Warsaw, 17 May 2019

**Input of the Republic of Poland**

**to the Special Rapporteur on violence against women questionnaire**

**on the issue of mistreatment and violence against women durign reproductive health care**

**1. Please indicate whether in your country there are cases of mistreatment and violence against women during reproductive health care, particularly facility-based childbirth. Please specify if full and informed consent is administered for any type of reproductive health care and if these include childbirth care. If so, please specify what kind of cases are describe your country’s response and any good practices, including protection of human rights.**

The issue of the patient’s consent for a health care service is clearly regulated in Poland. The legal basis for the obligation to obtain consent to provide health services are the provisions of the Act of 5 December 1996 on the professions of a doctor and dental practitioner and of the Act of 6 November 2008 on patients’ rights and the ombudsman of patients’ rights. In light of the above regulations, a doctor may conduct an examination or provide other health care services, subject to the exceptions defined in the Act, after obtaining the patient’s consent. If the patient is minor or incapable of giving informed consent, the consent of their statutory representative is required, and if the patient does not have a statutory representative or it is impossible to communicate with the representative — a permit from the custody court is required. If it is necessary to examine a minor or a person incapable of giving informed consent, the consent may be expressed by the actual caregiver. If the patient is 16 or older, the patient’s consent is required as well. However, if a minor aged 16 or more, an incapacitated person, a mentally ill patient or an intellectually disabled patient, who nevertheless has sufficient insight, objects the medical procedures, then a permit from a custody court will be required alongside the consent of the statutory representative or the actual caregiver, or if the representative or the caregiver withholds the consent. If the abovementioned people do not have sufficient insight and are not capable of expressing informed consent (due to their condition resulting i.a. from a mental illness, degree of disability or the advancement of reasons for their incapacitation), the decision relating to the consent for examination or other health care services is the responsibility of their statutory representative or the custody court. Only a patient whose physical and mental condition makes it possible to comprehend the information provided by the doctor, and afterwards make a decision about whether or not to undergo a specific medical procedure on the basis of the information provided, is capable of expressing consent to a health care service.

If the patient is minor or incapable of giving informed consent, does not have a statutory representative or actual caregiver or it is impossible to communicate with these persons, the doctor, after the examination, may proceed to provide further health services — as a rule — only after obtaining the consent of the custody court.

The above-mentioned regulations constitute general principles for granting or refusing the considered consent, therefore they apply to all circumstances relating to the provision of health care services, except for those in relation to which the provisions of separate acts introduce specific regulations. Therefore, those regulation apply also to all cases of providing reproductive health care services, including childbirth care.

Moreover, it has to be pointed out that Polish law regulates also the obligation to provide patient with specific information concerning his or her health state. The legal basis for the obligation are the provisions of the Act of 5 December 1996 on the professions of a doctor and dental practitioner and of the Act of 6 November 2008 on patients’ rights and the ombudsman of patients’ rights.According to the above regulations a doctor is obliged to provide the patient, or his statutory representative, with accessible information about his/her health, diagnosis, proposed and possible diagnostic and therapeutic methods, foreseeable consequences of their use or omission, results of treatment and prognosis. The doctor's obligation applies also to the patient who is 16 or older.

Again, the above-mentioned regulations constitute general principles for informing patients about his/her health situation, therefore they apply to all circumstances relating to the provision of health care services (including all cases of providing reproductive health care services, i.a. childbirth care).

It is also worth to mention, that in 2017 the work on new legislation to address the issue of standardised procedures in the field of perinatal health care has started. It took place on a forum of a Team appointed for this purpose by the Minister of Health, which ensured the development of standards together with experts and representatives of non-governmental organisations focusing their activities on perinatal care. The Team’s work resulted in new standard, constituting an appendix to the decree of the Minister of Health of 16 August 2018 on the organisational standard of perinatal care, which came into force on 1 January 2019. The new standard determines the way of organising health care in entities providing medical services in the scope of perinatal care, i.e. in the course of pregnancy, childbirth, confinement and neonatal care. The rules on the organisation of prenatal education, support for breastfeeding, the alleviation of birth pain, as well as the working rules of staff in particularly difficult cases for women and their families, such as miscarriage, the birth of a dead or seriously ill child, have a special place in the standard.

The solutions applied in the standard place particular emphasis on cooperation between medical staff and parents in order to provide the best possible care for the child. To this end, the standard indicates that all nursing treatments and necessary procedures relating to a new-born are performed in the presence of the mother, after the necessary information has been given to her and she has given her consent. It should be remembered that parents are co-decision-makers in the child’s health care, both in the case of preventive and medical measures taken towards the child.

The standard provides the need to ensure monitoring and evaluation of the implementation of its provisions, imposing an obligation on entities providing health care to establish indicators and to monitor them, at least once a year, guided, among other things, by the assessment of satisfaction of women in care.

The above-mentioned Act of 6 November 2008 on patients’ rights and the ombudsman of patients’ rights established **the Patient’s Rights Ombudsman** to protect the rights of the patient.

The scope of the Ombudsman's activities include i.a.:

1) conducting proceedings in cases of practices infringing collective rights of patients;

2) conducting proceedings under Art. 50-53 (those articles regulate the ability of the Ombudsman to commence a clarifying investigation in cases of acquiring an information at least making a violation of patients' rights probable);

3) performing certain activities in the civil cases;

4) cooperation with public authorities in order to ensure that patients adhere to their rights, in particular the minister responsible for health;

5) providing the competent public authorities, organizations and institutions, and self-

governments of medical professions with assessments and proposals to ensure effective

protection of patients' rights;

6) cooperation with non-governmental organizations, social and professional organizations the statutory objectives of which include the protection of patients' rights;

7) analysis of patients' complaints in order to identify the risks and areas of the health care system in need of repair.

**Ad. 2. Please specify if full and informed consent is administered for any type of reproductive health care and if these include childbirth care.**

The full information was provided in the answer to question 1.

**Ad. 3. Please specify whether there are accountability mechanisms in place within the health facilities to ensure redress for victims of mistreatment and violence, including filing complaints, financial compensation, acknowledgement of wrongdoing and guarantees of non-repetition. Please indicate whether the ombudsperson is mandated to address such human rights violations.**

As mentioned above the Act of 6 November 2008 on patients’ rights and the ombudsman of patients’ rights established the Patient’s Rights Ombudsman to protect the rights of the patient.

The above-mentioned Act obliges each health care services provider to make information about the patients’ rights available in writing, by placing it in its premises, in a public place.

It also specifies that in case of a culpable violation of the patient's rights, the court may award the aggrieved an adequate sum as compensation for the non-material damage suffered pursuant to art. 448 of the Civil Code.

Pursuant to the regulations provided in the Act of 2 December 2009 on medical chambers, members of medical chambers (all doctors) are subject to professional liability for violation of medical ethics and regulations related to the practice of the medical profession. Proceedings regarding the professional liability of doctors are pending regardless of criminal or disciplinary proceedings concerning the same act. Each forms of violence should be reported to the applicable law enforcement and judicial authorities, as all kinds of violence are strictly prohibited and punished. The procedure in this case should be provided by the Ministry of Family, Labour and Social Policy (responsible for the violence issues) and the Ministry of Justice (responsible for the charge of the Prosecutor General's office).

**Ad. 4. Does your health systems have policies that guide health responses to VAW and are these in line with WHO guidelines and standards on this issue.**

Every health care services provider is obliged to make information about the patients’ rights available in writing, by placing it in its premises, in a public place under the Act of 6 November 2008.

Pursuant to the regulations provided in the Act of 2 December 2009 on medical chambers, members of medical chambers (all doctors) are subject to professional liability for violation of medical ethics and regulations related to the practice of the medical profession. The Act regulates in detail procedure in this field. Proceedings regarding the professional liability of doctors are pending regardless of criminal or disciplinary proceedings concerning the same act. Each forms of violence should be reported to the applicable law enforcement and judicial authorities, as all kinds of violence are strictly prohibited and punished. The procedure in this case should be provided by the Ministry of Family, Labour and Social Policy (responsible for the violence issues) and the Ministry of Justice (responsible for the charge of the Prosecutor General's office).

Attachment - ORGANISATIONAL STANDARD FOR HEALTHCARE PROVIDED BY HEALTHCARE PROVIDERS RENDERING MEDICAL SERVICES RELATED TO PERINATAL CARE