a particular place is an acceptable societal, community, family and personal objective.

Forms of “C.T.” have been condemned by world health associations[[1]](#footnote-1), United Nations entities[[2]](#footnote-2) and human rights mechanisms such as the Committee against Torture, which have expressed that the practice can amount to torture, cruel, inhumane or degrading treatment.[[3]](#footnote-3) It appears to produce long-lasting negative effects on individuals subjected to the practice, as it can lead to physical and deep psychological harm, such as depression, anxiety, drug use, homelessness, and suicide.[[4]](#footnote-4) It also appears that children under legal age are especially vulnerable to it.

There is currently a trend, in certain parts of the world, to ban “C.T.” This has been witnessed in a handful of countries around the world. When addressed, it appears to apply only to registered health professionals (for example, in Argentina, Brazil, Fiji, Samoa and Uruguay).[[5]](#footnote-5) In a few countries, such as in Malta and Ecuador,[[6]](#footnote-6) it is considered a criminal practice.

Even though “C.T.” seems to be widespread, information on the subject is insufficient. There is little systematized knowledge on:

* The different practices related to conversion therapies, the range of techniques applied and their prevalence across the globe;
* The social norms, beliefs and systems that underlie the practice;
* The consequences of these practices on victims; and
* Good and best practices in legislations, jurisprudence and public policy in relation to these practices.

The consultation process aims at gathering information on the above mentioned areas through input from all relevant stakeholders, for the ultimate goals of raising awareness and supporting effective State measures through identifying best practices in legislations, jurisprudence and public policy, as well as shortcomings and discrepancies with human rights norms, in relation to “C.T.”

**Call for input**

To inform my report, I am seeking inputs with information, data and views from all relevant stakeholders (Member States, civil society organizations, including medical and religious associations, National Human Rights Institutions, United Nations agencies, regional institutions, corporate entities, etc.) and I kindly invite you to consider the following questions:

1. What different practices fall under the scope of so-called “conversion therapy” and what is the common denominators that allow their grouping under this denomination?

There are several institutions in Poland that openly conduct conversion therapies. These are mainly centers with a religious profile, such as the Odwaga (“Courage”) Center in Lublin or Pomoc 2002 (“Help 2002”) in Radom. These centers use "treatment" methods that include elements such as prayer, physical activity, close physical contact, and even financial penalties. However, conversion practices in Poland take place not only in these types of centers. Stereotypes and prejudices against homosexual and transgender people are also shared by some psychotherapists and medical doctors, which in practice mean offering "treatment from homosexuality" as part of psychotherapy in private and public clinics, some of which are financed from the National Health Fund. This is indicated by the accounts of people who took part in the study on the social situation of LGBT people in Poland in 2015-2016.

There are also statements about LGBT people being subject to exorcisms that are supposed to evict homosexual demons.[[7]](#footnote-7)

LGBT people may most often encounter conversion practices in the following situations:

• in public health care facilities, if they go to psychotherapy for a person appearing as a professional; an LGBT person may also report to a therapist with a problem of not accepting their own sexual orientation or gender identity, but may also want to undergo therapy for other reasons; NGOs are aware of cases where the therapist identifies the "sources" of a person's problems in their sexual orientation or gender identity, and then strives to "change" or "suppress" sexual orientation or gender identity;

• in non-public health care facilities, if you go to psychotherapy to a person appearing as a professional (also in this situation it may be possible for a LGBT person to report to a therapist with the problem of disagreeing with their own sexual orientation or gender identity, as well as reporting motivated by other problems not related to sexual orientation or gender identity);

• as part of using the services of people or centers that do not identify themselves as providing psychotherapy (e.g. development groups, etc.).

1. Are there definitions adopted and used by States on practices of so-called “conversion therapy”? If so, what are those definitions and what was the process through which they were created or adopted?

Currently, there is no legal adopted definition of "conversion therapy". There are no legal solutions that would protect LGBT people from subjecting them to conversion therapy. The specificity of the Polish legal order is the lack of proper legal regulation of the profession of psychologist and psychotherapist. The Act on the Profession of Psychologist and Professional Self-government of psychologists was adopted on June 8, 2001, however, until date no executive acts have been issued that would establish a psychological self-government. Thus, there is no institutional mechanism that would verify the qualifications of psychologists, confer a professional title on them, and ensure compliance with ethical principles. There is also no act that would introduce regulations related to the exercise of the profession of psychotherapist. Consequently, psychological and psychotherapeutic services can be - and in practice are - provided by people who have no formal psychological education or have not completed any psychotherapy training.

1. What are the current efforts by States to increase their knowledge of practices of so-called “conversion therapy”?  Are there efforts to produce information and data on these practices?

No studies have been conducted that would show the scale of the problem of conversion therapies in Poland. Data on this subject are also not collected by national public institutions.

1. What kinds of information and data are collected by States to understand the nature and extent of so-called “conversion therapies” (e.g. through inspections, inquiries, surveys)?

The problem of conversion therapies is not recognized by the State. The State is not interested in gathering any information and denies that those practices are performed in public sector. The State ignores the private sector and various non-public health facilities or centers and doesn’t perform any inquiries or inspections. This could be associated with the fact, that most of those centers do not hide that they follow catholic faith and values.

1. Has there been an identification of risks associated with practices of so-called “conversion therapy”?

No identification on part of the State. However, during the process of consulting with various institution the bill banning conversion therapies, many respected medical and science institutions supported the bill because of the risks of those practices.

1. Is there a State position on what safeguards are needed, and what safeguards are in place to protect the human rights of individuals in relation to practices of so-called “conversion therapy”?  This question includes the following:
	* 1. Safeguards to protect individuals from being subjected to “conversion therapies”.
		2. Broader statutory rules or administrative policies to ensure accountability of health care and other providers.

According to the state officials, conversion therapy is not funded by the national health care system, despite evidence that such therapies has been conducted by psychologies funded by NHCS.

1. Are there any State institutions, organizations or entities involved in the execution of practices of so-called conversion therapy? If so, what criteria have been followed to consider these as a form of valid State action?

There are anecdotal evidence (media coverages and reports of victim is to LGBT NGOs) that during psychotherapy funded by National Health Care System, psychologists or psychotherapists suggest or even push the client/patient to change sexual orientation or gender identity, diagnosing it as a mental disorder or source of other mental health problems such as depression or anxiety.

1. Have any State institutions taken a position in relation to practices of so-called “conversion therapy”, in particular:
	1. Entities or State branches in charge of public policy;

In reply to List of Issues during the monitoring process of CRPD, Polish State has stated that conversion therapy does not feature in the list of publicly funded health-care services.

* 1. Parliamentary bodies;

In February 2019, a Parliamentary club of party Nowoczesna (Modern) has submitted a bill banning conversion therapies[[8]](#footnote-8). It was prepared in consultation with an LGBT N – Campaign Against Homophobia. Unfortunately, due to the end of Parliamentary term ( November 2019), proceeding of the project of the bill was has been stopped due to rule of discontinuation.

* 1. The Judiciary;

No

* 1. National Human Rights Institutions or other State institutions;

Commissioner for Human Right included recommendation to ban conversion therapies in the latest report called*: Legal situation of non-heterosexual and transgender persons in Poland. The international standard for the protection of human rights of LGBT people and the state of compliance with it from the perspective of* the *Commissioner for Human Right [[9]](#footnote-9)*

* 1. Any other entities or organizations.

Following institutions have expressed support to introduction of legal ban on conversion therapies in Poland:

* Polish Sexology Society
* Polish Psychological Association
* Scientific Council of the Institute of Psychology, Adam Mickiewicz University
* Warsaw Bar Council
* Council of the Institute of Psychology at the University of Lodz

Responses to the questions above can be submitted in English, French or Spanish, and in Word format.

**If you wish your submissions to be kept confidential, you are kindly requested to make an explicit request in your submission. Otherwise information will be published in the mandate’s document repository, and may be referenced in the report.**

I would be particularly grateful to receive the information requested at your earliest convenience, and preferably by 21 December 2019 at the latest. Responses may be addressed to the Independent Expert at the Office of the UN High Commissioner for Human Rights and can be submitted by email (ie-sogi@ohchr.org).

For any further question or clarification, please do not hesitate to contact me through the Office of the United Nations High Commissioner for Human Rights (Ms. Catherine de Preux De Baets, telephone: 022 917 93 27, email: cdepreuxdebaets@ohchr.org or Ms. Alice Ochsenbein, telephone: 022 917 32 98, aochsenbein@ohchr.org).



Victor Madrigal-Borloz

Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

1. World Medical Association, *Statement adopted by the 64th General Assembly*, 2013; World Psychiatric Association, *WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours*, 2016. [↑](#footnote-ref-1)
2. United Nations Joint Statement, *United Nations entities call on States to act urgently to end violence and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) adults, adolescents and children*, 2015. The Pan American Health Organization also issued a statement identifying purported therapies aimed at changing sexual orientation as ethically unacceptable and lacking medical justification. See *“Cures” for an illness that does not exist*, 2012. [↑](#footnote-ref-2)
3. Committee against Torture, *CAT/C/ECU/CO/7 and CAT/C/CHN/CO/5; SPT: CAT/C/57/4*. See *also CCPR/C/KOR/CO/4****;***  *CCPR/C/ECU/CO/6; CRC/C/RUS/CO/4-5; CEDAW/C/ECU/CO/8-9; and CESCR General Comment No. 22 (“regulations requiring that LGBTI persons be treated as mental or psychiatric patients, or requiring that they be ‘cured’ by so-called ‘treatment’, are a clear violation of their right to sexual and reproductive health.”) and CRC General Comment No. 20 (“the rights of all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy” and condemned “the imposition of so-called ‘treatments’ to try to change sexual orientation”).* Other Special Procedures mandate holders than the mandate of the Independent Expert on SOGI have also addressed the issue, including the Special Rapporteur on Torture (A/HRC/22/53, para. 76 and 88; A/HRC/31/57, para. 48 and 72(i)); the Special Rapporteur on the Right to Health (A/HRC/14/20/2010, para. 23 and A/HRC/35/21, para. 48-49. [↑](#footnote-ref-3)
4. ILGA, *Input to General Comment on the implementation of article 3 of the Convention against Torture*, 2017. [↑](#footnote-ref-4)
5. Respectively, Law 26657, Art 3C; CFP Res 01/1999; Mental Health Decree 2010; Mental Health Act, 2007; Law 19529 (Ley de Saude Mental). [↑](#footnote-ref-5)
6. *Malta’s Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act*, 2016; Art. 151, Ecuador’s Penal Code. For a critique on actual implementation seeGuglielmone, Martina. *Fight Against “Reparative Sexual Therapy” in Ecuador*, Council on Hemispheric Affairs, 2017. [↑](#footnote-ref-6)
7. [http://weekend.gazeta.pl/weekend/1,152121,23539126,przyjrzal-sie-egzorcyzmom-w-polsce-jeden-seans-trwa-kilkanascie.html](http://weekend.gazeta.pl/weekend/1%2C152121%2C23539126%2Cprzyjrzal-sie-egzorcyzmom-w-polsce-jeden-seans-trwa-kilkanascie.html), https://krytykapolityczna.pl/kraj/diabel-jest-wszedzie-egzorcyzmy-polska/?fb\_comment\_id=1823995680994425\_1824887007571959 [↑](#footnote-ref-7)
8. https://popierwszenieszkodzic.pl/wp-content/uploads/2019/02/USTAWA-1.pdf [↑](#footnote-ref-8)
9. <https://www.rpo.gov.pl/sites/default/files/Raport%20RPO%20Sytuacja%20prawna%20os%C3%B3b%20LGBT%20w%20Polsce.pdf>, p. 125 [↑](#footnote-ref-9)