

# Poland

## Apie

Under the Constitution adopted in 1997, Poland grants women and men the same rights in all areas of their lives. [Article 33\(2\) of the Constitution](#) states that ‘Men and women shall have equal rights, in particular regarding education, employment and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold office and to receive public honours and decorations’.

Poland’s accession to the European Union (EU) and subsequent compliance with EU principles contributed to a general improvement of the legal framework for equality, including significant changes in the Labour Code. Both the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) take precedence over national law.

The EU has had a significant influence on gender mainstreaming in Poland due to the need to implement requirements for EU funding. For instance, all projects co-financed within the European Social Fund (ESF) framework must have a gender impact assessment. Gender mainstreaming has itself been the focus of a number of projects funded by the ESF, demonstrating its importance as a source of funding for activities aimed to improve gender equality and equal opportunities for women and men in Poland.

In 2014, the UN Committee on the Convention on the Elimination of Discrimination against Women reiterated its concerns in relation to the institutional mechanisms for gender mainstreaming in Poland [1]. The Committee noted that there is no government authority responsible exclusively for gender equality policies, there is a lack of resources, and the budget of the Plenipotentiary is not distinct from the total budget.

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## Legislative and policy framework

The first government commitment to gender mainstreaming was in the National Action Plan for Women (NAP) 1997–2000. However, due to a political shift in the 1997 election, this NAP was never implemented. With the support of the government's Plenipotentiary for the Equal Status of Men and Women (established in 2001), the second NAP 2003–2005 was successfully launched, with the aim of mainstreaming gender equality into government policy at all levels. This positive development was interrupted in 2005, however, when the Plenipotentiary was dissolved after parliamentary elections and no new national gender equality programme was put in place.

After the dissolution of the Plenipotentiary in 2005, its competences were taken over by the Department of Women, Family and Counteracting Discrimination within the Ministry of Labour and Social Policy. The Department was responsible for coordinating the implementation of the gender mainstreaming perspective but was dissolved in January 2010. However, to implement the task of providing equal opportunities to women and men in the labour market, the Division for Gender Equality in the Labour Market was created in the Department of Economic Analyses and Forecasts. In 2008, a new institution was established – the Plenipotentiary for Equal Treatment, which drew up a new NAP 2013–2016, including a firm commitment to gender mainstreaming.

The Act on the Implementation of the Regulations of the European Union in the Field of Equal Treatment, adopted in 2010, requires the development of an NAP for Equal Treatment by the government's gender equality body [2]. The NAP is a horizontal, strategic document that gathers and ranks key equality activities carried out by government departments and agencies. In 2013, the Plenipotentiary for Equal Treatment published the NAP for 2013-2016. As of late 2019, no subsequent Plan has been developed, nor has an evaluation of the previous NAP been published.

Poland has no legal provisions to enforce gender mainstreaming and thus there are no actions coordinated at national level. The NAP 2013-2016 designated the ministries responsible for implementing individual objectives listed in the Plan. As it is not being continued at present, however, this designation is no longer in effect.

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## Structures

In 2010, the Polish parliament adopted the Act on the Implementation of the Regulations of the European Union in the Field of Equal Treatment [3]. The Act implements several EU directives, including: Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006, on the implementation of the principle of equal opportunities and equal treatment of women and men in matters of employment and occupation; and Council Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation. The Act sets general framework conditions for equal treatment policy in Poland and specifies the competent bodies in equal treatment issues, i.e. the Plenipotentiary for Equal Treatment as the government body and the Commissioner for Human Rights as the independent equality body.

## **Government responsibilities**

The Plenipotentiary for Equal Treatment (Pełnomocnik Rządu ds. Równego Traktowania) is responsible for the implementation of government policy on equal treatment, including gender equality.

The Plenipotentiary for Equal Treatment was established in 2010 under the Act on the Implementation of the Regulations of the European Union in the Field of Equal Treatment. It implements government policy on equal treatment, including gender equality, and is appointed and dismissed by the Prime Minister of the Republic of Poland. The Plenipotentiary does not have a separate budget and has limited human resources, as it sits within the Chancellery of the Prime Minister.

The tasks of the Plenipotentiary for Equal Treatment include:

- Implementing government policy on the principle of equal treatment, including combating discrimination, in particular on grounds of sex, race, nationality, ethnicity, religion, belief, age, disability, and sexual orientation;

- Preparing and reviewing draft legal acts in the field of equal treatment;

- Conducting analyses and evaluations of legal solutions in terms of respecting the principle of equal treatment;

- Applying to the competent authorities for issuing or amending legal acts in the field of matters belonging to the Plenipotentiary;

- Taking action to eliminate or limit the consequences of infringements of the principle of equal treatment;

Analysing and assessing the legal and social situation in the field of equal treatment;  
Initiating, implementing, coordinating or monitoring measures to ensure equal treatment and protect against discrimination and initiate actions to limit the impact of violations of the principle of equal treatment.

The Plenipotentiary should cooperate with national social organisations, including trade unions and employers' organisations, as well as with other countries, organisations, and international and foreign institutions in matters related to equal treatment and anti-discrimination. With the consent of the Prime Minister, the Plenipotentiary may submit draft government documents within its scope of operation.

After the change of government in January 2016, an additional post of Plenipotentiary for Civil Society was established. Since then, the same person holds both offices - Plenipotentiary for Equal Treatment and Plenipotentiary for Civil Society. The significance and influence of the Plenipotentiary for Equal Treatment decreased substantially following this change, in both its scope of its activity and public visibility. The lack of a new NAP is the most important example of this decrease.

## **Independent gender equality body**

The Act on the Implementation of the Regulations of the European Union in the Field of Equal Treatment designates the Commissioner for Human Rights as the second central institution responsible for implementing equality policy. The Commissioner is responsible for the implementation of the principle of equal treatment under the conditions and in the modes set out in the Act of 15 July 1987 to the Commissioner for Human Rights.

One of the Commissioner's key tasks is to act as an independent body providing assistance to those filing complaints related to discrimination. It also conducts independent research on discrimination and publishes reports that include recommendations on legal changes required. In implementing the principle of equal treatment, the Commissioner may draw on a wide range of procedural rights, including the opportunity to demand the initiation of proceedings in civil cases, as well as taking part in any pending court proceedings or applying to the Constitutional Tribunal for examination of the compliance of legal provisions with the Constitution of the Republic of Poland and ratified international agreements.

The Commissioner is appointed by the lower house - with the consent of the upper house - for five years. It is independent in its operations, distinct from other state bodies and accountable only to the parliament, under the terms set out in the Act. The office of the Commissioner is obliged to submit an annual report on its actions to the parliament, which is then made public. However, the independence of the Commissioner's activities has certain limits. The budget of the Commissioner for Human Rights is approved by the parliament and has seen incremental reductions since the change of government in 2015.

## **Parliamentary bodies**

Article 22 of the Act on the Implementation of the Regulations of the European Union in the Field of Equal Treatment obliges the Plenipotentiary for Equal Treatment to prepare and submit annual reports to the Council of Ministers, providing information on activities, conclusions and recommendations related to compliance with the principle of equal treatment, together with a report on the implementation of the NAP on Equal Treatment (Article 23 of the Act). Both reports are publicly available on the [website of the Plenipotentiary](#). The last report on the NAP implementation covers the year 2016 and no evaluation has yet been carried out.

The Act does not provide any explicit obligation to conduct comprehensive monitoring or evaluation of the Act's application, nor any sanctions to be imposed on competent authorities failing to achieve these goals.

## **Regional structures**

Plenipotentiaries for Equal Treatment were appointed to improve the implementation of the principle of equal treatment in all voivodeships in Poland [4]. They were appointed based on Article 18(11) of the Act of 23 January 2009 on the voivode and government administration in the voivodeship [5], in connection with the NAP 2013-2016.

These regional Plenipotentiaries cooperate with the Government Plenipotentiary for Equal Treatment, as well as with NGOs working on equal treatment and anti-discrimination. They are responsible for undertaking activities to promote the principle of equal treatment in the voivodeship and in the office servicing the voivode. At the request of the Government Plenipotentiary, they provide information on compliance with the principle of equal treatment in the voivodeship and the office servicing the voivode. The scope of their responsibility is the same in every voivodeship in Poland.

After the 2018 local elections and the completion of the NAP 2013-2016, most Plenipotentiaries continue to play a role in voivodeships, although experts note that their importance has diminished [6]. Many local governments appoint their own Plenipotentiaries for Equal Treatment, independently of the central government and administration (especially in the western part of Poland). These authorities operate under the rules set by local governments.

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## Methods and tools

Note: the methods and tools listed under this section were the focus of EIGE's 2018-2019 assessment. If certain methods and tools are not mentioned in this section, this does not necessarily mean that they are not used at all by Poland.

The application of the so-called 'minimum standard' (a set of questions and points that define the minimum conditions a project submitted for ESF funding should meet in terms of gender equality) has had a substantial influence on the implementation of the gender equality horizontal principle within activities undertaken in the framework of the ESF. It is assumed that the conclusions from the evaluation of gender equality principle implementation (planned to be carried out at least once during the programming period for operational programmes co-financed by the ESF) will be used to improve the effectiveness of the implementation of the gender equality principle within the programmes [7].

## Training and awareness-raising

The Ministry of Investment and Economic Development is the public authority responsible for managing EU funds in Poland. It has undertaken a number of initiatives, such as: training sessions in the field of equality between women and men; using EU funds (not compulsory) addressed to the civil servants from Intermediate Bodies and Managing Authorities in Poland; and the preparation of an e-learning activity on the rules of implementation of the ESF in Poland. Part of the e-learning concerns accessibility for people with disabilities and equality between women and men. Since 2016, this training has been mandatory for all employees working for Intermediate Bodies with responsibility for projects within the ESF framework. The Ministry also prepared specific guidelines on 'How to implement equality between men and women in the projects co-financed by EU funds'. The guidelines target all actors involved in implementing EU funds, such as Managing Authorities, Intermediate Bodies, or potential beneficiaries. The document shows how to implement equality between women and men at the different stages of the EU funds, including programming, monitoring, and evaluation (among others).

The only training and awareness-raising actions on gender equality undertaken in Poland form part of EU fund implementation. 'Action Agenda for equal opportunities and non-discrimination within the framework of EU funds' serves as the legal basis for such undertakings. An evaluation of the implementation of the gender equality principle within the EU-fund framework is planned for 2019. Its results will provide a more comprehensive picture of how Polish authorities meet the European obligations in that respect.

## **Gender statistics**

There is no comprehensive monitoring or systematic evaluation of the level of implementation of anti-discrimination legislation in Poland [8]. The issue of sex-disaggregated data would allow for more effective monitoring but is not yet regulated by law. The Central Statistical Office in Poland collects data gathered during the population survey, data obtained through reporting forms from private entities, and administrative data from public entities. However, only the population data are sex-disaggregated.

The Plenipotentiary for Equal Treatment raised this issue with the Central Statistical Office in 2017. Such a change would require the cooperation of [all government administration bodies](#), however, and there is little political commitment to introduce such a system at present.

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## Good practices

[Browse all Poland good practices](#)

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## References

Act of 15 July 1987 on the Ombudsman ([Ustawa z dnia 15 lipca 1987 r. o Rzeczniku Praw Obywatelskich](#)). (Journal of Laws 1987 No. 21 item 123) (Dz.U. 1987 nr 21 poz. 123).

Act of 23 January 2009 on the voivode and government administration in the voivodship ([Ustawa z dnia 23 stycznia 2009 r. o wojewodzie i administracji rządowej w województwie](#)). Journal of Laws of 2009 No. 31 item 206 (Dz.U. 2009 nr 31 poz. 206).

Act of 3 December 2010 on the implementation of some regulations of European Union regarding equal treatment ([Ustawa z dnia 3 grudnia 2010 r. o wdrożeniu niektórych przepisów Unii Europejskiej w zakresie równego traktowania](#)). Journal of Laws 2010 No. 254 item 1700 (Dz.U. 2010 nr 254 poz. 1700).

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## Endnotes

[1] Committee on the Elimination of Discrimination against Women (2014). [Concluding observations on the combined seventh and eighth periodic reports of Poland](#). CEDAW/C/POL/7-8.

[2] Plenipotentiary for Equal Treatment (2013). National Action Plan for Equal Treatment for 2013-2016 ([Krajowy Program działań na rzecz równego traktowania na lata 2013-2016](#); Pełnomocnik Rząd ds Równego Traktowania). Warsaw.

[3] Act of 3 December 2010 on the implementation of some regulations of European Union regarding equal treatment ([Ustawa z dnia 3 grudnia 2010 r. o wdrożeniu niektórych przepisów Unii Europejskiej w zakresie równego traktowania](#)). Journal of Laws 2010 No. 254 item 1700 (Dz.U. 2010 nr 254 poz. 1700).

[4] A voivodeship is the highest-level administrative subdivision in Poland; a voivode is a government-appointed governor of the voivodeship.

[5] Journal of Laws of 2015, item 525, as amended.

[6] Based on the interview with the local Plenipotentiary for Equal Treatment.

[7] Druciarek M. and Przybysz I. (2017). [The use of EU funds for gender equality in Poland](#). In-depth analysis for the FEMM Committee.

[8] The lack of a comprehensive monitoring and systematic evaluation of the level of implementation of the anti-discrimination legislation in Poland was mentioned in the NAP 2013-2016. According to the interview with the Head of the Department of Civil Society in the Office of the Government Plenipotentiary for Equal Treatment, creation of such a system is planned within an EU-funded project.