



*Razem w obronie
życia, wolności, rodziny
i suwerenności!*

Warsaw, 28.11.2025.

**Opinion of the
Ordo Iuris Institute for Legal Culture
for
the Committee on the Rights of Persons with Disabilities
regarding
Survey on disability-based violence**



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Main thesis:

- **Many countries permit abortion de jure or de facto on the grounds of confirmed or suspected fetal abnormalities that could result in disability.**
- **In other countries where abortion is widely available, it is common practice to terminate pregnancies where foetuses are suspected of having conditions that could lead to disability.**
- **Such legal regulations and practices reinforce the belief that the lives of persons with disabilities are less valuable and contradict a number of provisions of the 2006 Convention on the Rights of Persons with Disabilities.**
- **Therefore, it can be argued that so-called eugenic abortion constitutes a serious form of discrimination against persons with disabilities at the prenatal stage of human development.**
- **In Poland, since 2021, the law strictly protects human life from conception to natural death, regardless of health status or personal characteristics, eliminating discrimination against persons with disabilities in accessing the fundamental right to life.**
- **Therefore, the Ordo Iuris Institute recommends, among other things, clearly condemning the use of abortion practices due to a confirmed or suspected developmental defect in an unborn child and promoting policies that ensure equal treatment and protection of the right to life for all persons, regardless of their health status or disability.**

I. Ordo Iuris Institute – legitimization

The Ordo Iuris Institute for Legal Culture¹ is a professional think tank bringing together lawyers committed to the protection of human rights. The statutory objectives of the Ordo Iuris Institute include conducting research on legal culture, conducting and supporting scientific research, and promoting it through the organization of lectures, symposia, discussion meetings, and

¹ <https://en.ordoiuris.pl> (access: 19.11.2025).



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conferences. In the past, the Ordo Iuris Institute has submitted its opinions to, among others, the Venice Commission, the Monitoring Committee of the European Charter of Human Rights, and the European Parliament's Committee on Civil Liberties, Justice, and Home Affairs (LIBE). It has also submitted numerous opinions to the Secretary General of the Council of Europe, the Commissioner for Human Rights, the PACE Committee on Political Affairs and Democracy, the UN Human Rights Council, as well as to supreme and constitutional courts and tribunals in countries such as Brazil, Chile, and Croatia.

The Foundation is accredited by the European Parliament (registered under number 206499215012-94) and actively participates in the legislative decision-making process. In addition, Ordo Iuris has consultative status with ECOSOC at the UN. We monitor the situation and respond in real time whenever something important arises in areas of our interest. In 2019, we participated in a summit in Nairobi co-organized by UNFPA. Our experts have published numerous analyses and reports, usually including legislative proposals.

Since its inception, the Ordo Iuris Institute has been committed to protecting the rights of persons with disabilities. In 2018, the Institute prepared a report entitled *“Prohibition of discrimination on the grounds of disability and gender in international law in relation to the right to life.”*². Moreover, in 2020 Institute's experts published report called *„How to systematically support people with disabilities? Proposals and directions”*³. In 2021, the Ordo Iuris Institute prepared a draft law containing solutions that will improve the situation of persons with disabilities and their carers in the labor market⁴.

² <https://ordoiuris.pl/ochrona-zycia/gendercide-aborcyjne-pieklo-dziewczynek-raport-ordo-iuris> (access: 19.11.2025)

³ <https://ordoiuris.pl/raporty/jak-systemowo-wspierac-osoby-z-niepelnosprawnosciami> (access: 19.11.2025)

⁴ <https://ordoiuris.pl/projekty-aktow-prawnych/projekt-ustawy-o-zmianie-ustawy-o-promocji-zatrudnienia-i-instytucjach> (access: 27 June 2025)



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In view of the above, the Ordo Iuris Institute has the relevant experience and expertise to submit its comments on the draft guidelines on addressing multiple and intersectional forms of discrimination against persons with disabilities⁵.

II. Discrimination against persons with disabilities on the grounds of suspected prenatal conditions (eugenic abortion)

Discrimination against persons with disabilities may take many forms. It may involve discrimination in employment, lack of equal opportunities in education, or social exclusion. A particularly important form of discrimination against persons with disabilities is prenatal discrimination, i.e. discrimination from the moment of conception to the time of birth. In many countries where abortion is *de jure* or *de facto* available on demand, termination of pregnancy often takes place due to the suspicion of various developmental defects in the unborn child, often associated with disability (e.g. Down's syndrome). Such practices (eugenic abortion) contribute to the deterioration of the actual situation of persons with disabilities during the prenatal stage of development, causing their lives to be perceived as inferior or less valuable.

Furthermore, in many other countries where abortion is not legally permitted or is not formally available on demand, one of the grounds for terminating a pregnancy is often foetal abnormalities, including those leading to disability.

In this context, a number of international legal acts guaranteeing the protection of the rights of persons with disabilities should be taken into account. The preamble to the 2006 Convention on the Rights of Persons with Disabilities⁶ states that children with disabilities should enjoy all human rights and fundamental freedoms on an equal basis with other children, in accordance with the rights set forth in the Convention on the Rights of the Child⁷. The definition of a child in Article 1 of this Convention states that “child” means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

⁵ Survey on disability-based violence <https://www.ohchr.org/en/calls-for-input/2025/survey-disability-based-violence> (access: 19.11.2025).

⁶ Convention on the Rights of Persons with Disabilities adopted by the UN General Assembly on 12 December 2006.

⁷ Convention on the Rights of the Child adopted by the UN General Assembly on 20 November 1989.



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Furthermore, Article 7 of the Convention on the Rights of Persons with Disabilities stipulates that States Parties shall take all necessary measures to ensure that children with disabilities enjoy all human rights and fundamental freedoms on an equal basis with other children. Moreover, Article 2(1) of the Convention on the Rights of the Child emphasizes that States Parties shall respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's disability.

It is also important to bear in mind the content of Article 8 of the Convention on the Rights of Persons with Disabilities, under which the States Parties undertake to adopt immediate, effective and appropriate measures to raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities ; to combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life; to promote awareness of the capabilities and contributions of persons with disabilities [Article 8 (1)].

In this context, Article 10 of the Convention on the Rights of Persons with Disabilities should also be taken into account, under which the States Parties to this international agreement confirm that every human being has an inherent right to life and will take all necessary measures to ensure that persons with disabilities can effectively enjoy this right on an equal basis with others. It is worth noting that the standard expressed in Article 10 of the Convention contains the phrase “every human being,” which suggests that this provision applies not only to persons with disabilities who have already been born, but also to human beings at the prenatal stage of development.

In light of the aforementioned regulations, it can therefore be concluded that discrimination against children at the prenatal stage of development on the grounds of their disability constitutes a clear violation of the principle of equal dignity, as defined in Article 5 of the Convention on the Rights of Persons with Disabilities. Such discrimination will occur both in a situation where the law allows abortion on the grounds of the disability of the unborn child, and in a situation where abortion is generally permissible, but as a result of practice, medical recommendations,



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or other circumstances, the termination of pregnancy takes place on the grounds of the disability of the unborn child.

Article 6 of the International Covenant on Civil and Political Rights⁸ is also relevant, pursuant to which every human being has the inherent right to life. The Committee on the Rights of Persons with Disabilities, in its Comments on draft general comment No. 36 of the Human Rights Committee on article 6 of the International Covenant on Civil and Political Rights, pointed out that “laws which explicitly allow for abortion on grounds of impairment violate the Convention on the Rights of Persons with Disabilities (Art. 4,5,8)⁹. Even if the condition is considered fatal, there is still a decision made on the basis of impairment. Often it cannot be said if an impairment is fatal.

It is also worth mentioning the report prepared by the Committee on the Rights of Persons with Disabilities in 2024 on the situation of persons with disabilities in Belgium¹⁰. The document states “that societal perceptions that persons with Down syndrome and other impairments are less valuable than other persons contribute to the high level of selective termination of pregnancies following prenatal diagnoses of Down syndrome or other impairments” (point 16b). In light of the above, the Committee on the Rights of Persons with Disabilities recommends that member states “develop and implement, in close consultation with and with the active involvement of persons with disabilities, through their representative organizations, awareness-raising strategies and action programs at all levels of government, based on the human rights model of disability, to increase awareness in the state, economy, and society about the dignity and rights of persons with disabilities” (point 17a). Furthermore, in the very same document, the Committee also recommends that States Parties “ensure that prospective parents undergoing prenatal screening are provided with comprehensive information and non-directive counseling

⁸ International Covenant on Civil and Political Rights adapted by the UN General Assembly on 12 December 1966.

⁹ General comment No. 36 on article 6: right to life, <https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life> (access: 20.11.2025).

¹⁰ Committee on the Rights of Persons with Disabilities. Concluding observations on the combined second and third periodic reports of Belgium, https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.observatoriobioetica.org%2Fwp-content%2Fuploads%2F2024%2F10%2FCRPD_C_BEL_CO_2-3_59582_E.docx&wdOrigin=BROWSELINK (access: 21.11.2025).



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that does not promote stereotypes about persons with disabilities or values associated with the medical model of disability” (point 17b).

In the context of the aforementioned treaty standards and the opinion of the Committee on the Rights of Persons with Disabilities, it should also be recognized that combating discrimination against persons with disabilities, including cases of inferior treatment of persons with disabilities at the prenatal stage of development, whether legally sanctioned or de facto, falls within the category of obligations of the States Parties to the Convention. The admissibility of abortion on the grounds of the diagnosis or likelihood of disease or disability in a child at the prenatal stage of development has negative effects on the educational and motivational function of the law. Furthermore, it may generate negative attitudes towards persons with disabilities even after birth, conveying an unfair and contradictory message to the principle of human dignity that the lives of such persons are inferior or less valuable than those of persons who do not face the challenge of disability.

In the course of the issues raised in this opinion, it is also worth mentioning the negative health consequences experienced by women who have decided to have an abortion. Recent comprehensive and long-term studies, the results of which were published in the Journal of Psychiatric Research¹¹, indicate that the rate of psychiatric hospitalizations after abortion was 104 per 10,000 person-years (a unit of measurement in epidemiology, denoting the product of the number of people and the time of their exposure – most often in years – used to standardize indicators in population studies, e.g., morbidity, incidence of events), while in the group of women after childbirth, the rate was 42 per 10,000 person-years.

After adjusting for confounding factors such as age, pregnancy characteristics, and previous health problems, the adjusted hazard ratio was 1.81 for psychiatric hospitalizations overall, 2.57 for substance use disorders, and 2.16 for suicide attempts. This means that women who have had

¹¹ N. Auger, J. Healy-Profítós, A. Ayoub, A. Lewin, N., Low, Induced abortion and implications for long-term mental health: a cohort study of 1.2 million pregnancies, “Journal of Psychiatric Research” Volume 187, July 2025, s. 304-310,
<https://www.sciencedirect.com/science/article/pii/S0022395625003309?via%3DiHub> (access: 21.11.2025).



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an abortion have a significantly higher risk of severe mental health episodes requiring hospitalization than mothers after childbirth.

III. Legal protection of persons with disabilities at the prenatal stage of development in Poland

In Poland, the issue of legal protection for persons with disabilities at the prenatal stage of development is governed by the provisions of the Constitution of the Republic of Poland of 1997¹². Pursuant to Article 38 of the Constitution “the Republic of Poland shall ensure the legal protection of the life of every human being”.

In its 1997 ruling, the Constitutional Tribunal, based on both the provisions of the then-current so-called “Small Constitution od 1992” (a temporary fundamental law, in force until the adoption of a new fundamental law in 1997)¹³ and the provisions of the then adopted, soon-to-be-effective and currently binding Constitution of 1997, ruled¹⁴ that the provisions of the latter normative act protect (the aforementioned Article 38), as a rule, human life from the moment of conception. One of the three exceptions to this rule was a situation in which prenatal tests, confirmed by two physicians, demonstrated that the fetus was seriously and irreversibly damaged.

This status quo remained unchanged until the Constitutional Tribunal's ruling of October 22, 2020, when the said body stated that . the law strictly protects human life from conception to natural death, regardless of health status or personal characteristics, eliminating discrimination against persons with disabilities in access to the fundamental right to life¹⁵.

By virtue of the aforementioned judgment, the Republic of Poland has become a country that provides an exceptionally high level of legal protection to persons in the prenatal stage of

¹² The Constitution of the Republic of Poland of 2nd April, 1997, <https://www.sejm.gov.pl/prawo/konst/angielski/konse.htm> (access: 21.11.2025).

¹³ The Constitutional Act of 17th October, 1992 on the Mutual Relations between the Legislative and Executive Institutions of the Republic of Poland and on Local Self-government, <https://biblioteka.sejm.gov.pl/tek01/txt/kpol/e1992a.html> (access: 21.11.2025).

¹⁴ Judgment of the Constitutional Tribunal of December 15, 1997—file ref. no. K 13/97, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19971571039> (access: 21.11.2025).

¹⁵ Judgment of the Constitutional Tribunal of October 22, 2020, ref. no. K 1/20, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20210000175> (access: 21.11.2025).



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development, including those who have been diagnosed with or shown a significant likelihood of developing developmental defects that may result in disability.

IV. Recommendations

Taking into account the above legal regulations, arguments, and comments, the Ordo Iuris Institute for Legal Culture recommends:

1. Express condemnation of the use of abortion practices due to a confirmed or suspected developmental defect in an unborn child;
2. Promoting policies that ensure equal treatment and protection of the right to life for all persons, regardless of their health status or disability.
3. Encouraging states to introduce educational programs that counteract stereotypes about the value of the lives of persons with disabilities, including emphasizing the importance of life and human dignity of persons with disabilities at the prenatal stage of development.
4. Strengthen support mechanisms for pregnant women and their unborn children who have been diagnosed with or are at risk of developmental defects causing disability.
5. Encourage states to review their regulations on the legal protection of life at the prenatal stage of development, indicating the need to protect unborn children, including in particular unborn children suspected of having diseases that result or may result in disabilities.