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**United Nations Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem**

**Official visit to Poland**

27 February – 9 March 2023

**PRELIMINARY FINDINGS AND RECOMMENDATIONS**

9 March 2023

I am pleased to share my preliminary observations at the end of the 10-day official visit that I have just carried out in my capacity as UN Special Rapporteur on violence against women and girls, at the invitation of the Government of the Republic of Poland. As some of you may already know, my predecessor, Radhika Coomaraswamy, visited Poland in 1996 – so it is good for the mandate to be back.

The aim of this visit was to gain an understanding and to evaluate, in the spirit of cooperation and constructive dialogue, how the State addresses the situation of violence against women and girls in the country, building on the assessment and recommendations of experts from the UN Working Group on Discrimination against women and girls following their visit in 2018, as well as those of the UN Special Rapporteur on the human rights of migrants, who visited the country in 2022. I will further develop my findings and recommendations in a report, which will be presented at the 56th session of the United Nations Human Rights Council in June 2024 in Geneva.

I would like to start with extending my sincere appreciation to the Government of Poland for the invitation to conduct a visit and for its constructive engagement and cooperation before and during my visit.

During my stay, I met with the Ministry of Foreign Affairs, the Ministry of Family and Social Policy, the Ministry of Justice, the National Prosecutor’s Office, the Ministry of the Interior and Administration, the Ministry of Education and Science, the Ministry of Health and the Chancellery of the Prime Minister. I also met with members of the two chambers of the Parliament (*Sejm* and Senate). In addition, I met with the Voivodship Offices of Lubelskie, Małopolskie and Mazowieckie Voivodeships. I also visited a detention centre and a primary school in Lublin , a refugee center in Kraków and a support center for victims of domestic violence in Rusocin, near Gdańsk. I was pleased to meet also with various international organizations, human rights institutions, civil society organizations, professional associations, Polish and non-Polish women survivors of domestic violence and trafficking, Roma women activists, Ukrainian and non-Ukrainian migrant and refugee women, adolescent girls, as well as other relevant stakeholders.

I am very grateful to the different UN agencies and NGOs for their solid support both before and during the visit. I would like to offer my sincere gratitude to everyone who took the time to meet with me and send their contributions to inform my mission.

***Legal and policy frameworks related to violence affecting particularly Polish women and girls***

Poland has made important advances in the equal treatment of men and women in the public and private sphere, most notably in relation to the economic independence of women, as well as the due consideration given to pregnant women and parents, including through different types of maternity leave and allowances. Furthermore, the gender pay gap relative to median earnings in Poland is one of the lowest among European countries. It is also commendable that women’s representation in Parliament has been increasing and that the Government is alerting the private sector on the prevention of discrimination and sexual harassment in the workplace.

Moreover, I welcome the amendments introduced by the Government of Poland to its national legislation whereby it changed the name and scope of “violence in the family” to “domestic violence” thereby also covering intimate partner violence, including violence perpetrated by former partners. It is also commendable that Poland has expanded the forms of domestic violence to include sexual, psychological, economic and cyberviolence which allows experts, legislators and law enforcement officials to better grasp and address the multiple and complex aspects of violence against women and girls. Relevant Polish legislation also acknowledges sexual harassment and stalking. Furthermore, in April 2020, amendments to the Code of Civil Procedure and other acts came into force, empowering police officers to order perpetrators of domestic violence to immediately leave the joint residence and to remain away for up to two weeks, with possible extension.

Despite these positive developments, violence against women and girls continues to be seen almost solely through the prism of domestic violence. Furthermore, I have noted that in its emphasis on equality between men and women, Polish legislation and policies appear to be “gender blind” across the board, as there is no recognition in law or in practice of the specific and structural causes of discrimination and violence against anyone, including women and girls, based on sex and/or gender as well as the ways in which they interact with other causes of discrimination based on race, gender, ethnicity, religious belief, sexual orientation and/or gender identity. One area where this gender blindness manifests itself is the fact that, femicides or gender related killings are not monitored or recorded as such, but only as homicides.

Consequently, society-wide work on the prevention of gender-based violence based on intersecting grounds, including against women and girls, has been largely missing and is not prioritized, including in terms of educational campaigns and programs at schools that do not raise the issue of unequal gender relations and violence is not part of the curricula components.

Furthermore, the protection of groups that are particularly at risk of discrimination and violence is hampered by the fact that the Criminal Code and other related laws do not explicitly recognize the acts of public incitement to violence, hatred or discrimination, defamation or threats against a person or a group of persons on the grounds of their sex, gender, sexual orientation or gender identity. In addition, special measures to address the barriers to reporting faced by survivors of discrimination and violence, as well as their improved inclusion in public programs and their effective access to justice are largely absent, as are measures tailored to the specific needs of survivors. The results of this situation are particularly felt among women and girls with disabilities and of diverse sexual orientations and gender identities, and belonging to ethnic minorities such as the Roma. It is imperative that the Government of Poland take effective measures to address the discrimination and risks that women and girls of various identities and backgrounds are subjected to, in line with Poland’s international and regional obligations. Public and private entities and individuals must be held better to account for acts of discrimination and failure to protect women and girls against violence. Speech inciting hatred levied with regularity by certain political and faith-based actors and public officials against some groups, particularly LGBTI+ persons, is a profound source of concern. A particularly low point was reached when certain localities declared themselves as “LGBT-free zones” with the Central Government not taking any action against it until international and European institutions and human rights actors expressed their alarm, which resulted in the revocation of the majority of these zones.

To improve assistance and protection of survivors of violence, Poland must advance more firmly in its revision of national legislation and bring it in line with international and regional obligations. Chief amongst them is ensuring that the definition of rape which is criminalized, is also firmly centred on the notion of consent in line with the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, better known as the *Istanbul Convention,* irrespective of whether force is being used. In this respect, I wish to underline the importance of Poland continuing to uphold the *Istanbul Convention,* as withdrawing from it would signal a worrisome regression in Poland’s commitment to ending violence against women and girls.

***Disaggregated data***

Poland’s efforts to better prevent and respond to the phenomenon of violence against women and girls would benefit a great deal from improved and systematic collection and use of data disaggregated by age, sex, disability, ethnic origin/race, and gender – amongst others. In the case of domestic violence, it would be important to collect data on the relation between the victim and the perpetrator of violence. Data collected in collaboration with civil society, including women’s organizations, researchers and think tanks, must inform policies and legislative reform. The impact of policies and legislation aimed at ending violence should also be evaluated more rigorously. For example, according to the Polish authorities, the number of persons who are using the “Blue Card” procedure decreased between 2019 and 2022, and this has been attributed to an increase in public awareness of the fact that perpetrators should not use violence, without evidence to support this conclusion.

***Inter-Institutional Coordination***

Legal reform on its own is not sufficient and requires the appropriate application of inter-institutional coordination policies and resources at the central and local levels. Poland’s multi-sectoral inter-institutional system for preventing and responding to domestic violence, otherwise known as the “Blue Card” procedure is a good basis that should be built upon.

Moreover, I wish to acknowledge the existence of a system of coordination, responsibility and funding at the central and the local government levels of the shelters and crisis-response centers providing services to survivors of violence. While positive, inter-institutional coordination requires a lead ministry with the clear mandate to coordinate these efforts, as well as improved monitoring, evaluation, and oversight mechanisms, it also requires a more meaningful and fuller participation of civil society organizations, particularly women’s organizations. Improving these elements could also help Poland increase the engagement of perpetrators of violence in the rehabilitation schemes that the Ministry of Family and Social Policy has devised and for which participation is estimated to be at 10% capacity.

***Child protection measures, including for Polish girls***

Poland rightfully takes pride in being amongst the drafters of the UN Convention on the Rights of the Child. I salute the recent amendment to the Act on Counteracting Violence which now also considers child witnesses of domestic violence, based on psychologists’ observation that witnessing domestic violence as a child will affect them throughout their lives and entails the risk of reproducing patterns of violence.

Despite these advances, there is a clear need to further strengthen policies and procedures to keep children safe and respond to child protection concerns by strengthening safeguarding policies, ensuring possibilities for safe reporting of incidents of sexual exploitation and abuse, as well as domestic violence, and the adoption of a differentiated approach between boys and girls. Furthermore, there is a need for the Government to step up efforts to include and mainstream the protection of children with disabilities and children belonging to ethnic minorities such as Roma, including by increasing their meaningful access to education.

In order to reduce bullying and discrimination, there is an urgent need to improve education on anti-discrimination, diversity and inclusion of children, including those of diverse sexual orientations, gender, religious and ethnic identities. Many children, including girls, clearly do not feel heard, and available mechanisms are not able to detect and support children struggling with mental health issues, bullying and abuse. A record number of suicide attempts among children and adolescents was recorded in 2022. A recent study found that 48.6% of the surveyed population, aged 11 to 20, had experienced suicidal thoughts; while 16.6% had already attempted suicide. It is estimated that prevalence of serious mental health issues among young Polish LGBTQI+ persons is higher than others. Moreover, Poland has no systematic and focused engagement with Roma children who are not mainstreamed into its referral, attention and protection mechanisms.

***Access to sexual and reproductive health***

Currently, abortion is permitted in only two cases: if there is serious risk to the life or health of a pregnant woman, or if the pregnancy is a result of ”an unlawful act, including rape, incest, illegal medical experiments – amongst others. In 2020, the Constitutional Tribunal removed one additional ground on which access to abortion in Poland had been legal, namely the possibility that the fetus would have irreversible defects or an incurable illness that would threaten it. In doing so, it eliminated the grounds for 90% of the annual legal abortions in Poland.

The law on abortion is applied in a rigorous and zealous manner, resulting in a near total ban on the access to abortion, with very serious consequences for the life, safety and well-being, and of pregnant women, adversely affecting their human rights, such as rights to privacy, to freedom from torture, and to freedom from discrimination based on sex and gender. Several factors have particularly contributed to this situation. For instance, fear of reprisals among doctors and other members of the medical and health community that deter them from engaging in activities that could be perceived to be in violation of the law on abortion. Furthermore, doctors and hospitals expressing conscientious objection to performing an abortion have had a wide room for maneuver with little consequence for not upholding their responsibilities to find a solution for the pregnant women who could be eligible for an abortion. Misconduct on behalf of medical professionals or hospitals is very rarely investigated, contributing to a sense of impunity for such actions. Finally, procedures for determining whether women and girls are eligible for abortion are cumbersome and insufficiently victim-centered, effectively discouraging women from using them.

A review of the status and consequences of the rulings by the Constitutional Tribunal is not possible without recognizing that the independence of the Constitutional Tribunal has been seriously called into question. The European Court of Human Rights (ECHR) and the European Court of Justice have found that this body, and the justice system overall currently do not meet the requirements of a fair trial and judicial independence. There is therefore a need for strengthening independent human rights mechanisms and reform the judicial system.

I profoundly regret that despite the consistent and systematic concerns expressed by international and European human rights mechanisms regarding the inconsistency of these measures with Poland’s international and regional human rights obligations, Poland has continued on the path of eliminating any meaningful opportunity to access abortion. This policy has put the lives of women and girls at risk, and appears not to respond to the needs and aspirations of Polish society. A poll carried out by Ipsos for *OKO.press* in November 2022 found that support among the Polish public for allowing access to abortion up to the 12th week of pregnancy has risen to 70%, the highest level ever recorded by pollster Ipsos and 13 points higher than in 2019.

There is no doubt that the full realization of the rights of women and girls in Poland cannot be attained without restoring the right of women and girls in Poland to safe and legal abortion that is in line with Poland’s human rights obligations. This right is indispensable for women to be able to claim their equal place in society and to contribute meaningfully to its prosperity and development.

Mirroring the current inhibitory system of sexual and reproductive health is the equally restrictive sex education. In addition, sexism and misogyny are not mentioned as causes of violence in the general education on violence which adolescent girls can experience, including online. It not only prevents them from making informed decisions about their lives, their safety and security but also exposes them, and certain teachers who support such education, to threats, sanctions, and punishments. In this respect, I have received concerning reports of schools and students being exposed to reprisals and punishment for human rights and environmental activism. I urge the government to guarantee age-appropriate sex education, as well as freedom of accessing this education and freedom of thought and expression at schools.

***Crackdowns and restrictions on civil society organizations***

Creating and sustaining an intimidating atmosphere is not limited to the educational sphere. I am concerned by the ongoing criminalisation of human rights defenders in the country, especially individuals and organisations advocating for the rights of women and girls, LGBTQI+ persons, migrants and refugees. Women human rights defenders have been at the forefront of strikes, protests and campaigns, exercising fully their right of assembly and association on issues directly affecting them, including their sexual and reproductive health and rights. I call on the Government of Poland to allow for Polish civil society to remain active and vibrant, and to not let regressive forces impede their essential work, including on LGBTQI+ rights, refugee and migrant rights, and women’s and girls’ sexual and reproductive health and rights. The case of Justyna Wydrzyńska illustrates the shift towards the criminalisation of women’s human rights defenders for claiming their rights, and I reiterate my call to drop all charges brought against her.

The crackdown has also been experienced through restricting the access of these organizations to funding opportunities provided by the State. I urge the Polish authorities to end the unequal treatment and discrimination of civil society organizations and their access to financial resources.

There is no doubt that Polish society is polarized profoundly around certain rights and the place of minorities in society as is the case in other societies. In Poland, tensions have been exacerbated by the lack of safe spaces to discuss issues of concern. I invite respected impartial actors to step forward to assume the role of providing such space for society to deep dive into the issues and facilitate discussions in a respectful, inclusive manner. While there can be tension between different human rights concerns, international human rights law provides clear guidance on how to resolve such tensions and clear limits to reasonable and justifiable restriction of freedoms, including the right of freedom of expression.

***Ukrainian Refugees***

There is no doubt that Poland’s generous policy of receiving and granting temporary protection to Ukrainians fleeing the war in their country, of which 90% are women and children, has substantially reduced the risks that refugee women and children are exposed to. The regularization of status of those fleeing war and conflict, including in Ukraine, is a vital means of protection and of saving lives. Currently, it is estimated that at least 1.5 million refugees are registered, providing them with access to cash assistance, access to the national health system and access to the job market. Polish citizens and civil society organizations assumed the bulk of this responsibility in a remarkable show of solidarity and humanity. It is important that the international community, including the European Union, continues to support Poland and the Polish people, to enable the country to host refugees adequately, by understanding that the prospects for safe and voluntary return in the short term are limited and that contingency plans for additional arrivals must be in place.

The gender-blind and insufficiently differentiated policies overall in place in Poland, coupled with the lack of a strong vulnerability-responsive approach, affect the extent to which the Polish authorities and other stakeholders can provide a differentiated response that takes into consideration the needs of those women and girls that are most at risk of being left behind, particularly older women and women with disabilities – amongst others Recently, a new policy was adopted, requiring Ukrainian refugees staying in collective centers to start financially contributing to the services they receive with the exception of those that belong to certain vulnerable categories At the time of my mission, the process for assessing exemption from payment was not clear, nor was information on the process available and clear for refugees and organizations working for them, creating considerable anxiety and concerns among refugees.

Stepping up a differentiated approach is also urgently required to respond to the needs of Ukrainian women and children transiting through or residing in Poland, who are likely to have experienced different forms of sexual violence related to the war but also domestic violence which precedes it/the war. Few of them however wish to raise the matter, given that it is a taboo subject and surrounded by stigma. Many would need concerted mental health and psychosocial support (MHPSS), which is still limited. I would therefore urge the Government of Poland and organizations supporting the response to scale up the availability of these services.

Furthermore, Ukrainians 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 GBV-related services including access to safe abortion and the clinical management of rape. It is vital that access to such services is made effectively available.

I am also concerned that despite the efforts of all actors working with Ukrainian refugees, there is a predictable risk and exposure to trafficking, including for the purposes of sexual exploitation. Anecdotal reports of Ukrainian women and girls being trafficked particularly for sexual exploitation exist. A robust and functioning mechanism for the detection and follow up on victims of trafficking, beyond the existence of a specialized unit within the Ministry of Interior, as well as the provision of targeted assistance and protection by the Polish authorities is not in place. The work of this unit must include outreach to and coordination with other concerned ministries and civil society, as well as the provision of better identification, screening and education materials targeting refugees on protection from sexual exploitation and abuse as well as referral mechanisms.

Finally, it is also recognized that education in a classroom setting is one of the most important tools for protecting a child. Currently, many refugee children, including girls, are receiving education online based on the Ukrainian school curriculum. Online classes create numerous challenges for effective education and I would encourage the Government of Poland to work towards shifting the education of Ukrainian children to physical classrooms and to integrate as many of them as possible into the Polish formal education system.

***Non-Ukrainian refugees and migrants***

Poland’s policies towards non-Ukrainian refugees and persons in need of international protection, particularly non-European ones, could not be farther from the inclusive and welcoming policy it demonstrates towards Ukrainian refugees. While I have not visited the detention facilities and places in which irregular non-Ukrainian migrants and refugees are housed in Poland, I am troubled by consistent accounts I have received of the serious difficulties experienced by non-Ukrainian women and girl migrants and asylum seekers trying to obtain protection and safety in the country. The Government of Poland introduced changes to the relevant laws on migration and international protection in October 2021. The pushback of refugees and other persons seeking safety and international protection in Poland back to Belarus started with in May 2021, when the Government of Belarus stated that it would open Belarus’ border to migrants by facilitating visas, and reached its heights in the winter of 2021, affecting many of the most vulnerable women and girls, particularly pregnant women, older women and unaccompanied girls.

 This pushback had deadly consequences, causing six deaths in the span of two months. A 28-year-old Ethiopian woman was found dead on the Belarusian-Polish border just three weeks ago. While the number of migrants along this border has reportedly significantly decreased, pushbacks and lack of access to effective asylum procedures have continued. Furthermore, I am aware that the gender-sensitive approach to the reception, and assessment of asylum claims is limited. Once again, it was also unclear from my discussions with the Polish authorities how they are tackling the risks of trafficking of non-Ukrainian migrants and refugees and how victims of trafficking, including women and girls, are identified, protected and assisted.

More problematic are the detention conditions under which most non-Ukrainians are held, particularly women and children, who have inadequate access to health services, including sexual and reproductive health, psycho-social support, translation, and information services as well as education for children. The conditions in which they are kept have exacerbated their trauma and resulted in their repeated revictimization and suffering. Families, children, and individuals who have vulnerabilities should not be held in detention and should have access to adequate reception and care. While survivors of torture/trauma and persons with serious mental health issues can be released after the assessment of a psychologist as per the national legislation, this appears not to be implemented in practice. Access to independent or external MHPSS providers has proven challenging, including for women survivors of violence, both in the country of origin and sometimes during their journey.

 In conclusion, Poland should stop approaching the gamut of human rights that women and girls are entitled to in a selective manner but work on them in a holistic manner. Women’s access and enjoyment of their rights must be treated and approached as a whole and are essential for allowing Poland to truly advance towards development and prosperity in a way that leaves no one behind. Doing so requires political will and courage, but leaders cannot go wrong if they listen to the aspirations and desires of their people.

*Thank you.*