



Brussels, 9 February 2021

Didier Reynders

European Commissioner for Justice

Dear Commissioner,

On 22 October 2020 the Polish Constitutional Tribunal ruled unconstitutional the provision of the 1993 Act on Family Planning, Protection of the Human Foetus and Conditions for Termination of Pregnancy that allows for abortion in cases where a prenatal test or other medical considerations indicate a high probability of a severe and irreversible foetal defect or an incurable illness that threatens the foetus's life. The ruling became applicable upon its publication, on 27 January 2021¹.

In its resolution of 13 February 2019 on experiencing a backlash in women's rights and gender equality in the EU, the European Parliament recognized that denying guaranteed, legal access to abortion constitutes violence against women². Further, in its resolution of 26 November 2020 on the de facto ban on the right to abortion in Poland³, the European Parliament strongly condemned the above-mentioned Constitutional Tribunal's ruling and the setback to women's sexual and reproductive health and rights (SRHR) in Poland and recalled that universal access to healthcare and SRHR are fundamental human rights. The Parliament further recalled that women's rights are fundamental human rights and that the EU institutions and the Member States are legally obliged to uphold and protect them in accordance with the Treaties and the Charter of Fundamental Rights, as well as international law. Consequently, the European Parliament called on the Council and the Commission to provide adequate funding for national and local civil society organisations and urged the Commission to immediately and directly support programmes and Polish civil society organisations working to ensure that women's SRHR are protected.

In its reply to a question for written answer on the situation of women in Poland and reimbursement of the costs of terminating a pregnancy in strictly defined cases anywhere in

¹ There is a legal doubt as to the binding nature of the ruling since some of the judges of the Constitutional Tribunal were appointed unlawfully.

² P8_TA(2019)0111

³ P9_TA(2020)0336

the EU⁴, the European Commission confirmed that sexual and reproductive health and rights are at the core of the fundamental right to gender equality. However, the Commission refused to take up any action in this area under Directive 2011/24/EU on the application of patients' rights in cross-border healthcare⁵.

Following successful trilogue negotiations, finalised on 17 December 2020, the entry into force of the Regulation of the European Parliament and of the Council establishing the Citizens, Equality, Rights and Values programme is pending. The said Programme will finance, in the years 2021-2027, actions contributing to fostering the EU as an area of rights, equality, democracy and the rule of law. One of the four main objectives of the Programme will be to promote rights, non-discrimination, equality, including gender equality, and advance gender and non-discrimination mainstreaming; (the so-called Equality, Rights and Gender Equality strand). According to the Regulation the Programme will be implemented by work programmes adopted by the Commission by means of an implementing act.

In the light of the aforesaid, we, as the European Parliament rapporteurs for the Regulation of the European Parliament and of the Council establishing the Citizens, Equality, Rights and Values Programme and the authors of the question of 24 October 2020, call on the Commission to include actions aimed at providing access to legal abortion of the European citizens denied that right, and specifically of women in Poland, in the remit of actions financed by the Programme.

Yours sincerely,

Signatories (in alphabetical order):

Marek BELKA, MEP

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Łukasz KOHUT, MEP

Alice KUHNKE, MEP

Leszek MILLER, MEP

Sirpa PIETIKÄINEN, MEP

⁴ Question no. E-005773/2020 tabled on 24 October 2020 by Leszek Miller (S&D), Marek Belka (S&D) and Włodzimierz Cimoszewicz (S&D).

⁵ Answer to the question no. E-005773/2020 given on 2 February 2021 by Ms Kyriakides on behalf of the European Commission.

Encl.:

1. Question no. E-005773/2020

2. Answer to the question no. E-005773/2020

Further signatories (in alphabetical order):

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