



**Brussels, 19 October 2020**

**Re: “Constitutional Tribunal” case K 1/20**

Dear Piotr Uściński, dear Bartłomiej Wróblewski,  
Dear Members of the Sejm,

As 111 Members of the European Parliament we are writing to express our serious concern about the petition pending before the “Constitutional Tribunal” regarding Article 4a, sec. 1 point 2 and Article 4a sec. 2, first sentence of the Act on Family Planning, Human Embryo Protection, and Conditions of Legal Pregnancy Termination.

We believe that the request to the “Constitutional Tribunal” to invalidate these provisions as unconstitutional threatens Poland’s compliance with its human rights obligations and adherence to EU values of rule of law, human rights, gender equality and non-discrimination. We are writing to urge you to withdraw the petition.

First of all, the invalidation of these provisions, in whole or in part, by the “Constitutional Tribunal” would represent a regressive measure that would remove existing rights protections for women in Poland. Such regressive measures are not permitted under international human rights law. The principle of non-retrogression prohibits measures that undermine, restrict or remove existing rights or entitlements under national law.

Second, the invalidation of these provisions would violate Poland’s international human rights obligations to guarantee women’s human rights, including their rights to life, health, privacy, freedom from ill treatment, and rights to equality and non-discrimination. International human rights bodies have already repeatedly expressed concern about Poland’s highly restrictive abortion law and the barriers women experience in access to care in Poland. Human rights bodies have made it clear that women must be guaranteed access to abortion care to safeguard their life, health and freedom from ill treatment as well as to ensure that women are not compelled to seek clandestine and/or unsafe abortions.

Finally, we reiterate grave concerns expressed by the entire European Parliament and the European Commission regarding respect for the rule of law in Poland and specifically the functioning of this “Constitutional Tribunal”, including as a result of unlawful appointment of

several judges and failures to publish numerous of its judgments. The European Commission has stated that it considers “that as long as the Constitutional Tribunal is prevented from fully ensuring an effective constitutional review, there will be no effective scrutiny of the compliance of legislative acts with fundamental rights.”

**In light of these grave concerns, we urge you to withdraw the petition as soon as possible. We also call on you to desist from further efforts to roll back legal protections for women’s access to abortion care under Polish law, including to reject the bill pending before the Sejm that also proposes to remove from Polish law this ground for legal abortion.**

Sincerely,

**All of Us Coordinators:**

Malin BJÖRK, Member of the European Parliament

Maria NOICHL, Member of the European Parliament

Terry REINTKE, Member of the European Parliament

Ernest URTASUN, Member of the European Parliament

Chrysoula ZACHAROPOULOU, Member of the European Parliament

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Alviina ALAMETSÄ, Member of the European Parliament

François ALFONSI, Member of the European Parliament

Eric ANDRIEU, Member of the European Parliament

Marc ANGEL, Member of the European Parliament

Konstantinos ARVANITIS, Member of the European Parliament

Manon AUBRY, Member of the European Parliament

Margrete AUKEN, Member of the European Parliament

Pernando BARRENA ARZA, Member of the European Parliament

Brando BENIFEI, Member of the European Parliament

Erik BERGKVIST, Member of the European Parliament

Robert BIEDROŃ, Member of the European Parliament

Izaskun BILBAO BARANDICA, Member of the European Parliament

Michael BLOSS, Member of the European Parliament  
Manuel BOMPARD, Member of the European Parliament  
Patrick BREYER, Member of the European Parliament  
Milan BRGLEZ, Member of the European Parliament  
Saskia BRICMONT, Member of the European Parliament  
Delara BURKHARDT, Member of the European Parliament  
Damien CARÊME, Member of the European Parliament  
Isabel CARVALHAIS, Member of the European Parliament  
Anna CAVAZZINI, Member of the European Parliament  
Leïla CHAIBI, Member of the European Parliament  
Olivier CHASTEL, Member of the European Parliament  
David CORMAND, Member of the European Parliament  
Ciarán CUFFE, Member of the European Parliament  
Jakop G. DALUNDE, Member of the European Parliament  
Johan DANIELSSON, Member of the European Parliament  
Gwendoline DELBOS-CORFIELD, Member of the European Parliament  
Karima DELLI, Member of the European Parliament  
Özlem Alev DEMIREL, Member of the European Parliament  
Bas EICKHOUT, Member of the European Parliament  
Cornelia ERNST, Member of the European Parliament  
Tanja FAJON, Member of the European Parliament  
Laurence FARRENG, Member of the European Parliament  
Daniel FREUND, Member of the European Parliament  
Heléne FRITZON, Member of the European Parliament  
Iratxe GARCÍA PÉREZ, Member of the European Parliament  
Alexandra GEESE, Member of the European Parliament  
Alexis GEORGOULIS, Member of the European Parliament  
Markéta GREGOROVÁ, Member of the European Parliament

Francisco GUERREIRO, Member of the European Parliament  
Sylvie GUILLAUME, Member of the European Parliament  
José GUSMÃO, Member of the European Parliament  
Jytte GUTELAND, Member of the European Parliament  
Henrike HAHN, Member of the European Parliament  
Hannes HEIDE, Member of the European Parliament  
Pär HOLMGREN, Member of the European Parliament  
Sophie in 't VELD, Member of the European Parliament  
Evin INCIR, Member of the European Parliament  
Petra KAMMEREVERT, Member of the European Parliament  
Karin KARLSBRO, Member of the European Parliament  
Fabienne KELLER, Member of the European Parliament  
Łukasz KOHUT, Member of the European Parliament  
Petros KOKKALIS, Member of the European Parliament  
Dietmar KÖSTER, Member of the European Parliament  
Alice KUHNKE, Member of the European Parliament  
Aurore LALUCQ, Member of the European Parliament  
Katrin LANGENSIEPEN, Member of the European Parliament  
Maria-Manuel LEITÃO-MARQUES, Member of the European Parliament  
Nathalie LOISEAU, Member of the European Parliament  
Juan Fernando LÓPEZ AGUILAR, Member of the European Parliament  
Erik MARQUARDT, Member of the European Parliament  
Marisa MATIAS, Member of the European Parliament  
Predrag Fred MATIĆ, Member of the European Parliament  
Radka MAXOVÁ, Member of the European Parliament  
Karen MELCHIOR, Member of the European Parliament  
Tilly METZ, Member of the European Parliament  
Silvia MODIG, Member of the European Parliament

Alessandra MORETTI, Member of the European Parliament  
Niklas NIENASS, Member of the European Parliament  
Ville NIINISTÖ, Member of the European Parliament  
Jan-Christoph OETJEN, Member of the European Parliament  
Younous OMARJEE, Member of the European Parliament  
Grace O'SULLIVAN, Member of the European Parliament  
Jutta PAULUS, Member of the European Parliament  
Kira PETER-HANSEN, Member of the European Parliament  
Pina PICIERNO, Member of the European Parliament  
Evelyn REGNER, Member of the European Parliament  
Diana RIBA I GINER, Member of the European Parliament  
Michèle RIVASI, Member of the European Parliament  
Eugenia RODRÍGUEZ PALOP, Member of the European Parliament  
María Soraya RODRÍGUEZ RAMOS, Member of the European Parliament  
Mounir SATOURI, Member of the European Parliament  
Christel SCHALDEMOS, Member of the European Parliament  
Andreas SCHIEDER, Member of the European Parliament  
Helmut SCHOLZ, Member of the European Parliament  
Michal ŠIMEČKA, Member of the European Parliament  
Birgit SIPPEL, Member of the European Parliament  
Sylwia SPUREK, Member of the European Parliament  
Tineke STRIK, Member of the European Parliament  
Marc TARABELLA, Member of the European Parliament  
Vera TAX, Member of the European Parliament  
Irène TOLLERET, Member of the European Parliament  
Marie TOUSSAINT, Member of the European Parliament  
Miguel URBÁN CRESPO, Member of the European Parliament  
Kim VAN SPARRENTAK, Member of the European Parliament

Monika VANA, Member of the European Parliament

Idoia VILLANUEVA RUI, Member of the European Parliament

Nikolaj VILLUMSEN, Member of the European Parliament

Marianne VIND, Member of the European Parliament

Bettina VOLLATH, Member of the European Parliament

Thomas WAITZ, Member of the European Parliament

Maria WALSH, Member of the European Parliament

Yannick YADOT, Member of the European Parliament

Salima YENBOU, Member of the European Parliament

Elena YONCHEVA, Member of the European Parliament