

Briefing for a delegation of the Committee on Women's Rights and Gender Equality to Warsaw, Poland

02 - 04 November 2022



Poland

Poland, officially the Republic of Poland, joined the European Union in 2004 and is a Schengen member area since 2017. It is currently preparing to adopt the euro. It has a population of around 38 Million and is therewith the fifth-most populous country in the EU. In 2020 51.6 % of those were women and 48.4% were men.

Poland is a parliamentary republic with a head of government which is the Prime Minister (Mateusz Morawiecki, a member of the political party Law and Justice (PiS)) and a head of state which is the President (Andrzej Duda, supported by the Law and Justice (PiS)). The most important governmental organ is the Council of Ministers around which the government structure is centred. With the Sejm and the Senate Poland has a bicameral system. The country is divided into 16 provinces that reflect its historic regions. At the provincial level administrative authority is shared between a government-appointed governor, an elected regional assembly and an executive elected by the regional assembly. Warsaw, the capital of Poland and its largest city, is located in east-central Poland and has a population of around 1,76 million residents. It is the political centre of Poland with almost all government institutions being located there. Warsaw has the most diverse demography of Poland. The city hosts the most migrants and the number of migrant residents has significantly risen with the arrival of hundreds of thousands refugees from Ukraine.



Gender Equality

Gender equality refers to the equal rights, responsibilities and opportunities of women and men and therewith touches upon almost every aspect of life. Since this definition refers to two genders only, LGBTI+ rights will be addressed separately. Gender equality is embedded in the Polish constitution and other laws, such as the Labour Code and the Act on the Promotion of Employment and Labour Market Institutions. Gender equality, also known as sexual equality or equality of the sexes, is the state of equal ease of access to resources and opportunities regardless of gender, including economic participation and decision-making.

Below, an overview of women in decision-making roles - in politics as well as in the private sector - and other forms of societal participation is given.

Women in Polish Politics

The Council of Ministers, including the prime minister as head, has 24 members. Among them four are women: Marlena Maląg, Minister of Family and Social Policy, Anna Moskwa, Minister of Climate and Environment, Magdalena Rzeczkowska, Minister of Finance and Agnieszka Ścigaj, Minister-Member of the Council of Ministers. In the Sejm out of 460 seats, 130 are taken by women, who count for 28 %.

The [electoral law](#), adopted in January 2011 provides a candidate quota on electoral lists to the Sejm. According to Article 211 (3) the number of candidates who are women cannot be less than 35 %. In case the number is not met, the National Electoral Commission shall request the person notifying the list of the party to the Commission to remove the defect within three days. In case that the defects are not being remedied, the Commission decides to refuse to register the list in its entirety according to Article 215 (5). There is no further legislation for funding or financial advantages to encourage gender equality. However, the law is also applicable to elections to the European Parliament. In the Senate out of 100 total seats women take 24 of them. There is no legislated quota for the Senate.

Women on the Labour Market: Type of Employment, Wage and Conditions

According to [Eurostat](#), 45 % of women in 2021 were employed full-time, in contrast to 63 % of men in Poland. The duration of the working life was 31 years for women and 36 years for men. A big difference can be seen in the quality of work: 25 % of employed women aged over 15 are employed in education, human health and social work activities, whereas only 5 % of employed men. These jobs tend to be less well paid than others and have a smaller career prospect index.

According to the [European Institute for Gender Equality](#), regarding women in **key decision-making roles** in public administration, of the top two tiers of administrators by function of the government [45.2 %](#) were women. At the Constitutional court only [19.8 %](#) of judges are female. The executive and non-executive CEOs of the largest listed companies in Poland only [15.6 %](#) were female. Of the presidents, executive heads and members of national social partners [20.3 %](#) were female. In the two highest decision making bodies of public broadcasters women are represented with [33.3 %](#) in 2022. In academia female presidents and members of the highest decision-making body only make up [15.1 %](#) and of research funding organisations women are [19.4 %](#) of the presidents and members of the highest decision making bodies. The percentage of women in academia is so small because there are no regulations or measures on gender equality in decision-making, career development, harassment and mobbing, or inclusion of gender in the field.

In the [2018 - 2021 National Action Plan](#) in response of the Polish National European Research Area roadmap gender equality is addressed, but solely focusses on the compatibility of work with the private life, which is in line with the programme "Babies+" of the Ministry of Family and Social Policy that provides financial support to universities that have nurseries or childcare centres.

Concerning a gender pay gap the **difference between average gross hourly earnings of male and female employees relative to the male gross** earnings in Poland was at 4.5 % in 2020 whereas the median difference in the EU was at 13 % according to [Eurostat](#). In contrast, men on average receive higher pensions than women by 23 % according to the [Report of the EU Commission on Gender Gap in Pensions](#). The normal retirement age for women is 60, while for men it is 65 in Poland. According to these numbers, Poland is above the average of the EU as a whole, where men on average receive higher pensions by 39 %. However, [research conducted in Poland](#) in the past years show higher figures, e.g. up to 25 % for the gender pay gap in the past years.

Naturally, the gender pay gap is reflected in the gender pension gap - women all over the world are being underrepresented in well-paid jobs, earn less than men doing the same job and do unpaid care work - but also other factors such as working for fewer years, not having a full-time salary and contributing to social security play a role in the gender pension gap.

A first step on the way of reducing the gender pay gap and with it also the gender pension gap is national legislation on **pay transparency**. Poland is one of the countries in the EU, where wages are mostly set by [individual negotiations](#), so that the majority of wages is not public. Even though there are several generic pay reporting duties in Poland, these are however not related to equal payment of women and men, but to the prevention of corruption.

Another important factor for the opportunities women can realistically have on the labour market are the **working conditions**. Since women still mainly do the unpaid work in the household (such as care work for children, the elderly and sick persons), parental leave, working hours and the possibility to work from home have to be put into account. Even more so, since the burden for women increased with the COVID-19 pandemic.

Benefits of parenthood are [eligible to parents that are insured by social security](#) (mandatory in Poland) [until the child reaches two years of age](#). Maternity allowance is granted to the mother of a child, but she may transfer her share to the father, on the condition that most of it is enjoyed by the mother. Parental leave is granted to both parents in a maximum of four parts and paternity allowance is granted to an insured father of a child and is independent of the mother's leave. A same sex partner is not eligible. The [EU Directive on Work-Life-Balance](#) for Parents and Carers has not been implemented by Poland yet, and according to public announcements the implementing act shall come into force earliest at the beginning of January 2023. Main points of the Directive are the introduction of a paternity leave and the insurance that two out of four months of parental leave are non-transferable between parents. It also introduces a carers' leave, meaning that workers providing personal care or support to a relative will be entitled to five days of leave per year and extends the right to request flexible working arrangements to carers and working parents of children up to eight years. According to [Eurofound](#) 16 % of women in Poland have the ability to take one or two hours off during working hours to take care of personal or family matters, in contrast to 19 % of men.

Gender based violence

Gender based violence is one of the most severe forms of discrimination against women. It is a violation of their fundamental rights and has its roots in structural inequalities and power imbalances. The most important international legal document for the protection of women is the **Council of Europe's Istanbul Convention on Violence against Women**. Poland ratified the Convention in 2015, but in July 2020 the Justice Minister announced that Poland would withdraw from it. Shortly after, the Prime Minister asked the Constitutional Court to examine whether the Convention is in line with the Polish constitution.

There is no comprehensive law or national strategy against violence against women, only fragmented legal documents. The Polish constitution states in its Art. 40 that no one may be subjected to torture or cruel, inhuman, or degrading treatment or punishment. It also contains the principle of equality between men

and women. Polish law addresses a series of forms of violence against women through different policies and pieces of legislation, which are described below but are not exhaustive. Acts of **domestic violence** are punishable under various offences, such as mistreating another person mentally and physically and have been mainly regulated by the [2005/2010 Act on Counteracting Domestic Violence and the National Plan for Counteracting Domestic Violence](#). **Sexual violence** and **rape** are punishable under Chapter XXV of the Penal Code. The [GREVIO baseline evaluation report on Poland](#) within the framework of the Istanbul Convention criticised that neither rape nor the other sexual offences have a consent-based, but a force-based definition. Therefore the criteria holds a high threshold which does not cover all the realities women may face. Polish law does not have a definition of **femicide**, it only falls under the provisions of homicide and manslaughter. **Stalking** is covered by Art. 190a of the Penal Code and entails an on- and offline dimension. **Sexual harassment** is mainly covered by the Labour Code and the Act on Equal Treatment.

The **official numbers** of cases of gender based violence can only be seen as an indicator. Unlike with any other offense, cases of gender based violence happen, sometimes without being reported, and only a very small number of those reported lead to a conviction. One has to differentiate between the official statistics, the reported violence, the disclosed violence and the actual prevalence and incidence of violence. In Poland there are several administrative data sources and statistical products on gender based violence, as for example the ["Blue Card" procedure](#), which defines a set of measures to deal with complaints of domestic violence, including remedial responses and cooperation with non-police entities and the special assistance procedure for victims of domestic violence.

Official figures from the [Police statistics of the "Blue Card" procedure](#) from the year 2021 state that **64.250 women** reported incidents of or were found to have been subjected to domestic violence which is fewer than in other EU countries. According to the [Violence against Women EU-wide survey of the Fundamental Rights Agency from 2014](#), 19 % of women have experienced physical and/or sexual violence by a current and/or previous partner, or by any other person since the age of 15. However, this has to be seen in a perspective: in the majority of the cases of the respondents in Poland the violence resulted in injuries, so were the more serious incidents. It found that 9 % of women in Poland have been stalked and 32 % of women have experienced sexual harassment. The survey also found a correlation between Polish women's reluctance to report cases of domestic violence and a lack of faith in the criminal justice system as well as a fear of victims not being believed. Another reason for lower numbers in Poland is that women are not as aware of the extent of the problem as women in other European countries.

With regards to **prevention** in terms of promoting change in the social and cultural patterns of behaviour - realizing that gender based violence roots in societal inequality - there is very little evidence of measures taken by the government, according to [GREVIO](#). The announced withdrawal of the Istanbul Convention and the reasoning by the PiS Party that the Convention threatens religion and family values aggravate the finding.

For the **training of professionals** who deal with victims or perpetrators, a systematic multisectoral framework at a local level has been set up by the 2005 Law on Combating Family Violence. This training trains mostly social workers, but also law-enforcement officers, education and health professionals, probation officers and judges and prosecutors, albeit to a lower extent. The training however focusses on families with a violence problem, not on the individual needs of the female victims.

Poland has no **women's helpline** but does have [two general helplines](#) for survivors of family violence. There are several **shelters** for women facing domestic violence that can be reached through different types of services such as the "Specialised support centre for victims of family violence", the "Homes for mothers with children and pregnant women" and through local assistance centres. The quality of standards and the scope of support vary across the services.

LGBTI+ Rights

Poland has [no same-sex cohabitation, civil partnership or equal marriage measures, and there is no legal recognition of same-sex relationships](#). A joint adoption or second-parent adoption is not possible. In regard to equality and non-discrimination Poland does have instruments in place for the discrimination because of the sexual orientation and gender identity for employees, but only while the equality body mandate is competent on these issues. There is [no legislation on the protection of LGBTIQ+ persons from hate speech or other hate crimes](#). There are legal measures as well as administrative procedures for gender recognition, and name changing is possible, even without an age restriction. There is however [no non-binary recognition](#). Asylum can be granted because of sexual orientation.

Some municipalities and regions of Poland have declared themselves as **“LGBT free zones”**. They seek to ban what local authorities see as the promotion of homosexuality and what they describe as “LGBT ideology”. By the beginning of [2020 94 local governments had declared themselves](#) as such, but some revoked their status due to the reaction of the European Commission and a Polish court ruling in June 2022 that four LGBT-free zones have to be abolished. On the website **“Atlas of Hate”** from the activists Jakub Gawron, Paweł Prenta, Paulina Pająk and Kamil Maczuga one can see which local governments have enacted/ rejected or have lobbying activities on the “LGBT free zone”. The activists have been nominated for the Sakharov Prize for Freedom of Thought granted by the European Parliament. The Parliament had strongly condemned the “LGBT free zones” in a [resolution of 18 December 2019](#). In March 2021 the European Parliament declared the European Union an **“LGBTIQ Freedom Zone”** and the [European Commission decided on 15 July 2021 to launch infringement procedures](#) against Poland related to the **‘LGBT-ideology free zones’**, equality and the protection of fundamental rights. In September 2021, the European Commission [warned to block REACT-EU funds to five Polish regions](#) considering that the principle of non-discrimination in the implementation of European Structural and Investment Funds was not ensured.

[ILGA-Europe](#) reports in relation to bias-motivated speech that ‘The **hate campaign** against the LGBTI community in Poland, which started in October 2018, resulted in LGBTI people becoming a dominant issue during this year’s [2020] presidential elections, in which President Duda degraded and scapegoated the LGBTI community on his way to election victory. This included claims that LGBT people were “not people, but ideology” and other attempts at dehumanisation and incitement of hate and fear. Hate speech by the central government remained a serious issue. The Ministry of Justice sponsored articles in the weekly paper Do Rzeczy, stating that LGBT rights movements are like Soviet-era communism. A few weeks later, President Andrzej Duda said that “the LGBT ideology” was more destructive than communism. Archbishop Marek Jędraszewski made similar statements and warned of the “rainbow plague”.

The overall achieved score of achieved LGBTI human rights on [Rainbow Europe from ILGA](#) is at 13 %.

Sexual and reproductive health and rights

The [European Parliament’s resolution of 24 June 2021 on the situation of sexual and reproductive health and rights in the EU, in the frame of women’s health](#) urges the member states to protect and further enhance women’s sexual and reproductive health and rights. The resolution declares sex education and access to contraception as well as to abortion as vital for gender equality and the realization of women’s fundamental rights. In the [EU4Health programme from 2021-2027](#) which has a budget of €5.3 billion, sexual and reproductive health and rights are addressed, to ensure timely access to goods that are needed for the safe provision as for example medicines, contraceptives and medical equipment.

Sex Education

According to the [WHO Regional Office for Europe and BZgA Framework of Standards for Sexuality Education in Europe](#) a comprehensive sexual education is of special importance both for women as well as for members of the LGBTI+ community.

In 2019 a law that [would de facto prevent sex education](#) was proposed. [Amending Article 200b of the Polish Penal Code](#), it would make teaching or even promoting sex education to persons under 18 a crime punishable with for up to three years in prison. The bill was introduced after months of the campaign of the citizens' initiative 'Stop Paedophilia' which equated LGBTI+ persons with paedophiles. The European Parliament adopted a [resolution on 14 November 2019](#) in which the law is strongly condemned. Until now the law is still in the legislative process being amended after the first hearing in the Sejm in April 2020.

On January 13 2022, [the Sejm approved another law proposed by the Minister of Education intending to restrict sex education](#). It had the aim to increase the competences of local education authorities so that all classes would have to be authorised by a state organ, giving school administrators and superintendents the power to remove books, lessons, and ban student participation in events or clubs that are LGBTQ+ affirming. The Senate subsequently rejected it but the Sejm overturned the Senate's vote by 233 to 220, with two abstaining. Finally, the country's President had the power to veto the law, which he did.

Gynaecological healthcare, access to contraception

According to the [Contraception Policy Atlas of the European Parliamentary Forum for Sexual and Reproductive Rights](#) Poland was on the bottom of the ranking for policies on contraception with 33.5 points in 2022. It was the only country in Europe in which emergency contraception was rated as being unavailable. The level of reimbursement for contraception within the national health system and the level of accessible and affordable counselling was ranked low. Poland had already been ranked low in the last years' policy atlases but the score has fallen further, to the concern of some [experts](#). [According to the Resolution on the first anniversary of the de facto abortion ban in Poland of the European Parliament of 11 November 2021](#)¹, the accessibility of gynaecologists is highly restricted - in some regions almost impossible - and the high costs of contraception leave women unprotected, which results in unwanted pregnancies. The COVID-19 pandemic worsened the situation because it led to the closing of gynaecologists', obstetricians' and midwives' offices. Women had to wait longer for results and general women's healthcare prophylactic programs were suspended or delayed. That poses a threat not only to the care of pregnant women or women in need of contraception, but also to the detection and treatment of cervical and breast cancer. According to [Council of Europe's Commissioner for Human Rights](#), the inaccessibility of gynaecological healthcare has to be seen in the context of the lacking general sex education: young people and especially women are being left without information on their body and health and without choice.

Abortion

The judgment of the Constitutional Court of 22 October 2020 (ref. K 1/20) declared that one of the three exceptions allowing abortion is unconstitutional. Namely, a situation where 'prenatal tests or other medical premises indicate a high probability of a serious and irreversible impairment of the foetus or an incurable life-threatening illness of the foetus' (Provision of the 1993 Act on Family Planning, Protection of the Human Foetus and Conditions for Termination of Pregnancy). That leads to only two legal cases of abortion: a threat to a woman's life or health and in the case of a rape or incestuous pregnancy. The European Parliament has condemned the judgment harshly in the [Resolution on the de facto ban on the right to abortion in Poland of 26 November 2020](#) and of [11 November 2021 on the first anniversary of the de facto ban of the right to abortion in Poland](#).

¹ Resolution on the first anniversary of the de facto abortion ban in Poland of the European Parliament, p. 5.

Persons who have an abortion, or who possess abortion-inducing medication, are not criminalized under Polish law. But anyone “who provides a pregnant woman with help in terminating a pregnancy or induces her to do so” can face up to three years in prison under Article 152 § 1 of the [Polish Penal Code](#), a law introduced in 1997. A prominent case is the prosecution of Justyna Wydrzynska from the organization [Abortion Dream Team](#), who has been accused of helping a woman in an abusive relationship access abortion medication. The hearings are still ongoing. Medical personnel is punishable under the law as well.

After the death of two pregnant women in Polish hospitals, [protests have been held](#). According to [activists](#) these women died because of the abortion law in Poland. In [November 2021, a 30-year-old woman](#) died 22 weeks into her pregnancy because doctors did not intervene. Her family claims that the doctors refused to provide medical care to her because they feared facing the ramifications of the abortion law. In [January 2022, a 37-year old woman](#) died of sepsis due to a fetal illness. She had been pregnant with twins and lost one fetus already on 23 December. Doctors wanted to wait if they could save the other fetus, which they could not. Agnieszka T. had a miscarriage on 31 December, only then both fetuses were extracted. She died on January 25.

Under Article 39 of the [Doctor and Dentist Professions Act](#) medical personnel may decline to perform abortion on the grounds that it conflicts with their personal values or beliefs. In theory doctors who exercise the clause must refer a woman to an alternate doctor or facility where she has a real possibility of obtaining services, but [local women’s groups report](#) that such referrals are often not made. This so called conscience clause causes a collision of the freedom of conscience of medical personnel and the right to health services in which pregnant women are being left without an option.

In June 2022 the Minister of Health introduced a [regulation](#), which is known as the “[pregnancy registry](#)”. It extends the catalogue of medical data, in which doctors must now record information about pregnancy (also about implants, possible allergies, or blood group) in the Medical Information System – an electronic register of medical data. The obligation will cover all doctors working in private and public medical centers. Since the [patient cannot change the information, unless she reports a miscarriage which must be confirmed by a doctor](#), the system thinks the patient is pregnant. The Polish government argues that only medical personnel will be able to access the data and that it is in the interest of the wellbeing of the woman and child, who that way can access necessary health care. Also, the introduction of the “Patient Summary” a patient card which will be valid in the European Union from 2023 made a digitalization necessary.

Refugees in Poland

Two hotspots

The refugees fleeing the war in Ukraine are mostly female whereas refugees fleeing conflicts in the Middle-East or other areas crossing the Belarussian border to Poland are more divers. While Poland has lifted the state of emergency for the Belarussian border, which blocked aid groups, media, and civil society groups from seeing what happened in this stretch of the border, the humanitarian situation is still critical according to [Human Rights Watch](#) and International. The number of migrants who arrive rises according to the NGOs, which is especially concerning regarding the coming cold months. During [the last winter at least 19 persons died](#) because of the low temperatures and the insufficient housing. The European Court of Human Rights has dealt with the situation at the Polish-Belarussian border several times. In the case of [D.A. and Others v. Poland](#) it found a violation of the fundamental rights of the refugee seeking persons due to illegal summary pushbacks of Polish authorities. In contrast to Ukrainian citizens, migrants from the Middle-East and Northern Africa are not granted an easier access to asylum procedures or financial support.

Female refugees from Ukraine

On March 4 2022 the Council of the European Union activated the [Temporary Protection Directive](#), granting citizens and long-term residents from Ukraine temporary residence permits in the European Union for at least one year, with a possible extension for two more. Poland's government granted [Ukrainian citizens](#) the right to an [18-month legal stay](#), [a one-time 300 zloty \(US\\$70\) cash benefit](#), [free train transportation](#), and [streamlined access to a national identification number \(PESEL\)](#), which is required to claim residency and other benefits including health care and education. In breach of the Council Decision, the Polish law, enacted on March 12, excludes people who had refugee status in Ukraine, stateless people, or other third-country nationals who fled Ukraine and cannot return to their countries of origin.

According to [UNHCR 1,436,558 refugees](#) from Ukraine were recorded in Poland, 6,782,275 people crossed the border. Of the refugees fleeing from Ukraine **97 % are female**, 99 % being of Ukrainian nationality. According to the [UNHCR REACH Profiling Update](#) the majority of the refugees interviewed (63 %) intends to stay in Poland. Among those planning to return to Ukraine, the most common motivation is to temporarily be with their family (22 %) with the intention of returning to Poland at a later date. 22 % of the refugees travel with at least one person with special needs - most often with a person with disability (11%) or with a serious medical condition (7%). 15% travel with at least one elderly person - and they more often declare the need for medical or material support. Financial support, access to employment and accommodation remain the most frequently reported immediate needs, followed by in-kind assistance and medical treatment. With the arrival of winter, access to housing is becoming even more challenging, as less hosting options may be available, coupled with the difficulties caused by rising energy prices.

Risk of gender-based violence

Given the massive influx of vulnerable people into Poland, UN Migration (IOM) is ["extremely concerned"](#) about risks including exposure to gender-based violence, trafficking in persons, and lack of reliable information on existing services and referral pathways. Additionally, risks of gender based violence are exacerbated in the context of [informal shelter, reception and transit facilities, refugee accommodation centers, private arrangements for accommodation and transportation from the border](#).

[Human Rights Watch](#) found inconsistent protection measures and a lack of government coordination, amplifying risks of abuse, especially for women and girls in Poland. The NGO finds that in contrast to the [Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action from the Interagency Standing Committee](#) systematic measures have not been instituted. The majority of the work regarding refugees, such as the responsibility for coordinating and providing housing, transportation, food, and essential services is done by volunteers, activists and NGOs. This brings a risk, as they are not registered and mainly not trained in identifying signs of sexual abuse and the risks of exploitation and trafficking in persons according to [Gillian Triggs, UNHCR's Assistant High Commissioner for Protection](#). According to [Human Rights Watch](#) there is a lack of security of the border crossing as well as at the reception site and also Gillian Triggs ["urge\[s\] border control and law enforcement officials, as well as social services, in the region and beyond, to strengthen anti-trafficking efforts"](#). According to the [Regional Refugee Response for the Ukraine Situation](#), a coordination of 12 inter-agency partners, within or across sites [measures to vet private transport or housing or to ensure that refugees reach destinations safely](#) are not sufficient, and there are [no clear systems to report related security concerns](#).

Post-rape care

Ukrainian women raped by Russian soldiers qualify for [a legal abortion under Polish law](#), as the pregnancy is a result of a crime. According to Mara Clarke, founder of the London-based [Abortion Support Network](#), the person must provide a certified letter from a public prosecutor after filing a criminal complaint regarding the rape and obtaining a conviction in time to access an abortion (within first 12 weeks of pregnancy).

According to Mara Clarke, that makes the abortion exception “[meaningless](#)”. [UNHCR](#) has stated that Ukrainian women must have access to reproductive rights that meet international standards, including abortions.

According to the [WHO](#) victims of rape are in need of a [comprehensive post-rape care](#) which includes administering time-sensitive medications to prevent pregnancy and HIV and other medical and psychological support from trained providers. As stated by [Krystyna Kacpura, Director of the Federation for Women and Family Planning \(Federa\)](#) post-rape care was unavailable on-site “[because there is no space, no privacy. Women would have to go to the hospital](#)”. She is concerned about whether local hospital staff would reliably provide comprehensive post-rape care, including access to abortion if needed, and was trying to independently determine how she could ensure care for survivors. [Abortion without Borders](#), a group of organizations providing information and support to people in Poland seeking abortion, reported helping [267 displaced people](#) in Poland access abortions between March 1 and April 19.

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