

To: Mariana Vieira da Silva, Minister of State for the Presidency,
Ana Paula Zacarias, State Secretary for European Affairs,
Rosa Monteiro, Secretary of State for Citizenship and Equality,
Ana Mendes Godinho, Minister for Labor, Solidarity and Social Security,
Ambassador Nuno Brito, Permanent Representative of Portugal to the European Union,

19 April 2021,

Re: Request to the Portuguese Presidency to take action on the deteriorating situation in Poland

Dear Ministers,

As EU Ministers prepare to discuss rule of law issues at their 20 April and 11 May 2021 General Affairs Council meetings, according to the work programme of the Portuguese Presidency of the Council, we the undersigned representatives of Portuguese, Polish, European and international civil society organisations call upon your leadership to ensure that the Council addresses the deterioration of the rule of law and fundamental rights in Poland by holding a hearing under Article 7(1) of the Treaty on the European Union (TEU).

In the two and a half years that have passed since the Council's previous hearing on the rule of law in Poland, the Polish government has persisted in its attempts to undermine EU values and principles. It has ignored the recommendations and decisions issued in this regard by the European Commission, the European Parliament and the Court of Justice of the European Union (CJEU) since 2016. Urgent action by the Council has also been requested by the European Parliament in its September 2020 resolution. **It is now vital that the Council moves forward with the procedure laid down in Article 7(1) TEU by urgently holding a hearing with the Polish government** to examine both the issues raised by the European Commission in its December 2017 Reasoned Opinion as well as other developments that have since occurred and that further threaten the rule of law and fundamental rights in Poland.

We call on Portugal to ensure that the Council urgently addresses specific recommendations to the government of Poland in order to safeguard all the principles enshrined in Article 2 TEU and, based on the information provided, to support the need to determine that there is a clear risk of a serious breach of the values referred to in Article 2 TEU in Poland. We are gravely concerned that the lack of action by the Council has empowered the Polish government to continue pursuing policies that seriously undermine the rule of law and affect the fundamental rights of people in Poland. The dismantling of the independence and effectiveness of the country's judiciary is not only having unprecedented consequences on the activities of legal professionals in Poland but also now on the lives of all citizens in Poland who can no longer count on having access to independent justice when their rights - including under EU law - are violated. Prompt and effective action by the Council is urgently needed to curb this trajectory.

Erosion of Judicial Independence

As you are aware, judges in Poland have faced arbitrary disciplinary proceedings for criticizing problematic judicial reforms and referring cases for preliminary rulings to the Court of Justice of the European Union (CJEU). Poland failed to fully comply with the June 2019 and November 2019 rulings by the CJEU regarding the laws on the Supreme Court and on ordinary courts. It also failed to respect interim measures issued by the Court in April 2020 which ordered the government to suspend the

powers of the Disciplinary Chamber of the Supreme Court pending a decision on the case regarding it. The Polish government has also failed, so far, to satisfy the European Commission that the law adopted in February 2020 (also known as ‘the Muzzle Law’) is compatible with EU law. This warranted the Commission’s decision to refer Poland to the CJEU and to ask the Court to order interim measures pending a final judgment in the case.

Since the beginning of Portugal’s Presidency of the Council, the National Prosecutor’s Office requested the [lifting of the immunity of judges](#) of the Criminal Chamber of the Supreme Court perceived as critical of the ruling party’s policies and requested to [take over files](#) of cases heard by judges from the Criminal Chamber to transfer them to the Disciplinary Chamber, deemed illegal by the CJEU.

Violation of Women’s Rights, notably through the Compromised Constitutional Tribunal

Again, during Portugal’s Presidency, on 27 January 2021, the Polish government published the October 2020 ruling of the politically-compromised Constitutional Tribunal, invalidating the constitutionality of access to abortion on the ground of “severe and irreversible foetal defect or incurable illness that threatens the foetus’ life.” The implementation of the decision of a Tribunal whose legitimacy has, according to the European Commission’s own assessment, been compromised, risks severely damaging women’s rights and access to sexual and reproductive health and rights. It leads to violations of rights protected under international and European human rights law, including the rights to freedom from torture or cruel, inhuman or degrading treatment or punishment, to the highest attainable standards of health, to privacy, and to non-discrimination and undermines adherence to the EU values of the rule of law, equality, human rights and dignity enshrined in Article 2 TEU. More recently, in March 2021 [a new bill criminalizing abortion](#) was presented by citizens’ initiative. If adopted, the bill would afford full legal protection to the fetus from the moment of conception and limit the grounds for legal care by banning abortion in cases where pregnancy results from sexual assault or if the health of a pregnant person is at risk, as provided for in the Family Planning Act currently in force. Abortion would be treated as homicide punishable with up to 25 years of imprisonment, although the court would have discretion to issue a more lenient punishment or waive the punishment altogether. Moreover, 16 Polish MPs aligned with the conservative ruling coalition have presented another [draft bill](#), which, under the pretext of providing care to pregnant women whose fetuses have a “suspected or diagnosed lethal defect,” would require them to be referred to antenatal hospices where their pregnancies would be monitored and their decisions about pregnancy influenced. The Constitutional Tribunal’s decision and similar initiatives are the result of systematic attempts over the past several years by the Polish government, and by ultra-conservative forces close to power, to roll back women’s rights, including by limiting their access to sexual and reproductive health and rights and promoting policies that reinforce traditional gender roles, thus undermining gender equality, within Polish society.

We are also concerned that the same politically-compromised court that invalidated the constitutionality of access to abortion could decide on Poland’s withdrawal from the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) [following Prime Minister Mateusz Morawiecki’s referral of the Convention for review](#) due to its definition of “gender.” In parallel, the Parliament is debating Poland’s withdrawal from the Convention on the basis of a [citizens’ initiative bill](#) entitled “Yes to family, no to gender,” which had its first debate in Parliament on 17 March 2021 and, as a result of a first reading held on 30 March 2021, has been forwarded to the expert Parliamentary Commissions for further proceedings. The renewed attack on Polish women’s fundamental right to be protected from violence represents yet another attempt to roll back on women’s rights, and another example of the use by the Polish government of the Court system it has severely compromised since 2015 as a tool to implement a regressive and anti-democratic agenda. We take note of the [statement](#) of the Polish Representative at the EU High-Level Group on Non-Discrimination, Equality and Diversity, read during the Portuguese

Presidency Conference on the Istanbul Convention on 6 April 2021. The Polish government must now follow through, and commit not to withdraw from the Convention and to fully implement it.

Violation of the Right to Peaceful Protest and Targeting of Women's Rights Organizations

Equally worrying is the Polish government's continued [targeting of women's rights](#) organizations and women human rights defenders, whose right to peaceful protest without fear of violence or reprisal has been violated through smear campaigns, systematic denial of funding, and government-backed police brutality. Threats to activists' safety have escalated: at least five human rights organizations and women's rights groups said they reported bomb threats between 8 March and 20 March to police, who checked the premises and found no evidence of explosive devices. However, some activists have noted that the police minimized the security risks of these and other death threats and indicated it was unlikely that a full investigation would follow. In addition, [a recent ordinance](#) (25 March 2021) amends previous ordinances on the establishment of certain restrictions, orders and prohibitions in connection with the outbreak of an epidemic. The new provisions prohibit - in addition to organising assemblies - participation in them, which may cause further persecution of protestors. The ban is contrary to the Polish Constitution, because in accordance with Article 233(3) of the Polish Constitution, even in a state of natural disaster - that is a constitutional state of emergency - it would not be possible to restrict the freedom to organise and participate in assemblies.

These alarming developments require an urgent and serious response from the Council. We are deeply disappointed that the Council has not held any hearing under Article 7(1) TEU on the rule of law in Poland since September 2018 and are concerned that continued failure to examine this problem will lead to the further erosion of fundamental rights, such as those mentioned above.

We welcome [your calls](#) at the European Parliament's plenary debate on Poland on 9 February, for the protection of Polish women's fundamental rights and for guaranteeing access of Polish women's rights NGOs to EU funding, such as the European Social Fund, the new Citizens, Equality, Rights and Values Programme, and other instruments. We ask that you demonstrate your government's support to Polish women's rights organisations by continuing to call for their legitimate access to these programmes, and by pressing for genuine actions by the Council to curb the severe consequences and significant implications of the rule-of-law backslide implemented by the Polish government.

Citizens and non-governmental organizations working on rule of law and fundamental rights throughout the EU expect their governments to stand up and show that respect for human rights and the rule of law remains at the core of European Union values, and that attacks on these principles will not go unaddressed. Failure to do so jeopardises the EU's ability to effectively safeguard adherence to the core values on which the Union is founded, and undermines the Union's credibility towards non-EU countries.

We stand ready to assist with any further information you may require on these issues.

Yours Sincerely,

European / International Civil Society Organisations:

1. Amnesty International
2. BPW (Business and Professional Women) Europe
3. Center for Reproductive Rights
4. Civil Liberties Union for Europe (Liberties), Europe
5. European Women's Lobby, Europe
6. European Network of Migrant Women, Europe
7. End FGM European Network, Europe
8. EuroMed Rights, Europe
9. European Civic Forum, Europe
10. Front Line Defenders
11. Greenpeace, Europe
12. Human Rights House Foundation (HRRF)
13. Human Rights Watch
14. ILGA-Europe
15. International Campaign for Women's Right to Safe Abortion
16. International Federation for Human Rights (FIDH)
17. International Planned Parenthood Federation European Network, Europe
18. MSI Reproductive Choices
19. Open Society European Policy Institute (OSEPI)
20. Platform for International Cooperation on Undocumented Migrants (PICUM)
21. Protection International
22. Royal College of Obstetricians and Gynaecologists (RCOG)
23. SOLIDAR
24. Women's Link Worldwide
25. Women on Waves
26. Women on Web International Foundation
27. Young European Federalists (JEF Europe)

National Civil Society Organisations from 18 European countries (outside of Poland and Portugal):

1. Fédération Laïque des centres de planning familial, Belgium
2. Sensoa, Belgium
3. Platform for Reproductive Justice, Croatia
4. Le Planning familial, France
5. Ligue des droits de l'Homme (LDH), France
6. Internationale Liga für Menschenrechte, Germany
7. pro familia Federal Office, Germany
8. Hellenic League for Human Rights, Greece
9. Hungarian Helsinki Committee, Hungary
10. Irish Family Planning Association, Ireland
11. Men's Development Network, Ireland

12. LAIGA 194, Italy
13. LIDU Lega italiana diritti dell’Uomo, Italy
14. Pro-Choice RICA (rete italiana contraccezione e aborto), Italy
15. SeNonOraQuando? Turin, Italy
16. UDI-Unione Donne in Italia APS, Italy
17. Latvian Human Rights Committee, Latvia
18. Papardes Zieds (Latvian Family Planning Association), Latvia
19. Doctors for Choice, Malta
20. Liga voor de Rechten van de Mens, Netherlands
21. Rutgers, Netherlands
22. FOKUS - Forum for Women and Development, Norway
23. Association of Romanian Women in Italy (A.D.R.I.), Romania & Italy
24. Center for Community Security and Mediation, Romania
25. Corona Foundation, Romania
26. Romanian Women’s Lobby, Romania
27. Society for Feminist Analyses AnA, Romania
28. Freedom of Choice, Slovakia
29. Slovak Family Planning Association, Slovakia
30. Inštitut 8.marec, Slovenia
31. Asociación Pro Derechos Humanos de España (APDHE), Spain
32. Federación Planificación Familiar Estatal, Spain
33. RFSU, Sweden
34. Human Rights Association, Turkey

Polish Civil Society Organisations:

35. Association for Legal Intervention (SIP), Poland
36. Federation for Women and Family Planning, Poland
37. Polish Federation of Business & Professional Women (BPW), Poland
38. Ogólnopolski Strajk Kobiet (All-Poland Women’s Strike), Poland
39. ADDP l’Association Défense de la Démocratie en Pologne (Stowarzyszenie na rzecz obrony demokracji w Polsce), Poland
40. ASTRA Network, Poland
41. BABA Lubuskie Stowarzyszenie na Rzecz Kobiet, Poland
42. Berliński Kongres Kobiet, Poland
43. Black Brussels Balloons, Poland
44. Czarny Protest Bielsko-Biała, Poland
45. Czarny Protest Gliwice, Poland
46. Danish Family Planning Association, Denmark
47. Democracy is OK (DOK), Poland
48. Demokratyczna Unia Kobiet, Poland
49. Dolnośląskie Forum Kobiet Stowarzyszeń i środowisk Kobiety, Poland
50. Dziewuchy Berlin, Poland
51. Dziewuchy Dziewuchom Francja, Poland
52. Dziewuchy Dziewuchom Sieraadz, Poland

53. Dziewuchy Londyn, Poland
54. Dziewuchy Szczecin, Poland
55. Dziewuchy Szwajcaria, Poland
56. Farsa, Poland
57. Federacja na Rzecz Kobiet i Planowania Rodziny, Poland
58. Federacja Polskie Lobby Kobiet, Poland
59. Femini Berlin Polska, Poland
60. Feministyczne Stowarzyszenie Polonijne Elles sans Frontieres ASBL, Poland
61. Fundacja Klamra, Poland
62. Fundacja Cicha Tęcza, Poland
63. Fundacja Centrum Praw Kobiet, Poland
64. Fundacja Czas Dialogu, Poland
65. Fundacja Droga Kobiet, Poland
66. Fundacja Edukacja – Równość – Aktywność – Dialog Era Dialogu, Poland
67. Fundacja Feminoteka, Poland
68. 29 Fundacja Głosuj na Kobiety, Poland
69. Fundacja im. Izabeli Jarugi-Nowackiej, Poland
70. Fundacja im. Kazimierza Łyszczczyńskiego, Poland
71. Fundacja Inicjatywa Kobiet Aktywnych, Poland
72. Fundacja Kobiety Zmieniają Świat, Poland
73. Fundacja na Rzecz Równości i Emancypacji STER, Poland
74. Fundacja Nowoczesnej Edukacji SPUNK, Poland
75. Fundacja Prawnikon, Poland
76. Fundacja Przestrzenie Dialogu, Poland
77. Fundacja Rodzić po ludzku, Poland
78. Fundacja Trans-Fuzja, Poland
79. Galeria Inspiracji, Poland
80. Great Coalition for Equality and Choice, Poland
81. Grupa nieformalna Równość.info, Poland
82. Grupa Ponton, Poland
83. Helsinki Foundation for Human Rights, Poland
84. Inicjatywa Sto Lat Głosu Kobiet, Poland
85. Koalicja KARAT, Poland
86. Kobiety w Sieci, Poland
87. KOD Kobiety, Poland
88. Konferencja Episkopatu Polek, Poland
89. Kongres Kobiet Północnej Wielkopolski (Stowarzyszenie „Metropolia Wielkopolska”), Poland
90. Kongres Kobiet w Tomaszowie, Poland
91. Kongres Kobiet Województwa Śląskiego, Poland
92. Kongres Świeckości, Poland
93. Koszalińskie Stowarzyszenie Aktywności Lokalnej Era Kobiet, Poland
94. Lambda Warszawa, Poland
95. Lubelska Koalicja na Rzecz Kobiet, Poland
96. Łódzki Szlak Kobiet, Poland
97. Manifa Bydgoska, Poland

98. Manifa Koszalin Strajk Kobiet, Poland
99. Manifa Lublin, Poland
100. Manifa Łódź, Poland
101. Manifa Rzeszów, Poland
102. Manifa Toruńska, Poland
103. Manifest Wolnej Polki, Poland
104. Mapa kościelnej pedofilli, Poland
105. Marsz Godności, Poland
106. Medical Students For Choice Poland, Poland
107. Międzynarodowy Strajk Kobiet, Poland
108. Nic o nas bez nas. Ruch kobiecy Gliwice i Pyskowice, Poland
109. Nieformalna Grupa Czarny Protest, Poland
110. Nieformalna Grupa Inicjatywna z Bydgoszczy, Poland
111. Obywatelskie Stowarzyszenie "Możemy", Poland
112. Ogólnopolski Strajk Kobiet, Poland
113. OSK Gryfino, Poland
114. OSK Kielce, Poland
115. OSK Lublin, Poland
116. OSK Puławy, Poland
117. OSK Sanok, Poland
118. Plakaciary, Poland
119. Polskie Towarzystwo Genderowe, Poland
120. Polskie Towarzystwo Prawa Antydyskryminacyjnego, Poland
121. Powislanska Akcja Kobiet, Poland
122. Protest kobiet, Poland
123. Ratujmy Kobiety, Poland
124. Ratujmy Kobiety Tarnów, Poland
125. Różowa skrzyneczka, Poland
126. Stowarzyszenie Aktywne Kobiety, Poland
127. Stowarzyszenie Dolnośląski Kongres Kobiet, Poland
128. Stowarzyszenie im. Stanisława Brzozowskiego – Krytyka Polityczna, Poland
129. Stowarzyszenie Inicjatyw Kobiecych, Poland
130. Stowarzyszenie Klucz Stop Społecznym Wykluczeniom, Poland
131. Stowarzyszenie Kobiety Słupsk, Poland
132. Stowarzyszenie Kobieta na PLUS, Poland
133. Stowarzyszenie Kobiety Piaseczno, Poland
134. Stowarzyszenie Kongres Kobiet, Poland
135. Stowarzyszenie Koniński Kongres Kobiet, Poland
136. Stowarzyszenie Łódzkie Dziewuchy Dziewuchom, Poland
137. Stowarzyszenie Nasz Bocian, Poland
138. Stowarzyszenie ON/OFF, Poland
139. Stowarzyszenie ONE, Poland
140. Stowarzyszenie Poprawy Spraw Alimentacyjnych – Dla Naszych Dzieci, Poland
141. Stowarzyszenie Pro Femina, Poland
142. Stowarzyszenie Prowincja Równości, Poland

143. Stowarzyszenie Stan Równości, Poland
144. Stowarzyszenie Stop Stereotypom, Poland
145. Stowarzyszenie Szlakiem Kobiet, Poland
146. Stowarzyszenie Wszechnicy Oświeceniowo-Racjonalistycznej, Poland
147. Strajk Kobiet Sardynia, Poland
148. Tęczowy Tarnów, Poland
149. Toruńskie Dziewuchy, Poland
150. Trójmiejska Akcja Kobieta, Poland
151. Warszawski Strajk Kobiet, Poland
152. Warszawskie Dziewuchy, Poland
153. Wielkopolski Kongres Kobiet, Poland

Portuguese Civil Society Organisations:

154. ACTUAR - Associação para a Cooperação e o Desenvolvimento
155. Amnistia Internacional Portugal
156. ANIMAR - Associação Portuguesa para o Desenvolvimento Local
157. Associação Portuguesa Mulheres Juristas
158. ASSOCIAÇÃO DOS FILHOS E AMIGOS DE FARIM - AFAFC
159. Associação Espaços - Projetos Alternativos de Mulheres e Homens
160. Associação ILGA Portugal
161. Associação para o Planeamento da Família

162. Associação plano i
163. Associação Portuguesa de Estudos sobre as Mulheres (APEM)
164. Associação Portuguesa pelos Direitos da Mulher na Gravidez e Parto
165. AVOAR - Associação para a Educação Artística e as Literacias
166. Caniço Advogados
167. Cannareporter
168. CIDAC - Centro de Intervenção para o Desenvolvimento Amílcar Cabral
169. FENACERCI - Federação Nacional de Cooperativas de Solidariedade Social
170. FIAN Portugal
171. GAT- Grupo de Ativistas em Tratamentos
172. Independentemente
173. Liga Portuguesa dos Direitos Humanos – Civitas, Portugal
174. Mulher Século XXI - Associação de Desenvolvimento e Apoio às Mulheres
175. Plataforma Portuguesa para os Direitos das Mulheres
176. PSI-ON Associação
177. PTMC - Portugal Medical Cannabis
178. Questão de Igualdade - Associação para a Inovação Social
179. SEIES – Sociedade de Estudos e Intervenção em Engenharia Social, CRL
180. UMAR- União de Mulheres Alternativa e Resposta