

Briefing for representatives of the Committee of Ministers on Poland's implementation of the judgments in *Tysic v. Poland* (App. No. 5410/03), *R.R. v. Poland* (App. No. 27617/04) and *P. and S. v. Poland* (App. No. 57375/08)

26 February 2021

RECOMMENDATIONS

We recommend that the Committee of Ministers continue its enhanced scrutiny of the *Tysic*, *R.R.* and *P. and S.* judgments and urge Poland to adopt the measures required by the judgments to address prevailing legal barriers and enforcement deficits and enable women and adolescents to exercise their rights under Polish law to obtain reproductive health services.

We recommend that the Committee of Ministers request the authorities to:

- Establish effective and timely procedure for women to challenge and resolve disagreements with and between doctors regarding their entitlement to legal abortion care and to exercise their rights in this regard. This mechanism must ensure: a decision within no more than 3 days; the right of judicial appeal; the issuance of enforceable orders mandating a particular health care facility or medical provider to provide the care sought.
- Adopt effective measures to ensure that refusals based on the “conscience clause” by medical professionals do not undermine or delay women’s access to legal abortion or prenatal testing. This should include enacting legally binding measures requiring medical professionals to timely refer women who are refused abortion care based on the “conscience clause” to alternative medical professionals committed and able to provide the care; establishing effective oversight and monitoring mechanisms; and ensuring an adequate number of medical providers committed to provide abortion care throughout the country.
- Strengthen enforcement procedures and measures, including by ensuring appropriate sanctions and disciplinary actions against health care facilities and professionals for any failures to comply with obligations to provide legal reproductive health services and information.
- Effectively monitor compliance by all health care facilities with their contractual obligations to the National Health Fund and actively enforce these contracts, including by sanctioning breaches by health care institutions and medical providers.
- Adopt effective measures to guarantee women timely access to reliable information on the conditions and effective procedures for their access to legal abortion care, such as comprehensive guidelines to all health facilities and professionals providing reproductive health care.
- Adopt effective measures to ensure that full and reliable information is provided to women and adolescent girls enabling them to take informed decisions about their pregnancy.
- Adopt effective measures to enhance protection of patient data confidentiality.
- Introduce targeted measures to ensure that the needs of adolescents who are seeking legal abortion care are met and that they are treated with respect and due consideration for their vulnerability.