



Gender equality and quality of life –
how gender equality can contribute
to development in Europe.
A study of Poland and Norway

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Gender Equality Policy in Poland

Development of Gender Equality Policies in Poland. A review of success and limitations

Marta Warat

Institute of Sociology, Jagiellonian University

Jagiellonian University in Krakow

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Introduction

Gender equality policy is still a new phenomenon in Poland. The collapse of communism in Poland influenced the gender order in the country. After 1989, the gender policy was seen as a remnant of communism and state-socialist policies. As a result, the democratic transformation reinforced the traditional vision of women as mothers and wives, their marginalisation in the public sphere as well as the rise of anti-feminist discourses and problems with achieving women's emancipation. It is no surprise that equality policy had no chance of becoming a significant policy issue (see: Szelewa 2011).

Joining the European Union in May 2004 was an important factor influencing the development of gender equality policy and reshaping the gender order. On the one hand, the European Union was seen as a source of legislations, good practices and institutional support. According to the Amsterdam Treaty, all members of the European Union are obliged to "eliminate inequalities, and to promote equality, between men and women" (<http://www.europarl.europa.eu/topics/treaty/pdf/amst-en.pdf>, Art. 2 and Art. 3). In this way, it was believed that under the influence of the European Union, gender equality would become a fundamental value and policy goal. On the other hand, the voices and opinions represented by Eurosceptics and the Catholic Church remained strong. They perceived the EU accession as a threat to Polish national identity and the traditional family. The pressure from Eurosceptics and the Catholic Church led to certain resistance to acceptance of some legislation related to gender equality. The Polish government also managed to renegotiate one crucial condition of the EU accession, namely the Polish state and government maintaining its capacity to decide on cultural, religious and moral issues. Despite this approach from the Polish government, feminist movements still believed that the EU can be an important tool in implementing gender equality policies (Fuszara, Grabowska, Mizelińska, Regulska 2008, Grabowska 2014).

Following the approach of the European Institute for Gender Equality, the National Programme for Equal Treatment (*Krajowy Program na Rzecz Równego Traktowania*) 2013-16 defines gender equality as the "process during which the way in which each planned action (including legislation, policies and programmes in all areas at all levels) affects the situation of women and men is evaluated. It is a strategy to ensure that the problems and experiences of both women and men are taken into account when designing, implementing, monitoring and

evaluation of policies and programmes in all areas, at all levels, so that women and men may benefit from them equally” (2013: 4). This clearly proves that the gender mainstreaming policy must be treated as a horizontal policy: it must be present at all levels of policy and in all activities undertaken by the government (both national and local) or supported by public funds. Moreover, introducing a gender mainstreaming policy as a horizontal policy should mean that it is present at all stages of policy/programmes, from the analysis of existing solutions and setting goals to monitoring and evaluation of policy/programme. The aim of this report is to investigate how gender equality has been introduced in Polish legislation and the policy-making process.

Gender machinery

In theory at least, the legal framework of the gender equality policy guarantees equal rights and opportunities for women and men in all spheres of life. It addresses such issues as: discrimination in the labour market, low participation of women in political life, equal access to goods, reproductive rights, violence and sexual and anti-discrimination education. However, the general regulations are not followed by instruments and measures to implement the principle of gender equality. There is no politically independent gender equality office, and no gender equality act covering the spheres defined in international documents ratified by Poland, such as CEDAW. Moreover, Polish governments have not defined gender equality as a priority policy aim. Quite the opposite – it has met with criticism from right-wing and centre political parties. They refer mostly to values such as “family” or “natural/traditional gender roles”, presenting “equality” as problematic, or even as a threat to national identity. On the other hand, the other side of the political scene defines “equality” either in the context of democracy, rule of law, social justice and efficacy, or as an obligation imposed by the European Union. This political context has a significant impact on gender equality legislation and practice.

The equality policy in Poland is created mostly at national level, although it is influenced by the legislations and directives set by the European Union and international agreements.¹ The most important documents shaping the general framework for equality policy are:

1. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) – ratified by Poland in 1980
2. Constitutions
3. European Union directives
4. The Act on the Implementation of Certain Provisions of the European Union on Equal Treatment
5. The National Action Plan for Equal Treatment
6. The National Action Plan for Women.

¹ According to the Constitution of the Republic of Poland (Art. 87), all ratified international agreements and regulations are treated as binding law in Poland.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

CEDAW – The Convention on the Elimination of All Forms of Discrimination Against Women – is one of the most significant documents affirming equality and empowerment of women and girls. It was signed in 1979 and entered into force in 1981, and Poland signed the Convention on 29 May 1980 and ratified it on 30 July 1980 (https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en). The Convention provides the basis for realising equality between men and women in all spheres of life and urges all States parties to introduce measures against all forms of discriminations. It also provides the definition of discrimination against women as “...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” (Convention on the Elimination of All Forms of Discrimination against Women 1979, art. 1). States which have signed and ratified the CEDAW are obliged to **eliminate discrimination against women** by undertaking actions and measures on three levels. First, they are obliged to **include the principle of gender equality in their laws** and remove from their statutory provisions all discriminatory regulations, as well as to adopt regulations prohibiting discriminations in various areas mentioned in the conventions. Secondly, effective **policies should be implemented and monitored** in order to improve the situation of women and girls and provide them with protection against discrimination. Finally, the state must **eliminate gender-based stereotypes** at private, public and institutional levels.

Significantly, the convention not only provides regulation ensuring equality between women and men in the public spheres, but it also touches upon private life. Overcoming the dual relation between the individual and the state is clearly visible in the regulation **eliminating discrimination against women in all matters related to family life and marriage** (art. 16). In this way, CEDAW not only protects rights in the political, social, cultural and economic spheres, but also extends its regulation to the protection of individual rights.

Areas covered by CEDAW

- Law, policy and prejudice
- Exploitation and prostitution
- Politics and public life
- Education
- Employment
- Health
- Economic life, sport and culture
- Equality before the law
- Family life

Table 1: Areas covered by CEDAW

Poland's ratification of CEDAW means that the government is responsible for implementing the provisions included in CEDAW and reporting the progress on introduction of gender equality measures to the CEDAW Committee. The 6th report for the period from 1 June 1998 to 31 May 2002 was submitted to the Committee in 2004. It focused on legal, economic and social aspects of the situation of women in Poland. In particular, it discussed issues related to gender-based discrimination, stereotypes, exploitation of women, political and public life, education, employment, equality in access to health care, equality in access to social institutions and social benefits, equality in family law and marriage, and violence against women. Apart from the official report, a shadow report prepared by women's non-governmental organisations was submitted. The latter report revealed the lack of an efficient equality policy in many areas discussed in the state report. It also provided more detailed information on more "difficult" topics: violence against women, reproductive rights, trafficking, but also access to professional life.

In response to these reports, the Committee noticed the positive aspects of implementing gender equality and anti-discrimination policies, such as the adaption of laws aimed at eliminating discrimination against women and promoting gender equality, including the amendments to the Labour Code, the Social Welfare Act of 2004, the Law on Combating Domestic Violence of 2005 and the amendments to the Law on Aliens and on Protecting Aliens in the territory of the Republic of Poland. At the same time, the Committee presented several recommendations:

- Implementation, monitoring and enforcement of a general anti-discrimination law that contains a definition of direct and indirect discrimination and covers all areas of the Convention.
- Prioritising the gender equality and women's right in national policy. Providing effective inter-ministerial coordination mechanism for gender equality policies. Providing effective national machinery for advancement of women, promotion of gender equality and coordination of gender mainstreaming strategy.
- Adopting a national gender plan for gender equality (prepared and consulted with non-governmental organisations) and adequate financial resources for its implementation.
- Increasing the representation of women at the municipal and national level (in local governments and the parliament, in international representation in courts and judiciary). This should include such measures as: "the adoption of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25; the establishment of benchmarks, numerical goals and timetables; the conduct of training programmes on leadership and negotiation skills for current and future women leaders; and regular monitoring of progress made and results achieved. It further urges the state party to undertake awareness-raising campaigns on the importance of women's participation in public and political life and in decision-making" (Concluding comments of the Committee on the Elimination of Discrimination against Women: Poland 2007: 3)
- Intensification of efforts aimed at counteracting gender-based stereotypes and portrayals of women, especially in the education system and the media. Establishment of women's and gender studies programmes.
- Prioritising actions aimed at combating and preventing violence against women and domestic violence. Providing safe shelters, free legal aid and awareness-raising campaigns, and undertaking research on the root causes of violence as well as collecting statistical data on various forms of violence.
- Including the definition of trafficking in the penal code and strengthening data collection on trafficking.

- Ensuring equal opportunities for women and men in the labour market (closing the gender pay gap, introducing measures aimed at decreasing the unemployment rate, introducing the same age of mandatory retirement for women and men).
- Improving women's access to health care (especially in rural areas). Special attention should be paid to enhancing women's access to sexual and reproductive health services.
- Ensuring that women from rural areas may equally benefit from the policy of gender equality and from all the solutions proposed within the framework of this policy.
- Collecting data on the situation of disadvantaged groups of women and girls, including Roma, refugees, asylum seekers and migrants.
- Improving data collection disaggregated by sex, age and urban/rural areas and the analysis thereof.
- Institutionalising systemic consultations with women's non-governmental organisations on all issues related to the promotion of gender equality (Concluding comments of the Committee on the Elimination of Discrimination against Women: Poland 2007).

In October 2014, the Plenipotentiary for Equal Treatment Małgorzata Fuszara presented the combined seventh and eighth reports covering the period between 1 June 2002 and 31 May 2010 during the 59th session of the CEDAW Committee. The report focuses on the achievements in the gender equality policy and antidiscrimination policy. Among the greatest successes of the Polish government, she pointed to the implementation of the Act on the Implementation of Certain Provisions of the European Union on Equal Treatment (2010), which provides regulations on the principle of equal treatment on grounds of sex, race, ethnicity, nationality, religion, beliefs, political views, disability, age and sexual orientation (Consideration of reports submitted by States parties under article 18 of the Convention Combined seventh and eighth periodic reports of States parties due in 2010: Poland 2012). The actions based on this act have further improved the gender equality machinery: the Office of the Plenipotentiary has been strengthened, while the National Action Plan for Equal Treatment was adopted in 2013. The positive changes in the Labour Code, measures directed

at work-life balance, retirement age (which in fact was a recommendation of the previous CEDAW Committee), electoral law, regulation on women in decision-making positions in politics and supervisory boards of state-owned companies were also discussed. Brief information on the delay in ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence was also included in the state report. Finally, the amendments to the Criminal Law and Civil Code were presented, especially in relation to trafficking and violence (Consideration of reports submitted by States parties under article 18 of the Convention 2012).

As in the previous CEDAW Committee session, the alternative report was presented by the CEDAW coalition of Polish non-governmental organisations. It comprised analysis of the problems and areas most important for discrimination against women (including the discrepancies between law and its implementation), comments on the state report and recommendations for the government regarding the implementation of an equality law and anti-discrimination regulations. It also sheds light on new issues which were not presented in the state report. Not surprisingly, the alternative report is more critical towards the achievement of equal treatment and equal opportunities between women and men, and the standpoint of the authors is proved by the examples and analysis in the area of the labour market, education, health system, situation of discriminated groups of women (mostly migrants and Roma women), political participation or even gender machinery. It clearly shows the gaps in which the state reports lacks information or provides only partial explanation: special attention is paid to the problem of violence against women (and lack of ratification of the Convention preventing and combating violence against women and domestic violence), poverty and discrimination against women in rural areas, women with disabilities and non-heterosexual women (Alternative Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Poland 2014).

After considering both the state and the alternative reports, the CEDAW Committee positively evaluated the legislative reforms and all amendments to statutory provisions as well as the improvements to the institutional and policy framework. These changes were seen as advancing equality between women and men. However, the Committee emphasises the crucial role of the parliament in implementation of the convention and urges the parliament to take further steps to disseminate the convention and raise awareness among women of

their rights under the convention and other legal measures. Moreover, the Committee expressed concerns that the Act on Equal Treatment does not provide protection in all areas mentioned in the convention and thus encourages the state to broaden the definition of discrimination as well as recommending inclusion of multiple or intersectional discrimination. Other suggestions are related to ensuring access to effective legal remedies for women in order to allow them to seek compensation for discrimination (including sexual harassment). Strengthening the authority and power of the Plenipotentiary for Equal Treatment, ensuring gender mainstreaming in all ministries and increasing the financial and human resources for the Plenipotentiary and the Human Rights Defender are also among the most important recommendations formulated by the Committee. According to the CEDAW Committee, there is also a need to evaluate “the extent to which the gender neutrality of the National Action Plan for Equal Treatment fails to address pre-existing gender inequalities” (Concluding observations on the combined seventh and eighth periodic reports of Poland 2014: 4) as well as to monitor and assess the impact of this strategy and to include women’s non-governmental organisations in its implementation.

As in the previous recommendations, further actions are recommended preventing stereotyping (especially in the education system and media), violence against women as well as trafficking and exploitation of prostitution. The Committee also suggests other measures preventing discrimination of women in the area of education, healthcare and migration. The disadvantaged situation of women in rural areas was also a concern for the CEDAW Committee, and an area for further improvements by actions undertaken by the government. It is important to notice that the CEDAW Committee suggested that the state should “take measures to **promote the equal rights of women and combat efforts made by any actors including the Catholic Church to downplay or degrade the pursuit of gender equality by labelling such measures as ideology**” (Concluding observations on the combined seventh and eighth periodic reports of Poland 2014: 5), **expedite the ratification of the Convention on Preventing and Combating Violence Against Women and Domestic Violence** and amend the Criminal Code to criminalise domestic violence and marital rape (Concluding observations on the combined seventh and eighth periodic reports of Poland 2014).

Analysis of the state and alternative reports for the period 1998-2010 shows that Poland still lags behind in terms of achieving the aims defined in CEDAW. Despite the fact that there has been great progress in the harmonisation of Polish law with international standards

to include the principle of gender equality, the governments have failed to implement effective policies. The implementation of strategies and policies on gender equality was delayed and the documents themselves do not reflect a clear, coherent and comprehensive approach to equalising the opportunities and rights of women and men. Furthermore, they mostly touch upon the situation of women in the public sphere, leaving the private one unregulated. This is especially seen in the statutory provision on violence and elimination of gender-based stereotypes, which have raised the concerns of the CEDAW Committee over the past ten years.

To sum up, CEDAW is seen by women's NGOs as a significant tool transforming the gender regime in Poland and a way of introducing the gender equality principle, but at the same time they acknowledge that change cannot happen without the Polish government challenging the gender order and the state authorities treating gender issues seriously.

Constitutions

The general framework for gender equality in Poland has been shaped since the 1990s. Pressure from women's and feminist organisations led to the inclusion of the gender perspective in the drafts of the new constitution. The Parliamentary Women's Group (PWG), together with organisations such as the Centre for Women's Rights (*Centrum Praw Kobiet*) and Federation for Women and Family Planning (*Federacja na rzecz Kobiet i Planowania Rodziny*) insisted in the debate on the constitution on introducing equality statements in various spheres (Dąbrowska 2007). As a result, the Constitution of the Republic of Poland established in 1997 is one of the **first documents regulating equality between men and women**. According to this document, equal rights for men and women in all spheres of life (both private and public) are guaranteed, and discrimination in the political, social or economic sphere is prohibited:

"Article 32

1. All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.
2. No one shall be discriminated against in political, social or economic life for any reason whatsoever.

Article 33

1. Men and women shall have equal rights in family, political, social and economic life in the Republic of Poland.
2. 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 offices, and to receive public honours and decorations.”

Article 33 of the Constitution enumerates the areas of life where the equality between women and men should be provided to enable them to fulfil their rights and duties, but additionally, the Constitution introduces general regulations regarding the protection of citizens in the following spheres:

- Art. 6 guarantees equal access to culture.
- Art. 11 defines equality between all citizens as the basis for establishing political parties.
- Art. 60 guarantees equal access to public services.
- Art. 64 provides legal protection regarding ownership, other property rights and the right of succession on an equal basis.
- Art. 68 refers to equal access to health care services, financed from public funds.
- Art. 70 guarantees equal access to education.

Special protection is also given to the family, parenthood and motherhood (Art. 18), especially by giving a mother, before and after delivery of her child, the right to special assistance from public authorities, to the extent specified by the statute (Article 71.2).

European Union regulations and directives

The European Union is seen as the **reference point for gender equality policy** in Poland. In fact, many regulations were introduced only because Poland was obliged to **harmonise the national law with the directives and regulations at EU level.**

The framework for gender equality is presented in the Treaty on the Functioning of the European Union (Article 8) and the Amsterdam Treaty (1997), which include the same broad principle of equality: “In all the other activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women” (Amsterdam Treaty, Art. 3). The regulations on equality between women and men can also be found in the Charter of Fundamental Rights and the Directives. The former introduces the basic equality rules, namely that everyone is equal before the law (Article 20) and that any discrimination on any grounds, including those of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, sexual orientation, or nationality, is prohibited (Article 21). Moreover, the Charter of Fundamental Rights emphasises the **equality between women and men in all areas**, with special attention paid to **employment, work and pay**, as well as allowing adoption of special measures providing for specific advantages in favour of the underrepresented sex (Article 23).

More specific solutions and regulations are included in the **EU directives**. They provide the framework for equal treatment: they introduce the definition of direct and indirect discrimination and harassment, which are prohibited, as well as the principle of equal treatment in employment, training, promotion and working conditions. Moreover, they specify the adequate means of legal protection and urge the member state to set up a body at national level in charge of monitoring and support of equal treatment. However, it should be noted that they pay special attention to the **equality of women and men in the labour market** (13 directives), and only recently was the **Goods and Services Directives** presented.²

² The main directives of the EU: 75/117/EEG (10.02.1975) on equal pay between women and men, 76/207/EEG (9.02.1976) on equal access to employment, training and promotion, 86/613/EEG (11.12.1986) on equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity and on the protection of self-employed women during pregnancy and motherhood, 92/85/EEG (19.10.1992) on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, 97/80/EEG (15.12.1997) on the burden of proof in cases of discrimination based on sex, 2000/43/EEG (29.06.2000) on equal treatment between persons irrespective of racial or ethnic origin, 2000/78/EEG (27.11.2000) on equal treatment in employment and occupation, 2002/73/EEG (23.09.2003) amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, 2006/54/EEG (5.07.2006) on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, 2004/113/EEG (13.12.2004) equal treatment for men and women outside the labour market.

This framework has a great impact on the situation in Poland by **prioritising the labour market, reconciliation of family and work and the social security system** over other spheres where gender equality should be introduced (Grzybek 2009: 8).

The gender equality model recommended by the EU seems to be an **expert model focused on economic efficacy**, but it is interesting to assess to what extent joining the EU has influenced gender equality policies and machinery. There is no doubt that the changes to the Labour Code and the adoption of the Act on the Implementation of Certain Provisions of the European Union on Equal Treatment were approved in Poland under pressure from the EU. Secondly, establishing the Plenipotentiary for Equal Status of Women and Men, later transformed into the Plenipotentiary for Equal Treatment, to shape and monitor the policies based on the equality principle was also a result of the EU regulations. Thus, the EU seems to be contributing in a **positive way to the legal framework for gender equality institutions**. On the other hand, as pointed out by Grzybek (2009: 5) and Grabowska (2014), the EU accession also changed our language, the way of addressing gender equality from the discourse of women's rights to a discourse of equality and antidiscrimination. As a result, the struggle for women's rights was no longer presented as a private problem, and women's rights have become part of the mainstream discourse. Among the negative effects of this change is the exclusion of particular topics such as violence, abortion and the right to contraception from "mainstream" discussions, as the focus is currently on equal chances and opportunities (and not specifically women's rights).

The model of gender equality enforced by the EU is based on the **mainstream policy**. Such an approach shows the shift from the affirmative actions which were oriented to specific programmes/actions to **introducing gender as a horizontal strategy in all spheres of policies**. In the Polish case, this idea is yet to be achieved. The lack of institutional support and lack of recognition of gender equality as an important value may be one of the reasons explaining the delay in implementing this strategy. As Grzybek (2009: 11-12) argues, "The study points out that a 'conducive environment' was a major factor behind progress in, e.g., Spain during its accession process. In countries where there was no such environment, such as Poland or the

Czech Republic, the impact of the EU gender architecture was based on the minimum requirement approach of conservative governments. (...) In these countries (CEE), the environment for gender equality has drastically deteriorated during the transition process with the return to traditional (also called 'cultural/national') values, the loss of women's position in the labour market and the decline of the role of the state. In Western Europe or Scandinavian countries, the public sector played a key role in promoting and implementing equal opportunity legislation, serving as a model for the private sector."

From a longer perspective, joining the European Union has brought a positive change and promoted gender equality: it has brought the gender perspective to the policy level and urged the government to implement a gender mainstreaming policy and other gender mainstreaming strategies (Road Map for Equality between Women and Men 2006-2010³), as well as to define the specific measures to be taken on the national and local level to provide equal opportunities for women and men. The policies recommended by the European Union are also in line with other international documents and conventions (e.g. of the UN) and as such reinforce the measures already implemented. Moreover, the European Union is a great source of funds for programmes aimed at increasing gender equality. Nevertheless, the **European Union directives on gender equality principle are "soft" measures**: they provide guidance on how to shape gender equality policy, but since they touch upon cultural and social norms, they leave a great amount of room for the state authorities to decide how they want to implement these directives and how they want to attain the aims defined in them. Poland is an example of such a flexible approach. The European Union regulations were transposed with significant delay, they do not entirely correspond with the directives and their implementation is weak, as they are not well known among the members of society. According to Krzysztof Śmiszek and Dorota Pudzianowska (2014), only two legal acts which adjust Polish national law to EU regulations have been implemented in 12 years: the Labour Code and the Act on the Implementation of Certain Provisions of the European Union on Equal Treatment. Thus, the "soft" character of EU regulations, with weak accountability mechanisms and budget, results in insufficient strategies at national level.

³ The Road Map for Equality between Women and Men 2006-2010 points out six directions for gender equality: equal economic independence for women and men, reconciliation of private and professional life, equal representation in decision making, eradication of all forms of gender-based violence, elimination of gender stereotypes, and promotion of gender equality in external policies.

Act on the Implementation of Certain Provisions of the European Union on Equal Treatment

The adoption and implementation of the **equality law** was one of the requirements from the European Union which met with a positive reaction from women's non-governmental organisations, feminists and female politicians, who had been working on this act since the 1990s. The draft of the act was presented and discussed several times in parliament, but its complete and comprehensive form has **never become the statutory regulation**.

The first drafts of the equality law were submitted prior to Poland's membership in the EU and were developed slowly from the 1990s onwards.⁴ Each attempt to introduce national regulation on equality between women and men met with criticism from the right-wing governments or members of parliament. Among the most important issues included in the first drafts of the equality act were: equality in the labour market, equal access to insurance and health care, quotas in all positions elected or appointed by public authorities, prohibition of stereotypical images of women and men in media and text books, prevention of violence against women, and the establishment of the Office of the Plenipotentiary for Equal Status. At that time, many of these issues (e.g. quota system, monitoring school textbooks from the perspective of gender equality) were believed to be controversial, against the national and European legislation as well as threatening to the traditional family model. Others, such as equality in the labour market, were easily accepted as worth improving.

The process of negotiation of Poland's accession to the EU brought new possibilities for establishing an equality law. In **2002**, a new bill on the "**Law on Equal Status for Women and Men**" was proposed to the Senate. After heated discussions during the readings and introduction of some changes, the Senate decided to pass this document to be discussed in the Sejm. This draft law defined gender-based discrimination and the areas where it must be prohibited, including the labour market, education, welfare state, public bodies and family life. Additionally, the bill proposed several measures which could be implemented to guarantee equality between women and men, such as a quota system in public bodies and establishment of an office responsible for gender equality, namely the Chairman/President of the Office for Equal Status of Women and Men

⁴ The first draft of the equality law was submitted in 1996 and prepared by Eleonora Zielińska and Małgorzata Fuszara (on request of the Parliamentary Women's Group).

<http://ww2.senat.pl/k5/dok/uch/031/182uch.htm>). Important for this policy process was the reference to international documents and conventions such as EU directives or CEDAW on the one hand, and the Constitution on the other. The arguments presented in the justification showed that the equality law was only a more precise legislative work defining the principle already included in the Constitution and a proposal of transposition of basic normative solution with regards to equal status of women and men included in international documents and directives. During the discussion on the draft act in the Sejm and in parliamentary commissions, some points of criticism were raised and changes were suggested. The amendments to the law did not convince the members of Sejm, who eventually rejected the Law on Equal Status of Women and Men.

Starting from **2007**, new work on preparing the equality act began in response to the **European Parliament's demand that all member states implement an equality law**. This draft of the **Act on Equal Treatment** was prepared by the Department for Women, Family and Counteracting Discrimination (*Departament ds. Kobiet, Rodziny i Przeciwdziałania Dyskryminacji*). The first draft included issues such as definitions of direct and indirect discrimination and harassment, and the prevention of discrimination on grounds of race, ethnicity, nationality, religion, gender, political views, disability, age and sexual orientation. The draft adopted the **equality law in the labour market, social security system, health care, education and access to goods and services**. Significantly, the area of **private life and family life was not included** in the act. The **institutional machinery** (in the form of a body responsible for implementation and monitoring of GE policies) was also presented in the first proposal.

The act was finally approved by the Sejm on 3 December 2010 and signed by the president on 22 December 2010, entering into force on 1 January 2011. The aim of this act is to **complement the existing statutory provisions and introduce further regulations on equal treatment** in accordance with the European Union regulations. It provides a definition of direct and indirect discrimination on the grounds of sex, race, ethnicity, nationality, religion, faith, outlook, disability, age or sexual orientation, the mechanism of the reverse burden of proof, the ability to seek compensation for the victims of unequal treatment, and the right to take compensatory measures (affirmative) to disadvantaged groups, as well as special measures for underrepresented groups (such as quotas). The act also defines the institutional machinery responsible for equality policies: the **Plenipotentiary for Equal Treatment**

responsible for equal treatment policy and the **Human Rights Defender** responsible for ensuring compliance with the principle of equal treatment.

The act protects from discrimination and ensures equal treatment in the following areas: employment and labour market, access to trade unions, employers' organisations and professional self-governing bodies, access to the welfare state, access to housing services, acquisition of things, rights and energy. Analysis of the act shows that it does not provide protection from discrimination in all areas provided in international documents ratified by Poland, such as CEDAW. It **does not refer to preventing and counteracting discrimination in health care, education and private and family life**. There are also no regulations on the positive duties of the public authorities in providing equal status of women and men. The act is seen as controversial because of "the adoption of a closed list of discriminatory acts and unequal protection against discrimination by indicating the areas where the act grants legal protection to victims of discrimination on the basis of only certain selected criteria. In the course of the legislative work, it was also assumed that in the event of a breach of the principle of equal treatment the victim will only be eligible to compensation for damages, not to redress for harm" (Report on the Activity of Human Rights Defender... 2014: 88). Thus, the measures suggested in the act are still not seen as effective, dissuasive or commensurate to breaches of the gender equality principle: not only does it offer **various levels of protection for the victims of discrimination**, but also the **protection is limited to enumerated areas and a closed catalogue of grounds of possible discrimination**. The Human Right Defender provides several examples proving this point: "Persons with disabilities, LGBT persons and persons complaining about discrimination on grounds of religion, denomination, belief or age are not protected against discrimination in areas such as education, access to goods and services or social security. The Act does not protect persons subject to discrimination on grounds of sex in the area of health care and education" (Report on the Activity of the Human Rights Defender... 2012: 30, see Szelawa 2011: 5). From the Human Rights Defender's perspective, the Act does not provide sufficient protection from discrimination as the number of cases brought to the court is small.

During consultation, especially with the Plenipotentiary and Human Rights Defender, the need to create a politically independent office responsible for gender equality policy and to clearly define the responsibilities for all institutions and bodies involved in gender equality policy was mentioned. As a result, some responsibilities were shifted to the **Human Rights**

Defender, and others to the **Plenipotentiary for Equal Treatment** (see chapter on the main actors involved in gender equality policies in this report for a more detailed description of their responsibilities).

The most important criticism of this act refers to the **insufficient consultation process**. The draft bill was consulted mostly with governmental institutions, trade unions and employers' organisations, while it was difficult for citizens and women's organisations to become involved in this process. The debate on the act was not sufficient: the organisations were not informed about the current state of work and about its progress. There was no clear information about who was responsible for the consultations, and as a result the non-governmental organisations did not know who they should contact to express their opinions and comments. Thus was a clear sign that the Department for Women, Family and Counteracting Discrimination and the government were not interested in inclusion and recognition of the experience and knowledge offered by non-governmental organisations. The opportunity to comment on the first draft was also offered only to some, randomly chosen, organisations dealing with equality issues chosen by the Department for Women, Family and Counteracting Discrimination. Even in this case, the comments were ignored and were not taken into account to a great extent during the further work on the act. As a result, the non-governmental organisations and associations were discouraged from putting greater pressure on the government to broaden the scope of the act and to include various actors representing civil society in the consultation process. On the other hand, comments from other state actors were highly welcome, and in most cases also included. Thus, **the state authorities were very reluctant to hear the voice of social actors** who would be affected by the act and to work together with NGOs. Since the non-governmental organisations were not included in the preparation of the Act, women's interests are not properly included in it. This process of transposing the EU directive proved that the ideal of creating gender democracy in Poland is far from the reality (Galligan, Clavero 2008, Zielińska 2012). It also showed that despite the fact that feminist and women's organisations are a great source of knowledge and expertise as well as playing an important role in lobbying for equality measures, they are not seen as a significant institutional partner.

Despite the fact that the European Union recommends introducing gender equality policies as horizontal strategy, the Act does not include regulations on a separate budget to

finance their development. The gender equality strategies, measures and activities are covered from the budgets of particular institutions or governmental bodies without any additional public finances being offered. The other significant source of funding is the structural funds from the European Union. However, in this case, the funding can be spent in accordance with the objectives and aims of the European Union: economic growth, unemployment (defined from an individual perspective as a lack of necessary skills but not as a structural problem) and work-life reconciliation (mobility and flexibility of women in the labour market). As a result, the majority of governmental institutions and non-governmental organisations have carried out projects related to inequalities in the labour market and, to some extent, in public administration (e.g. projects: *Równe Traktowanie Standardem Dobrego Rządzenia*, *Równość standardem dobrego samorządu*). To accomplish sustainable changes in the gender order, the policies should address gender equality from an intersectional and comprehensive approach and include such issues as education, health and violence (Verloo, Lombardo 2007, Grabowska 2014, Charkiewicz 2012, Sarata 2010).

The failure to acknowledge that gender equality is an important element of democracy is caused by **ideological reasons** and the **lack of political will** to implement equality law and institutionalise issues related to gender equality in public policies. The transposition of some of the European Union regulations in the form of the Act on the Implementation of Certain Provisions of the European Union on Equal Treatment was not preceded by a discussion on what equality means in Poland, what policy regarding equality should be implemented in Poland, how it can reflect the national or local conditions and to whom it should be directed. The Act implemented in Poland focuses mostly on transposing the EU directives⁵ and does not address the problems faced by women in Poland sufficiently. Moreover, the Polish government did not manage to train its staff to gain knowledge in the field of gender mainstreaming. This proves that **gender equality is not among the most important priorities on the agenda** of the Polish government. This lack of discussion on gender equality policy in Poland was reflected in the name of the act, when it was changed from the Act on Equal Treatment to the Act of Implementation of Some of the EU Regulations on Equal Treatment. Thus, it can be argued that the impact of the European Union has not led to the establishment

⁵ The Act transposed the following directives: 86/613/EWG, 2000/43/WE, 2000/78/WE, 2004/113/WE and 2006/54/WE.

of a systemic approach to gender equality, but rather is reflected in the particular laws and public debates.

National Action Plan for Equal Treatment (*Krajowy program na rzecz równego traktowania*)

The Act on the Implementation of Certain Provisions of the European Union on Equal Treatment obliges the Plenipotentiary for Equal Treatment to prepare a national equality plan, which is submitted to the government for approval. This governmental strategy presents the goals of the policy on equality as well as the actions and measures which should be undertaken to achieve these goals by the Plenipotentiary, various ministries, non-governmental organisations and other social actors. The implementation of actions for equal treatment defined in the plan is verified on an annual basis by the Council of Ministers.

The **first National Action Plan for Equal Treatment was approved in 2013** and presents the strategy for Polish government for three years. It focuses especially on: “raising public awareness of equal treatment, including the causes and results of violation of the principle of equal treatment; 2) prevention of violations of the principle of equal treatment; 3) cooperation with social partners, non-governmental organisations and other actors in the field of equal treatment” (Krajowy Program Działań na Rzecz Równego Traktowania... 2013: 3). To prevent gender-based violence, the action will be undertaken in the following areas:

- Antidiscrimination policy
- Equal treatment in the labour market and social security system
- Preventing and combating violence, including domestic violence and enhancing the protection of victims
- Equal treatment in education
- Equal treatment in healthcare system
- Equal treatment in access to goods and services.

The National Action Plan for Equal Treatment focuses on the prevention of unequal treatment on the grounds of sex, sexual orientation, age, disability, race, ethnicity and nationality, but it does not provide actions and measures for all the abovementioned groups in all areas. Moreover, despite the fact that the intersectional approach is mentioned as an important way of addressing multiple exclusions, this approach is barely present in the strategy. Significantly, the equality policy is addressed in the National Action Plan for Equal Treatment as a horizontal

strategy. As a result, the National Action Plan is related to other policies in the areas of particular ministries. In this way, it is seen more as **an umbrella for various actions** rather than a separate strategy.

In order to implement equality policies in a more efficient way, the National Action Plan for Equal Treatment provides actions to **increase the awareness of discriminatory practices** and **equality policies among citizens** as well as **administrative staff** in public institutions. Moreover, it emphasises the need to monitor and evaluate the antidiscrimination policies by providing expert analysis on the situation of groups which may face discrimination and preparing a set of indicators to monitor their situations (Krajowy Program Działań na Rzecz Równego Traktowania... 2013: 41). The effective implementation of the equality policies also requires broadening of the institutional support: designating **Equal Treatment Coordinators in all ministries** and at selected subordinated units, the Chancellery of the Prime Minister and **Voivode's Plenipotentiaries for Equal Treatment** to promote the actions and programme aimed at enhancing equal treatment policies at national and local level and cooperate with other institutions and organisations (Krajowy Program Działań na Rzecz Równego Traktowania... 2013: 42). Thus, enhancing the institutional machinery is one of the aims of the Plan.

An important part of the strategy for equal treatment is **cooperation with non-governmental organisations**. They are believed to have knowledge about the local environment and better access to people compared with the public administration. However, at the stage when the National Action Plan for Equal Treatment was being prepared, many proposals of non-governmental organisations and the Human Rights Defender were not taken into account and were not included in the Plan. This clearly shows that the involvement of citizens and organisations is not sufficient and is not taken seriously by the government, which prefers to rely on expert knowledge and expertise. Moreover, non-governmental organisations are included only in some of the planned activities. The measures provided for by the Plan have been assigned mostly to specific state entities in accordance with the competencies relevant for these entities, and will be implemented as part of their budgets. The measures implemented with the use of the state budget will be funded from the resources specified in the Budget Act for the relevant year, without the need to apply for additional funds for that purpose from the state budget. In addition to the funds from the state budget, measures may be part-financed from EU funds. This raises questions about the financial

sustainability of the strategy: as in the case of other acts on gender equality and antidiscrimination, no **separate budget was created**, and it is likely that the relevant entities will not have enough financial resources to implement additional tasks.

The National Action Plan for Equal Treatment has been running for a year, and at the moment it is difficult to evaluate its influence on improving gender equality. According to the report from the realisation of this Plan, the tasks planned for 2013 were successfully implemented. However, most of them focus on monitoring the existing statutory regulations, promotion of measures aimed at improving gender equality, awareness-raising campaigns and implementation of some of the measures (e.g. workshops, carrying out research and analysis, introducing amendments to regulations).

The National Action Plan for Women (*Krajowy Program Działań na Rzecz Kobiet*)

The Beijing Platform was one of the crucial moments shaping the gender equality policy, as it imposed on the Polish government the obligation to implement regulations and conduct the actions included in the Beijing Declaration. The Plenipotentiary for Family and Women, together with non-governmental organisations and experts, prepared the National Action Plan for Women in 1997 (the first stage of implementation up till 2000). The aim of this programme was to transform some recommendations from the Beijing Platform for Action into specific tasks for ministries, local governments and organisations (the milestones and timeline of implementation were also proposed). This document was a programme describing the government priorities and government policy on gender equality (and equal treatment in general) in all spheres of life: from institutional mechanisms for gender equality in national law to the popularisation of the idea of gender equality and combating gender-based stereotypes. Thus, the National Action Plan for Women was created to improve the situation of women as well as the cooperation between the government and non-governmental organisations. The implementation of the National Action Plan for Women was interrupted after the election in 1997 as, first of all, there was a change in the governing party, and, secondly, the Plenipotentiary for Family and Women was replaced by the Plenipotentiary for Family (Kazimierz Kapera). Such a policy proved that there was no equality policy in Poland, which was noticed not only by non-governmental organisations but also by international institutions and organisations (e.g. Komitet Praw Ekonomicznych, Społecznych i Kulturalnych, 1998).

A new National Action Plan for Women was developed by the Governmental Plenipotentiary for Equal Status of Women and Men in 2003, including programmes and tasks aimed at improving the situation of women and providing equal opportunities for women and men for 2003-2005. This document presented a comprehensive approach to women's interests and problems and defined strategic goals in nine areas: promoting women's rights as human rights, economic activity, health, violence, education, power and participation in decision-making processes, women's presence in mass media as well as the collaboration between government and public administration with non-governmental organisations and the strategies of gathering data related to gender equality. Significantly, its implementation was planned in cooperation with local governments, non-governmental organisations and trade unions. While assessing the impact of the National Action Plan for Women during the 59th Session of the CEDAW Committee, the Plenipotentiary for Equal Treatment emphasised the positive outcomes of this strategy: "The analysis of the monitoring period revealed that 63 percent of tasks had been successfully implemented. One of the results was appointing Voivodes' Plenipotentiaries for Equal Status of Women and Men in 16 Voivodeship Offices. Owing to the appointment of Plenipotentiaries in all the voivodeships, it was possible to implement and disseminate the objectives of the Programme. Persons responsible for monitoring the implementation of the principle of gender equality in access to managerial positions were also appointed in 12 government administration offices. Additionally, an effective mechanism of cooperation between public administration and non-governmental organisations acting for equal status of women and men was created. An important element of this system is providing financial aid to non-governmental organisations by entrusting them with tasks aimed at improving the situation of women" (Consideration of reports submitted by States parties under Article 18 of the Convention Combined seventh and eighth periodic reports of States parties due in 2010: Poland 2012).

Main Actors

The Plenipotentiary for Equal Treatment

The gender equality policy is located in various ministries and departments that are responsible for implementing measures and undertaking actions in their own areas. The overall strategy and realisation of the policy is also supported by the office for promoting

equality and preventing discrimination, which has operated under different names and scopes since the 1980s, including the Plenipotentiary for Family and Women and the Plenipotentiary for Family (Szelawa 2011). However, when the negotiations on accession to the European Union began, there was a strong expectation from the European Union that this position would be involved more in anti-discriminatory policies rather than family. Such a body was established in **2001**, when the position of the **Government Plenipotentiary for Equal Status of Women and Men** was announced. From the very beginning, the Plenipotentiary was responsible for equality between women and men at a legal and social level, introducing gender equality as a horizontal perspective in all areas of policy, as well as implementing measures counteracting discrimination based on this characteristic. Among other competencies, the Plenipotentiary held responsibility for the analysis of current solutions and measures to investigate whether they led to building a gender-equal society, preparing and commenting on legal documents related to gender equality, preparing the reports on fulfilling the obligations from international documents and conventions and promotion of gender equality measures and projects. Owing to pressure from the EU to create an office dealing with all kinds of discrimination, the responsibilities of the Plenipotentiary were further broadened to include the **establishment of an office for prevention of discrimination on the grounds of race, ethnicity, religion and beliefs, age, sexual orientation, but also counteracting in these fields** (Act of 25 June 2002). What is significant is that **preventing discrimination between men and women was still the Plenipotentiary's strongest and main area of activity**.

The Plenipotentiary was appointed as a secretary of state in the Chancellery of the Prime Minister and was an advisory body with **neither legislative power nor its own budget**. The Plenipotentiary could only influence policy-makers by submitting (with the consent of the prime minister) documents related to equality between women and men, monitoring their activities, giving its own opinions and eliminating the outcomes of unequal treatment of men and women as well as promoting solutions aimed at improving gender equality. Moreover, educating and cooperation with other institutions, organisations and international bodies in matters related to equality and preventing discrimination was seen as an important responsibility of the Plenipotentiary (Act of 25 June 2002).

The Office of the Plenipotentiary for Equal Status of Women and Men was created by the left-wing coalition, and **Minister Izabela Jaruga-Nowacka** (UP) was appointed in this

position. She carried out many initiatives and projects related to women's position in the labour market, violence against women (including preparing the draft of the Act Preventing Violence against Women), the elimination of gender stereotypes, broadening the school curriculum by introducing sexual education, promotion of partnership in the family and workshops for public officers on gender mainstreaming. She also gave her opinions on legal acts and documents and suggested new regulations and laws to include gender equality as a horizontal strategy. A good example of the Plenipotentiary's activity in this field was preparation of the **National Action Plan for Women for the years 2003-2005**, which was adopted by the Council of Ministers in 2003. The Plenipotentiary also organised the social campaign *Win Europe!*, aimed at informing society, and women especially, about the European Union's gender mainstreaming policies and legislation concerning the position of women, as well as supporting local campaigns on European Union legislation run by non-governmental organisations. The Office dealt mostly with gender-based discrimination, but apart from the actions directed at gender equality, Jaruga-Nowacka also focused on establishing the **Equality Act** and the office responsible for preventing discrimination on the grounds of the characteristics mentioned earlier (see *Polityka równości płci. Polska 2007. Raport 2007: 33*).

Plenipotentiary Jaruga-Nowacka worked closely with non-governmental organisations. She established the **Programme and Advisory Board – Consultative Council** (*Rada Konsultacyjna*), which comprised the representatives of women's circles and non-governmental organisations as well as academic experts. This council's meetings were held on a regular basis, and permitted **exchange of opinions** and **identification of the direction of the next programmes and initiatives**. Thus, this consultative body improved the communication between the Plenipotentiary and non-governmental organisations. It was also an important time for developing **networking**: a public campaign called "Time for Women" (*Czas na Kobiety*) was held to encourage women to run in the parliamentary election and to offer them conferences and workshops to build their network. Moreover, "**Swedish Equality Glasses**" (*Szwedzkie Okulary Równości*) were awarded to people or institutions with great achievements and commitment in the area of equality and antidiscrimination, and "Referrals to an optician" (*Skierowania do okulisty*) were given to those who could not notice the issues related to discrimination. In order to improve the institutional support for equality policies, **plenipotentiaries of voivodes for equal status of women and men were appointed at**

voivodeship level, with training in public speeches, self-representation and media contacts being offered to them (Gendermeria. Raport z wyników monitoring 2008: 138, Dąbrowska 2007: 15, Consideration of reports submitted by States parties under article 18 of the Convention Combined seventh and eighth periodic reports of States parties due in 2010: Poland 2012). Improvement of institutional support was also one of the aims of the Phare project “Enhancement of policies on equal treatment of women and men” conducted by the Plenipotentiary. This project looked at equality policies from a broader perspective, focusing on examination of needs in research and statistics and monitoring of the policy in the area of gender equality, but it also offered training sessions and workshops for local administration, the justice system, police, trade unions and non-governmental organisations to enhance the competencies of public administration and NGOs to implement policies on equal treatment and increase the public awareness of these issues (Polityka równości płci. Polska 2007. Raport 2007: 93). In order to gain knowledge about other good practices, study trips to Denmark and Austria were organised. Among the outcomes of this project was a report with recommendations on the implementation of gender equality policies and analysis of statistical data and research on gender equality in Poland. The analysis of the institutional machinery was also investigated during the project “Enhancement of anti-discrimination policy” (*Wzmocnienie polityki antydyskryminacyjnej*), aimed at preventing and counteracting discrimination on the grounds of race, ethnicity, religion, political views, sexual orientation, and age, which were also viewed from the perspective of an intersectional approach, as interrelated to gender, for example. The recommendations from this project focused on a new institutional model for implementation and coordination of the equality and antidiscrimination policy (Polityka równości płci. Polska 2007. Raport 2007: 93).

The activity of the Plenipotentiary met with criticism from conservative and right-wing parties and their supporters, who argued that **equal status is not in accordance with nature and traditional gender regimes**. They also criticised the Plenipotentiary for supporting the “Let’s be seen” campaign defending the rights of same-sex couples and promoting feminist ideas.

In 2004, **Magdalena Środa** was appointed as the new Plenipotentiary after Izabela Jaruga-Nowacka became deputy prime minister. Soon after her appointment, there was an attempt to dismiss her from the position after her critical comments on the role of the Catholic Church, which she accused of indirect support of violence against women. Thanks to support

from non-governmental organisations and women's groups as well as international organisations, Środa retained the position.

Year	Office responsible for gender equality	Responsibility
1995-1997	Government's Plenipotentiary for Family and Women (in the function of under-Secretary of State)	Coordination of policies on family and children. Promotion of gender equality. Analysis of the social and economic situation of family and children. Coordination of actions and legislation aimed at improving equality policies and situation of families and children. Cooperation with non-governmental organisations and international organisations and institutions.
1997-2001	Office of Plenipotentiary for Family (headed by Secretary of State in the Chancellery of Prime Minister) ⁶	Initiation and coordination of government actions aimed at helping families. Promotion of family values and traditional division of gender roles and obligations. Lack of focus on gender equality policies. Even issues related to the labour market and economic situation of women were not addressed properly. Lack of cooperation with NFOs and women's NGOs.
2001-2005	Governmental Plenipotentiary for Equal Status of Women and Men (as a Secretary of State)	Implementation of government policy on equality. Monitoring and promotion of equality (including gender equality). Counteracting discrimination based on race, ethnic origin, religion, age and sexual orientation (EU requirement).

⁶ The office of Plenipotentiary for Family was held by Kazimierz Kapera. He decided to leave in 1999, after presenting radical opinions in a radio interview. Maria Smereczyńska was appointed to this position but this change in personnel did not influence the direction of the entire policy.

Since 2008		Cooperation with NGOs, public institutions and international institutions.
	Plenipotentiary for Equal Treatment as a Secretary of State in the Chancellery of the Prime Minister)	Implementation of government policy on equality. Analysis of measure aimed at improving equal treatment. Preventing discrimination. Monitoring the situation of various groups exposed to discrimination. Cooperation with NGOs, public institutions and international institutions.

Table 2: Offices responsible for gender equality

The change of government after the election in **2005** had important consequences for gender equality policies and gender machinery. The new coalition (PiS, LPR and Samoobrona) decided to **disband the office of Plenipotentiary** and the responsibilities assigned to this position were shifted to a new **Department for Women, Family and Prevention of Discrimination** within the Ministry of Labour and Social Policy in **2006**. Within this ministry, the Plenipotentiary for Women, Family and Counteracting Discrimination in the Ministry of Labour and Social Policy was nominated: this position was held by Joanna Kluzik-Rostkowska. This new body was presented as being **responsible for activities related to the role and position of women and family in society**, engaged in promoting good practices, eliminating all forms of discrimination, preparing new laws and regulations (including a new act on equality), and cooperation with non-governmental organisations and other public or private institutions (<http://www.bezuprzedzen.org/prawo/art.php?art=301>). In particular, the department was responsible for:

- “Analysing and assessing the legal and social situation of women, family and victims of discrimination, as well as initiating and coordinating activities aimed at ensuring equal treatment and providing equal opportunities to victims of discrimination
- Developing policies and regulatory acts on the status of women and family, as well as preventing discrimination
- Giving its opinions on draft regulations and other documents that affect the situation of women and family in the society and within the scope of preventing discrimination

- Cooperating with competent public administration bodies, non-governmental organisations and institutions within the scope of their responsibility for the implementation of tasks and programmes for women and preventing discrimination
- Initiating, carrying out, coordinating and monitoring the implementation of government programmes for women, family and preventing discrimination, as well as for providing equal opportunities
- Coordinating cooperation with international organisations with a view to preventing discrimination
- Promoting, popularising and propagating the issues of preventing discrimination and equal opportunities, as well as conducting information and educational activities aimed at raising awareness of discrimination and its manifestations and methods and strategies of preventing it
- Implementing tasks with respect to providing necessary assistance to victims of discrimination in pursuing their rights
- Developing and implementing projects co-financed from the European Social Fund and other funds from the EU budget (Consideration of reports submitted by States parties under article 18 of the Convention Combined seventh and eighth periodic reports of States parties due in 2010: Poland 2012).

The Department focused mostly on the **labour market** and improving the situation of women in employment (see Szelawa 2011). Its members also prepared documents on fulfilling international obligations in relation to anti-discriminatory practices counteracting discrimination caused by gender, race, ethnicity, religion, political views, age or sexual status (Szelawa 2011: 6).

The office of Plenipotentiary was re-established on **7 March 2008** by Donald Tusk. In order to reflect the responsibilities assigned to this position, the name for this position was changed to the **Plenipotentiary of Equal Treatment**. As in the previous cases, the plenipotentiary is appointed in the rank of Secretary of the State in the Chancellery of the Prime Minister and **has no independent power or right to legislative initiative and execution of statutory provision**. Thus, the Plenipotentiary may influence the legislation either by

preparation of draft laws which could be considered by the government upon the consent of the prime minister or pronouncement of opinions about laws drafted by other bodies.

The prime minister, Donald Tusk, publicly announced that the decision to restore the position was difficult to make and many members of government were reluctant. However, he claimed, “this name [Plenipotentiary for Equal Treatment] is taken from the EU but it is justified. Today, we talk about the equal treatment of people, citizens in the law, but also about the equality in offices and institutions in everyday practices not only based on gender, but also race, opinions, religion, and age” (<http://www.feminoteka.pl/news.php?readmore=2810>). The Plenipotentiary was responsible for executing and monitoring the government equality policy as well as preventing and combating discrimination on the grounds of sex, race, ethnic origin, nationality, religion or beliefs, political convictions, age, sexual orientation, civil (marital) and family status. The competences of the Plenipotentiary for equal treatment are similar to those of the previous offices, namely:

- Implementation of policy on equality on the grounds on gender, race, ethnicity, nationality, religion, political beliefs, age, sexual orientation, marital and family status
- Presenting its opinions on draft documents, acts, statutory provisions and other government documents as far as equality is concerned
- Conducting analysis of legal measures and solutions in terms of their compliance with the principle of equal treatment; investigating whether equality as horizontal strategy is included and presenting possible changes to the bodies responsible for legislation
- Preventing and counteracting discrimination
- Analysis of the legal and social situation in various fields (e.g. labour market, political participation etc.) as far as equal treatment is concerned and taking actions to ensure equal treatment
- Monitoring the situation with respect to equal treatment
- Educating, popularising and promoting issues related to equality by organising conferences, seminars, preparing publications (leaflets, reports, brochures) and conducting awareness-raising campaigns (Act of 22 April 2008).

Since 2010, the Plenipotentiary has also been responsible for preparation of reports on the implementation of international agreements on equal treatment, coordination and

monitoring of programmes for equal treatment, including projects co-financed from the European Union. The scope of the Plenipotentiary's responsibilities is limited to avoiding duplication of responsibilities and powers between the Plenipotentiary and particular ministries. However, this raises questions about the reasonability of introducing such an office which has no power or authority to be part of the decision-making process. On the positive side, the act establishing this office provides opportunities to **work with other institutions, including the ministries, public administration, local governments, other administrative bodies and non-governmental organisations**. Moreover, the Plenipotentiary may appoint an **advisory board and expert** teams which can provide expertise and research to be used in the policy. It seems that the strength of the Plenipotentiary lies in its **advisory role**, and the real power of this office depends on the person appointed. In this context, the appointment of **Elżbieta Radziszewska**, who was known for her support for traditional values and a traditional family model as well as lack of support for gender equality, meant that the position of Plenipotentiary would not be interested in implementing equality policies. "It is clearly seen that in the perception and evaluation of the Office of Plenipotentiary, on the one hand, there is a discrepancy between the expectations of various communities, including women's circles, and lack of possibilities or willingness of the Plenipotentiary to meet these expectations. The role of coordinator, which is assigned to the Plenipotentiary, is not enough for some of the women's groups. Nevertheless, it must be remembered that Minister Izabela Jaruga-Nowacka and Minister Magdalena Środa did not have enough executive power, but they still used it" (Gendermeria. Raport z wyników monitoringu 2008: 78). A similar opinion is presented in the Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Poland, according to which the **gender equality policy was omitted and not implemented from April 2008 to November 2011, as the Plenipotentiary did not fulfil her responsibilities**. As a result, "[i]n December 2010, 30 diverse equal rights civil society organisations appealed to the prime minister to dismiss the Government Plenipotentiary for Equal Treatment due to her lack of gender sensitivity, relevant experience and political commitment to gender equality" (Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Poland 2014). After 2005, despite the restoration of the position of Plenipotentiary, there was no local structure: the position of plenipotentiary at the local level was disbanded, and the website on equal treatment (www.rownystatus.gov.pl), which was a

compendium of knowledge about legal regulations, projects and reports on equal treatment and discrimination, was taken down (Gendermeria. Raport z wyników monitoringu 2008).

The weakest point of this office is its **subordinate position in the institutional machinery**. The Plenipotentiary is not an autonomous, neutral and independent body, but part of the Chancellery of the Prime Minister. Such a location is not in accordance with the EU regulation or CEDAW, as well as ignoring good democratic practices such as appointing this body in consultation with non-governmental organisations and people affected by the act. Thus, despite the fact that the Plenipotentiary has responsibilities in the field of equal treatment and elimination of discrimination, it cannot accept individual complaints or take independent actions: "According to General Recommendation No. 28 item 34, countries are required to provide women with effective procedures for filing complaints related to discrimination. It seems that the main aspect of these procedures which should encourage women to claim their rights is the independent character of these organs. The independence of their activities creates an atmosphere of trust and a feeling of security for those who address these institutions. Unfortunately, the legislative solution of granting anti-discriminatory competencies to the Government Plenipotentiary for Equal Treatment, who holds the rank of the Secretary of State in the Chancellery of the Prime Minister, does not maintain this independence" (Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Poland 2014, 2014: 15). Thus, it cannot play the role of equality body as it is defined in international documents.

It is also important to notice that from the very beginning, when the first draft of the Equality Act was presented, non-governmental organisations noticed that the **act did not foresee a separate budget for the actions of the Plenipotentiary**. This means that the Plenipotentiary is not able to carry out its responsibilities, and the possible actions would be limited or delayed due to lack of funding. Within this context, broadening the scope of the Plenipotentiary's responsibilities to discrimination on the grounds of other characteristics might diminish the importance of gender issues.

The Human Rights Defender (*Rzecznik Praw Obywatelskich*)

The equality policy is also within the scope of responsibilities of the Human Rights Defender (Ustawa z dnia 3 grudnia 2010 r. o wdrożeniu niektórych przepisów Unii Europejskiej

w zakresie równego traktowania, Ustawa z dnia 15 lipca 1987 r. o Rzeczniku Praw Obywatelskich z późn. zm.). This office performs tasks related to safeguarding not only human and civic freedoms and rights, but also **observance of the equal treatment principle**. In order to fulfil this task, the Defender analyses, monitors and supports equal treatment of all citizens as well as providing support in the case of violation of this principle and discrimination on the grounds of gender, race, ethnicity, nationality, religion, beliefs, disability, age or sexual orientation. Thus, the defender investigates whether actions undertaken by public or private institutions or entities infringe the principle of equal treatment and decides what measure should be undertaken to counteract this situation. Moreover, the Defender is responsible for **carrying out research on discrimination** as well as preparing reports and recommendations on this matter.

The Office of the Human Rights Defender is **integral but independent of other state authorities**. It cannot be influenced by political alliances and the political situation. The Defender **does not have a legislative initiative**, but it can approach other authorities with legislative initiatives to eliminate discrimination or violation of the equal treatment principle. The Defender may also cooperate with non-governmental organisations, associations and other entities (both national and international) in the area of equal treatment.

Over the past three years, the Defender has been dealing with complaints about the violation of the principle of equal treatment, as well as carrying out research and analysis in this field. During the first year of the implementation of the Act on Implementation of Some of the EU Regulations on Equal Treatment of 3 December 2010, **no funds for the tasks related to equal treatment were allocated, and all activities had to be covered from the Defender's budget** (Report on the Activity of the Human Rights Defender 2013: 8). Despite some improvements, the Human Rights Defender performs his/her responsibilities **with the limited financial and personnel resources** available to the office, which restricts his/her actions related to gender equality policies (Report on the Activity of the Human Rights Defender 2013, Report on the Activity of the Human Rights Defender 2014, List of issues and questions in relation to the combined seventh and eighth periodic reports of Poland Addendum Replies of Poland 2014: 7, Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Poland 2014 2014: 16). This barrier was reported to the CEDAW Committee in the alternative report prepared by non-

governmental organisations: “Shortly after the current Human Rights Defender received additional competencies (without any additional funds), she filed a motion to the marshal of the Lower House of the Polish Parliament to suspend the functioning of the ‘anti-discrimination’ law as it relates to the competencies and obligations which she is responsible for, until a sum necessary for carrying out these duties is set aside from the national budget. According to information obtained from people representing the Human Rights Defender Office, the financial situation has changed for the better. However, there is still no clear information about how new tasks are performed by the Human Rights Defender as an Equality Body, exactly how many lawyers investigate complaints of discrimination, etc.” (Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Poland 2014 2014: 16). Nevertheless, the Defender managed to create the institutional support for these new tasks, including the **Antidiscrimination Law Division** in the Office of the Defender and **three Expert Committees on Migration, on Elderly People, on People with Disabilities**. This institutional machinery is responsible for supporting the Defender in its actions as well as providing research, analysis and monitoring of the equal treatment principle. The lack of financial support was difficult to overcome during the first period, as the number of complaints increased by almost 90%: the Defender received 1960 complaints related to equal treatment, out of which 52 concerned discrimination based on grounds of sex (Report on the Activity of the Human Rights Defender 2013: 8)⁷: 20 complaints against gender based discrimination were examined by the Human Rights Defender, and 12 were accepted for further proceedings. In 2011, 68 complaints against gender-based discrimination were examined, of which 25 were accepted, while in 2012, 61 complaints against gender-based discrimination were examined, of which 28 were accepted (List of issues and questions in relation to the combined seventh and eighth periodic reports of Poland Addendum Replies of Poland 2014: 6). It should also be noticed that, starting from 2012, there have been allocations for actions related to equal treatment, but the financial resources are still not sufficient to perform the tasks effectively.

⁷ The majority of cases were related to discrimination on the grounds of disability (1097 cases), followed by complaints against discrimination on the grounds of religion or denomination (158 cases), age (57 cases), nationality (54 cases), sexual orientation (21 cases), race or ethnic origin (16 cases), political views (6 cases) and gender identity (4 cases) (Report on the Activity of the Human Rights Defender 2013: 8).

No.	Type of discrimination		Number	%
1.	4	Principle of equality before the law	44	5.2
2.	4.1	Ban on unequal treatment/discrimination	27	3.2
3.	4.1.3	Ban on unequal treatment/discrimination on the grounds of sex	39	4.6
4.	4.1.4	Ban on unequal treatment/discrimination on the grounds of religion or denomination	42	5.0
5.	4.1.5	Ban on unequal treatment/discrimination on the grounds of sexual orientation	65	7.7
6.	4.1.6	Ban on unequal treatment/discrimination on the grounds of age	49	5.8
7.	4.1.7	Ban on unequal treatment/discrimination on the grounds of nationality and race	81	9.6
8.	4.1.8	Ban on unequal treatment/discrimination on the grounds of disability	305	36.1
9.	4.1.9	Ban on unequal treatment/discrimination of social and professional groups	7	0.8
10.	4.1.10	Ban on unequal treatment/discrimination in terms of taxes	6	0.7
11.	4.1.11	Ban on unequal treatment/discrimination of persons without permanent registered residence	5	0.6
12.	4.1.13	Ban on unequal treatment/discrimination on grounds of race or ethnic origin	18	2.1
13.	4.1.14	Ban on unequal treatment/discrimination on grounds of beliefs (irreligion)	1	0.1
14.	4.1.15	Ban on unequal treatment/discrimination on grounds of political views	2	0.2
15.	4.1.16	Ban on unequal treatment/discrimination on grounds of gender identity	20	2.4
16.	4.1.17	Ban on unequal treatment/discrimination on grounds	46	5.4

		of financial and legal situation		
17.	4.1.18	Ban on unequal treatment/discrimination on grounds of education or occupation	9	1.1
18.	4.1.20	Ban on unequal treatment/discrimination on other grounds	79	9.4
Total			845	100

Table 3: Problem areas targeted by new cases (applications) submitted to the Defender (by type of discrimination).
Source: Report on the Activity of the Human Rights Defender 2014: 99

From the complaints on grounds of sex submitted to the Defender in 2012 and 2013, it appears that the most important areas to address are **violence against women**, especially elderly women and women with disabilities, **stereotypes** and the images of women in commercials, **discrimination in health care**, **lack of a comprehensive legal act on transgender persons** and **unequal treatment in the labour market** (related to the composition of the management and supervisory boards of public companies and the implementation of an Order of the Minister of Treasury on the proportion of the underrepresented sex in the company's board to 30% or discrimination during recruitment). Further problems addressed by the Defender are **access to kindergartens** and the **rights of parents** (Report on the Activity of the Human Rights Defender 2013, Report on the Activity of the Human Rights Defender 2014). In all these cases, the Defender approached particular ministries and institutions (e.g. General Prosecutor, State Labour Inspection) and requested either further information and explanation or changes to the regulations. Additionally, the Defender carried out its own research and projects and published thematic reports.

Ministries

The initiatives and project carried out by the Plenipotentiary for Equal Treatment and the Human Rights Defender should be supported by the government administration, and mainly by ministries. Since the **competencies of particular ministries and governmental entities are similar to those of the Plenipotentiary, this may lead to unclear situations and misinterpretation of responsibilities** among various actors involved in policies related to equal treatment. There is no clear regulation on the relationship between the Plenipotentiary and ministries, and there is **no interdepartmental body responsible for coordinating gender mainstreaming in the government** (see Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Poland 2014: 18-19). Moreover, due to **limited financial resources in the ministries**, actions against discrimination and unequal treatment are delayed or even abandoned. Thus, lack of cooperation and communication between different ministries as well as limited funds lead to a situation whereby gender equality remains only a principle in documents, instead of being actively implemented in various projects.

Commission for the Equal Status of Women and Men (*Komisja Równego Statusu Kobiet i Mężczyzn*)

Improving equal treatment of women and men was also the main responsibility of the Parliamentary Commission for Equal Status of Women and Men. This commission was established during the fourth term of parliament and operated only for a short period of time, meeting just nine times between April and August 2005 (<http://orka.sejm.gov.pl/SQL.nsf/Main4?OpenForm&RKM>). The commission dealt with matters related to **gender equality in the social, political and economic area** and focused especially on the implementation of the Beijing Platform in Poland (meeting with Magdalena Środa), evaluation of the National Programme for Women “National Policy on reproductive health, in accordance with modern medical knowledge and international legal norms” (*Krajowy Program Działań na Rzecz Kobiet pt. “Polityka państwowa w zakresie zdrowia reprodukcyjnego, zgodna ze standardami nowoczesnej wiedzy medycznej i międzynarodowymi unormowaniami prawnymi”*), equal treatment in the labour market and harassment in the workplace as well as counteracting violence against women. Analysis of the commission’s activity shows that only during five out of nine meetings did the members discuss the abovementioned issues with the invited guests. Moreover, the commission **never submitted a draft act, ordinance or opinions**. Thus, its activity was very weak and came down to meetings, during which the members of the commission heard the reports about the situation of women in Poland.

The commission was dissolved in October 2005 by transforming it into another commission in the Sejm, the **Commission for Family and Women’s Rights** (active till 2007). This change reflected the change of government into a right-wing coalition led by PiS, and emphasised the change in the direction of the policy: from **a focus on the principle of equal rights of women and men and equal opportunities and treatment in politics, economy, culture and the social sphere to a focus on family**.

Parliamentary Women's Group (*Parlamentarna Grupa Kobiet*)

The origin of the Parliamentary Women's Group can be traced back to 1991, when the Parliamentary Women's Circle (*Koło Parlamentarne Kobiet*) was established in order to **gather together female members of parliament and express women's interests**. This body soon became the Parliamentary Women's Group, which was thought to be **politically neutral**: it gathered women from all political parties and various backgrounds willing to become involved in activities aimed at helping women. Among the issues seen as important were protection of women's health, right to abortion and services for pregnant women, changes in the law regarding separation, divorce and custody, alimony law, the situation of single mothers, combating violence against women and improving their economic situation. This focus on difficult topics did not last long – the Parliamentary Women's Group was active in the 1990s, when it **lobbied for a gender equality policy**. After changes in alliances and the arrival of a new government, discussions on difficult topics became less intensive, although the group was still involved in preparing the act on equality and National Action Plan for Women and played an important role in introducing a provision on equal rights of women and men to the constitution (chapter 33 and 34), supported the initiatives of the Plenipotentiary, organised conferences (e.g. on violence), and participated in the meeting in Beijing. The group also supported the parity law and fought for an improvement to women's situation in the public sphere (Dąbrowska 2007: 9, *Polityka równości płci. Polska 2007. Raport 2007*). It also supported the Act on Equal Status of Women and Men as well as the Act on Preventing Domestic Violence. It is worth mentioning that the group cooperated with women's groups and organisations, resulting in establishment of the **Forum of Cooperation between non-governmental organisations and the Parliamentary Women's Group**. Among joint activities, they were active in the election campaign in 2001, emphasising the positive sides of involving women in politics and decision-making processes (Dąbrowska 2007: 10).

Despite the broad scope of its initiatives, the group did not introduce important changes in the legislature, and its actions such as conferences, meetings or letters to prominent people did not bring a great positive impact to society. The political context (the importance of conservative, traditional political parties) prevents them from developing a progressive strategy, and they became **less active** after a right-wing party formed a government. As a result, they focused mostly on **women’s entrepreneurship, political participation and protection of women’s health**. However, even in these fields, the voice of the Parliamentary Women’s Group was not regularly heard in the public debate.

Parliamentary Women’s Group

1993-1997: 45 female members of the Sejm (out of 60), 7 female members of the Senate (out of 13) from 4 political parties (out of 5 political parties with female members)

1997: 35 female members of the Sejm, 4 female members of the Senate, mostly from left-wing parties

2001: 71 women (60% of all female members of parliament), mostly from SLD, UP and Self-Defence

2005: the majority of members of the PWG come from PO and PiS

2012: 53 female members of the Sejm, 3 female members of the Senate, 45 from PO, 3 from PSL, 2 independent, 1 from SLD, 1 from BiG (Koło Poselskie Bezpieczeństwo i Gospodarka), 1 from TR

Source: Raport dot. równości 2007,
<http://www.sejm.gov.pl/sejm7.nsf/agent.xsp?symbol=SKLADZESP&Zesp=126>

Table 4: Parliamentary Women’s Group

Since the election in 2011, the Parliamentary Women’s Group has continued to work on equality between women and men in political, economic and social life as well as implementation of measures aimed at increasing the number of women in decision-making processes and their access to real power (Deklaracja z powołania PGK 26 stycznia 2012). They also focus on harmonisation of the national law with the regulations imposed by the international conventions and documents ratified and signed by Poland. As they state in the declaration establishing the PWG of 26 January 2012: “We believe that the equal treatment of women and men is a basis for democracy”. Their activity is especially focused on the changes in retirement regulation and women’s health, but they are also active in the debate

on ratification of the Convention Preventing Violence against Women and Domestic Violence,⁸ introducing changes to the Electoral Law and working on a draft bill on equal pay.

The idea behind the establishment of the Parliamentary Women's Group was to create an area of exchange of ideas between female members of parliament, regardless of their political belonging. Over the last few years, it has become clear that the group **failed to achieve the aim of integrating various women's communities**. The current composition of the Parliamentary Women's Group shows that the majority of women involved in it belong to the Civic Platform (PO) and there are only few women from other political parties. They also failed to develop a progressive plan on women's issues which could be lobbied for in parliament. As a result, their actions have limited impact on real changes in society.

Discussion and concluding remarks

The analysis of national machinery responsible for gender equality policies reveals that gender mainstreaming has not become a comprehensive and cohesive strategy in Poland. First of all, the gender machinery is established by and related to the government, and thus it is **vulnerable to political changes**. This may result in closing down the departments dealing with gender equality or appointing people who have limited knowledge in the field of anti-discrimination and have no political will to introduce the changes. However, since the implementation of the Act on the Implementation of Certain Provisions of the European Union on Equal Treatment, the office of the Plenipotentiary has become the only permanent body which cannot be removed as it is legally protected. Secondly, placing the Plenipotentiary for Equal Treatment, the main authority responsible for implementing equality policy, in the Chancellery of the Prime Minister, with **no legislative initiative**, raises **questions on the sustainability and independence** of the office and the scope of the actions which can be undertaken by this office. It is also important to notice that there is no governmental unit or office responsible only for gender equality policy – all bodies operates within a broader framework, focusing on preventing and combating discrimination based on various grounds. Such an approach may lead to a situation in which gender issues will not be addressed properly (as happened between 2008 and 2011). Last but not least, the **lack of financial and human resources** creates barriers in implementing gender equality strategies and policies.

⁸ Agnieszka Kozłowska-Rajewicz and Jarosław Gowin were invited for one of PWG meeting.

The changes in the responsibilities of the Plenipotentiary, as well as the changes to the name of this office, clearly reflect the views of political parties and alliances in the area of equal treatment and the quality of policies introduced by particular governments. While left-wing governments claim to be more in favour of **pro-equality policy**, right-wing ones focus on **pro-family policy**. These priorities influenced the statutory provisions as well as the scope of areas taken into account by the state authorities. As a result, the periods of right-wing governments equate “women’s issues and interests” with family. This approach has a significant impact on changes in the labour market, educational system or social security services.

The national regulations related to anti-discrimination policies and equal treatment still lag behind the international standards. The statutory provisions were delayed, and did not manage to transpose all regulations imposed on Poland by international documents. They mostly focus on equality in the labour market, access to parliament and local governments as well as access to goods and services. The first document which defines the goals of equality policies (including gender equality policies) as a horizontal policy was adopted in 2013 (the National Action Plan for Equal Treatment). This approach shows **the government’s lack of commitment and its reluctance to introduce equality and anti-discriminatory policies**: gender equality is not high on the governmental agenda, which only reflects the tasks imposed by the European Union or international documents such as CEDAW. There is **no vision of gender equality policies**, but instead we have separate measures implemented in each area (such as quotas in politics or measures providing a work-life balance).

Apart from the lack of a clear vision of gender equality, the current strategies and statutory provisions **do not address the intersectional discrimination** to a great extent. This approach is mentioned in the national plans, but it is hardly present in the proposed actions and measures. This problem was noticed in the Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) POLAND 2014 (2014: 5): “This means that instances of such discrimination are not treated by the legislator as more serious offences and, therefore, sanctions for such types of unequal treatment are not designed adequately. This contradicts the guidelines specified in General Recommendation number 28, item 18, where the CEDAW Committee noted that intersectional discrimination pertains mostly to women and women’s membership in various minority groups and determines, to a high extent, the incidence of their unequal treatment”.

Another weakness of gender equality policies is **insufficient cooperation with women's organisations**. Despite the fact that cooperation with the civil society is promoted by all acts and strategies related to equal treatment, there is no good implementation tool providing sustainability of these solutions. The involvement of non-governmental organisations and other social actors affected by the laws related to equal treatment in governmental work is not sufficient: the consultations are done randomly, and in some cases the voices of women's groups and social partners are ignored. In many cases, NGOs are treated in an instrumental way, as "apparent partners", or their representatives are invited as "private experts" and not representatives of organisations or women's movements (Fuszara, Grabowska, Mizielińska, Regulska 2009). Despite their expertise and knowledge in the field of gender equality, their opinions are not treated seriously and rarely are taken into account. Moreover, the representatives of civil society are not invited to take part in the election of the Plenipotentiary, and no permanent advisory body has been established. The approach to cooperation with civil society depends only on the personal commitment of governmental institutions and offices and the will to work together. Not surprisingly, in this context the work of Izabela Jaruga-Nowacka, Magdalena Środa and Agnieszka Kozłowska-Rajewicz has been evaluated positively, while Elżbieta Radziszewska met with criticism from women's organisations. Thus, gender democracy still remains an unachieved goal rather than reality. Despite the insufficient cooperation between the non-governmental organisations and national or local government, the organisations and associations play an important role as watchdog institutions. Not only can they lobby for implementing gender equality policies, but they can monitor their implementation and inform international bodies (e.g. the CEDAW Committee, European Union institutions) about the progress, or lack thereof, in achieving gender equality objectives.

There are many positive changes which have improved equality between women and men. Among the positive outcomes, we can list the changes in legislation – in the labour code and the election code – as well as establishing the Act on the Implementation of Certain Provisions of the European Union on Equal Treatment or national strategies, projects and programmes aimed at enhancing the equality of women and men (also co-funded by the European Social Funds), awareness-raising campaigns and workshops and training programmes for governmental officials. Unfortunately, these have failed to lead to systemic changes in the government approach to gender equality and gender mainstreaming.

Political participation

Women have enjoyed political rights in Poland since 1918. Their participation in political life did not play a significant role before 1989, and this was one of the reasons why women entered the transformation unprepared. Under the communist regime, the representation of women in parliament did not exceed 23%, and their role in decision-making processes was very limited. The process of democratisation in the 1990s did not bring great changes: a lack of equal opportunities in the election process, the absence of a mechanism supporting female candidates, as well as patriarchal and conservative attitudes and stereotypes about women in politics resulted in underrepresentation of women in political life (Fuszara 2009, Renc-Roe 2003). Twenty-five years after the transformation, women have not managed to overcome the male dominance, and their representation is still lower than 30%. According to the Global Gender Gap Report of 2014, Poland is placed 57th out of 142 countries. Among the reasons explaining the low number of female politicians, MPs, ministers and members of political parties, cultural, social, economic and political factors must be taken into account. Yet the exclusion of women from politics has been challenged by the actions undertaken by women's and feminist organisations and pressure from the EU. As a result, a voluntary gender quota was introduced by some political parties in 2001, followed by a legislated gender quota in 2011. What is significant, however, is the fact that the gender quota is accompanied by weak support for women in politics. Thus, the politics of presence has not been fully transformed into the politics of impact generated by women in parliament or national and local governments (see Platform for Action of the Fourth World Conference on Women, Beijing 1995).

From voluntary party quota to legislated quotas

The inclusion of women in the political sphere has been widely discussed and presented in the literature. On the one hand, it is believed that women's interests can be represented only by women, and that female politicians would bring new perspectives and views. They would prioritise areas related to social services, education, reproductive rights and gender-based violence. Within this context, another argument is often raised, namely the need to have proper representation of various groups in society in political life. This is illustrated by the slogan that states that "a democracy without women is half a democracy"

(Renc-Roe 2003: 6). On the other hand, the political sphere is presented as neutral and impartial as far as gender differences are concerned: all citizens are equal and have equal opportunities. As a result, there is no need to focus on women's representation (or in fact any kind of representation), and it is inappropriate to introduce measures supporting specific groups in their access to the political sphere. Yet this approach is based on a male model of participation in politics, as well as presenting the political sphere as separate from social, cultural and economic conditions (see e.g. Phillips 1991, Lister 1997, Pateman 1989, Young 1990, Mouffe 2005). These two models of the inclusion of women in politics are an interesting starting point for a discussion about women's access to politics in Poland and the debate on the quota system.

Debate on the quota system

The process of transformation and democratisation posed the question of women's presence in the political sphere. The first election proved that women faced many barriers in the political sphere, which reinforced male dominance and gender-based power distribution in politics. This underrepresentation of women also opened a discussion on the measures needed to support them in political institutions, namely the use of the quota system.

The first attempts to introduce a quota system took place in the 1990s. However, due to the connotations of the socialist regime, this measure was highly contestable at that time. It was believed that supporting one of the groups would undermine democratic selection procedures in politics, as well as leading to women being branded as "puppets" or "tokens", emphasising that they were not elected due to their competencies and skills but only because of their gender. A breakthrough took place in the parliamentary election in 2001, when three political parties – a coalition of the Democratic Left Alliance (SLD) and Labour Union (UP)⁹ as well as the Freedom Union (UW) – decided to increase the number of women on their electoral lists by introducing a voluntary gender quota. Significantly, these political parties decided to change their internal policies defining the rules of creating electoral lists, but they

⁹ The Labour Union (UP) decided to introduce a gender quota in 1993 by reserving 30% of places on the electoral list during the election to the Sejm (Lower Chamber of Parliament) to women (Fuszara, Spurek 2007: 32). The Democratic Left Alliance (SLD) opted in 2000 to leave 30% of places for the representative of both sexes among people recommended as candidates and among people on the electoral list. However, this rule was in force from 2007, and starting from 2003, a new rule stating that each sex should be represented at the level of min. 20% was implemented. This rule was included not only in the regulations related to creating an electoral list, but also in the statute of this party (Fuszara, Spurek 2007: 32).

did not include regulations on alternating places for women and men on electoral lists, which would give women and men equal chances in elections. Moreover, Renata Siemieńska (2004: 3) notes that even right-wing parties which were opposed and critical towards quotas in politics decided to include more women in the electoral lists compared to previous elections so that they would not lose female voters.

The quota system introduced by parties during the election in 2001 proved to be a good measure supporting women's participation in politics. However, it only led to a quantitative change: the increase in the number of women in parliament was not followed by an increased number of women in parliamentary committees or in the main positions in parliament (such as (vice-) speaker of the Sejm). A more progressive solution was introduced by the Green Party (*Partia Zieloni*), whose statute included a regulation on parity in the electoral lists, boards and commissions of the party.¹⁰ Moreover, this party decided to alternate the position of women and men on electoral lists and, in the case of a lack of candidate from one sex, the entity responsible for creating the list would have to nominate a candidate for this place.

The idea of introducing a **legislated parity system** emerged during the **first Congress of Women** in 2009 and immediately became its flagship demand. The participants in the congress, and later the Congress of Women Association, suggested the implementation of gender parity: reserving 50% of places on electoral lists for each gender. This initiative, despite the hopes for systemic change pinned on it, failed to recognise the importance of guaranteeing fair distribution of places on the list through a zipper system (alternated order of men and women on the list) and providing women with access to winnable or secure seats (Druciarek et al. 2012: 9).

From the beginning, the idea of the parity law was a **bottom-up initiative** which was shaped by three actors: this project was initiated by the Congress of Women¹¹ and was supported by citizens. However, in order to transform a citizens' initiative into statutory regulations, MPs, government members and party members had to be involved. To promote

¹⁰ The Green Party was established in 2004, and the parity regulation was included from the very beginning in its statute.

¹¹ The interest in providing women with better opportunities to participate in political life was also a central issue for the Second Congress of Women, held under the motto "Time for election! Time for women! Time for solidarity!" This was a strong signal of support for the initiative for introducing a parity system. Moreover, in order to support women interested in running for local government elections, the Congress activists organised training sessions to improve their skills (Druciarek et al. 2012: 11).

the idea of a gender quota among members of society, **the “Civil Legal Change Initiative Committee ‘It’s time for Women’”**¹² was created. The members of this committee managed to collect more than 150,000 signatures, which gave them the right to present the civil proposal of a bill in the Sejm in December 2009. The first proposal did not include the “zipper system”, placing women and men in alternate positions, but the sanctions for non-compliance were mentioned (Alternative Report 2014: 35).

Strong civic support made it difficult for the speaker and MPs to reject the bill. According to the survey done in 2009, 70% of women and 52% of men supported gender parity. This acceptance of gender parity was lower among politicians (Śledzińska-Simon, Bodnar 2013: 155), but the government decided to support this project in order not to lose support among voters. However, **the attitude of Polish society was not unanimous**. The groups supporting right-wing parties organised protests against gender parity: they sent letters of protest, used academics and intellectuals to support their standpoints, and questioned the constitutionality of the bill. At the same time, women’s groups (especially the Congress of Women) mobilised around the actions supporting the bill such as a social campaign supporting its rapid implementation, actions organised on Facebook and also through emails, support for the bill during the “Manifa”, organised on the occasion of International Women’s Day in 2010, as well as a conference in Sejm with prominent speakers such as Jerzy Buzek (the President of the European Parliament), Drude Dahlerup and representatives from international organisations (e.g. the Institute for Democracy and Electoral Assistance). The aim of these actions was twofold: to increase the knowledge on gender parity/quotas among the members of society (e.g. present its advantages, implementation strategies, good practices) and to politicise women’s activism and political participation/representation (see Śledzińska-Simon, Bodnar 2013: 163). In this way, the gender parity/quota system became a widely discussed issue reflecting the **battle over values and ideologies**: it was seen either as a measure to increase women’s representation and gender equality or as an element of Western liberal ideology.

After the first reading, the bill on gender parity was directed for discussion by the Extraordinary Committee (Dubrow, Woroniecka 2010: 9-10, Śledzińska-Simon, Bodnar 2013: 163). This debate was also influenced by the political context. First of all, this idea was

¹² This initiative was established by the Congress of Women.

presented after the failure of the Women's Party to win the parliamentary election in 2007. Secondly, the compatibility of the gender parity/quota system with the existing legal framework, principle of free elections, political pluralism and equality was investigated. Both sides – the supporters of the new measure (mostly the Congress of Women) and its opponents – provided the legal opinions on the constitutionality of this new bill. Not surprisingly, these documents were contradictory, but the arguments presented by the supporters were stronger and the work on the bill could have been continued. Thirdly, the work on gender quotas in politics was suspended due to the Smolensk tragedy in 2010, and later it became an issue in the presidential campaign, with Civic Platform and Bronisław Komorowski in favour of this measure. During the second Congress of Women in 2010, Komorowski publicly announced his support for the gender quota. Significantly, his decision was based on political calculation and was a result of fear of losing the female vote. Finally, introducing a gender quota system in elections was a success of a civic initiative, but the influence of the EU should also be mentioned in this context (see Siemienska 2004). This pressure from the EU was appreciated by female parliamentarians, who admitted that the recommendation and measures presented as a part of the gender mainstreaming policy helped them to legitimise the quota system in Poland (Dubrow, Woroniecka 2010: 10-11). EU accession meant that a new standard regarding women's rights would have greater chances of being implemented in Poland and that democratisation would be further developed. However, this positive impact of the EU has been diminished and restricted by the Catholic Church and the conservative ideology presented by the right-wing parties.

The election of Bronisław Komorowski as president sped up the work on the bill on the gender quota. A compromise was finally achieved: **the ordinance was approved, but the act replaced parity with quotas**. Moreover, the financial penalties for non-compliance were rejected and replaced by refusal to register lists which did not follow the guidelines regarding the number of women and men on the list. This shift from gender parity to gender quota was significant: it was seen as a way of including the representatives of a particular group, but it did not reflect the composition of the society. Moreover, it blunted the results which could have been achieved on a structural level, as women's right to participate in politics was not defined in terms of their citizenship or democratic development but rather in terms of providing a formal quota counteracting the underrepresentation of women in politics.

The Sejm adopted the bill on gender quotas in December 2010: 214 deputies voted in favour, 154 voted against and 9 abstained from voting (Śledzińska-Simon, Bodnar 2013: 164-165). The Senate proposed only one amendment, regarding local elections: if there are only three candidates, it is required that the list include at least one man and one woman. This ordinance was also supported by the left-wing government, due to pressure from the Plenipotentiary for Equal Treatment Agnieszka Kozłowska-Rajewicz. This new Electoral Code was passed in January 2011 and signed by the president on 19 January 2011. **The ordinance came into force on 1 August 2011.**

Despite the fact that the battle over parity was lost, introducing a gender quota marked a significant point in the development of gender equality. It showed that **gender equality is an important value in the legal system.** However, the analysis of implementation proved that this measure has not managed to introduce a women-friendly model of political participation. **Women gained a place in politics, but they did not get power** and influence, and their impact on the decision-making process is limited.

Electoral gender quota: the regulation in the new Election Code

The Polish case presents the **transformation from voluntary party quotas to legislated quotas.** Whereas the former refers to the commitment of a political party to provide a certain percentage of women and men on the electoral list based on the regulation included in party statutes or programmes, the latter refers to statutory provisions included in the electoral law enforcing all political parties to include a certain proportion of women and men on electoral lists.

According to the new Electoral Code, the gender quota was implemented in electoral lists in **parliamentary elections** (only Sejm – Lower Chamber of Parliament), **municipal, county council and voivodeship council elections**, and the **elections to the European Parliament.** The law does not apply to the election for the Senate – the Upper Chamber of Parliament (majoritarian voting system, single-member constituencies). It guarantees at least **35% women and at least 35% men on electoral lists.** It is significant that **at least one woman must be included among the first three candidates** and, in elections at sub-national level, for a list consisting of three candidates, there must be at least one candidate of each sex. Nevertheless, the alternating order (zipper system) was not introduced as a mechanism supporting women

in elections.

In cases of non-compliance, the electoral list must be amended within three days of obtaining notification. If the defects are not removed within a given time, the Electoral Committee **refuses to register the entire list**. The statutory provision does not foresee use of a financial penalty for non-compliance instead of excluding an electoral party from the elections.

Quotas as a measure increasing women’s participation in politics

The introduction of legislated quotas brought changes for the representation of women in politics, but the increase in numbers was not as extensive as expected and Poland remained behind countries such as Slovenia (increased by 18.9%) but also France, Italy, Lithuania, Greece, the Czech Republic and Malta (more than 5%) (see Freidenvall, Dahlerup 2013: 10). The number of women among members of the Sejm was 20% (94 seats) between 2007 and 2011, whereas after the **election in 2011 it was 24%** (110 seats). This limited change in 2011 may partly be explained by the fact that the number of women had significantly increased after introduction of the party quota and the success of the Left Alliance in 2001: from 13% to 20% (Kunovich 2012: 154).

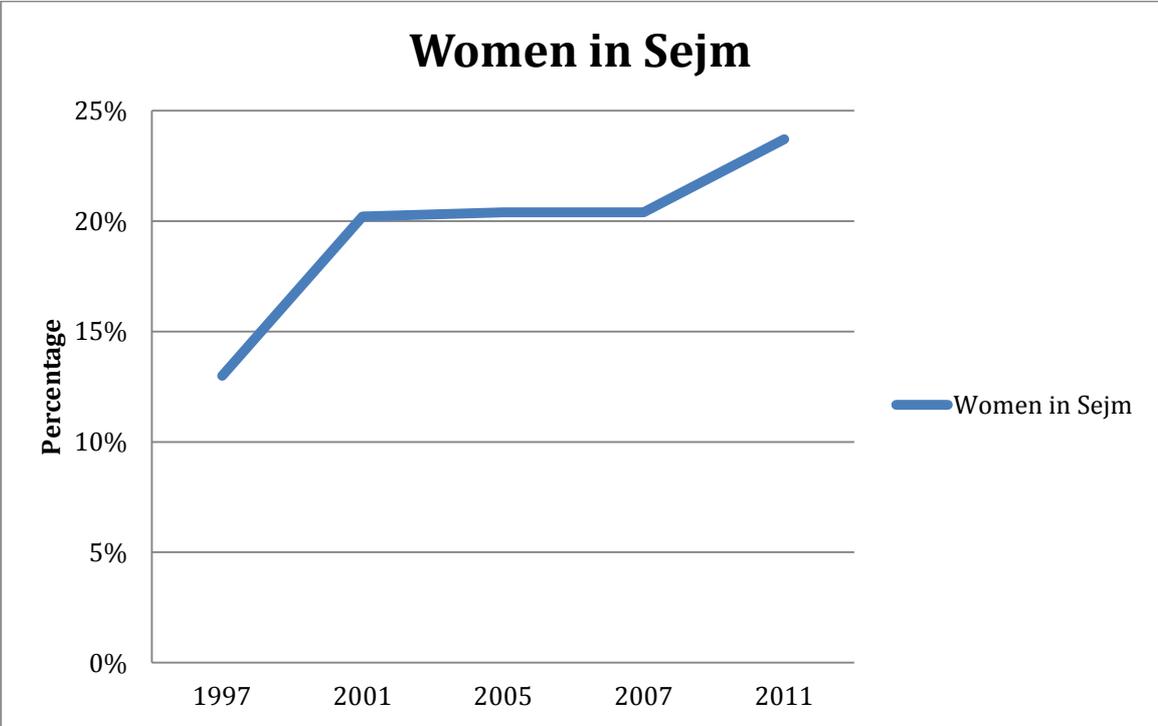


Figure 1: Women in Sejm (1997-2011). Source: www.sejm.gov.pl

This positive trend was not disturbed by the growing importance of conservative parties on the centre and right, and women managed to maintain their number gained in the election in 2001 (Kunovich 2012: 154). In addition to this, some parties decided to include women in the opening electoral list in 2011 (first position), despite the fact that the zipper system was not introduced (e.g. PO – in 14 electoral districts; the SLD guaranteed 6 first places to women). Nevertheless, the election for the Sejm in 2011 was recognised as a success and a good way of including women in politics since **the number of women running for the position was doubled**: 3063 women stood for the Sejm (44% of candidates) (see: Alternative Report 2014: 36, Druciarek et al. 2012, PKW).

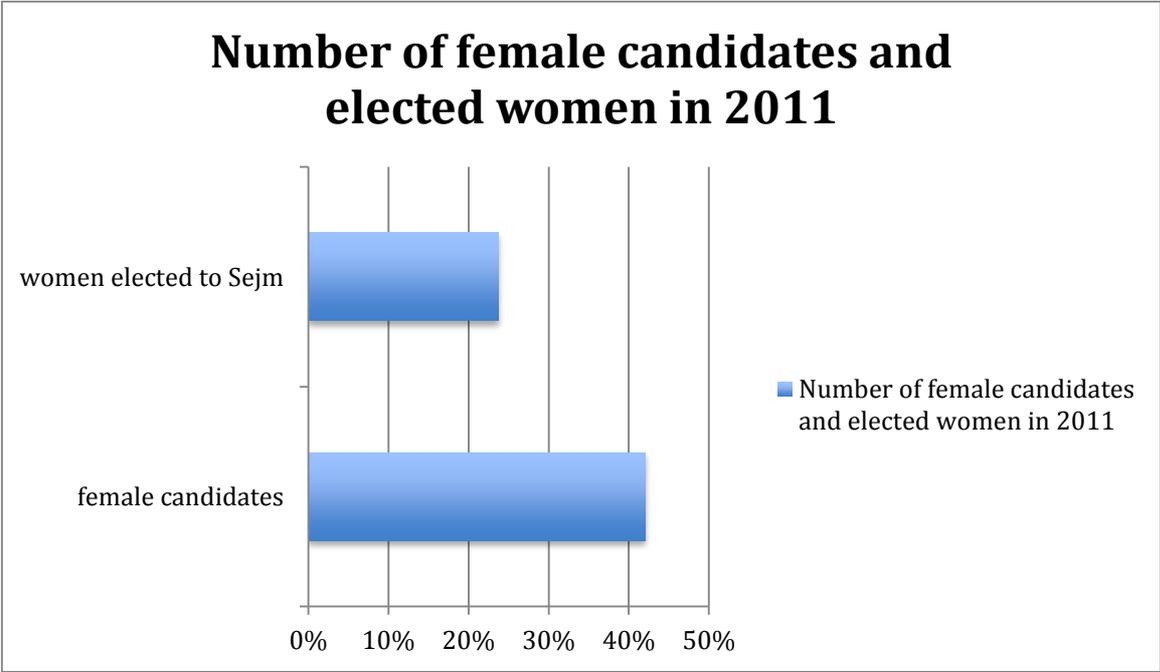


Figure 2: Number of female candidates and elected women in 2011. Source: www.sejm.gov.pl

The gender quota in elections has not been reflected at the level of the boards of political parties – there is no female leader of a political party represented in the Sejm. However, a woman – Ewa Kopacz – became Marshal of the Sejm for the first time, and another woman – Wanda Nowicka – was also on the board of the Sejm. Women are also underrepresented in committees: only **five out of 28 committees are led by women**: the Culture and Media Committee, the Ethics Committee, the Public Finances Committee, the Justice and Human Rights Committee and the European Union Affairs Committee.

Women are still **underrepresented in the Upper Chamber of Parliament – the Senate**. First of all, the number of female **candidates** is significantly lower compared to men: 47 women compared to 338 men in 2007 and **69 women and 430 men in 2011**. After the election in 2011, **13 women were included in the Senate**, which is a small increase compared to the years 2007-2011, when only eight¹³ women were elected as senators. However, they do not play a significant role in committees: only one woman was nominated as chair (the Environment Committee) and in 5 women was nominated as vice-chair (the Foreign Affairs Committee, the Culture and Media Committee, the Emigration Affairs and Contacts with Poles Abroad Committee – 2 female vice-chairs, the Environment Committee, the Health Committee).

	Law and Justice Party (PiS)	Left Democratic Alliance Party (SLD)	Labour Party (UP)	Civic Platform Party (PO)	Agrarian Party (PSL)	Palikot Movement (RP)
Places on electoral list reserved for women (Sejm)	40%	44%	48%	42%	41%	
Women in opening position	10	6		14	6	4
Female members of parliament	18%	15%	Did not exceed parliamentary threshold	35%	7%	12,5%
Female-to-male ratio among vice-chairs	2 females/ 4 males	1 female/ 2 males		6 females/ 5 males	0 females/ 3 males	2 females/ 4 males

Table 5: Women in political parties. Source: www.sejm.gov.pl, Druciarek et al. 2012

The situation is also diverse at local level. In general, **26% of all deputies in small gminas are women, and 24% in towns with powiat status**, but in the powiat councils the number of women is lower (18% of all deputies). As noted by Druciarek et al. (2012: 14), “in 57 of the Polish gminas, women have no influence on the actions of the local government”.

¹³ In the additional election, one woman was elected to the Senate.

The worst situation is in three voivodeships: Małopolskie, Lubelskie and Podkarpackie. In the first of these, women have no majority in any gmina and there are no female deputies in 4.5% of gminas there. Małgorzata Fuszara notices that: "In general, women outnumber men only in 4% of councils, while men outnumber women in 96% of councils. Amongst these 4% of councils where women dominate, we find councils only at the lowest level (*radny gmin*). Despite the fact that women are in the majority in 62 gminas (around 2.5%), it is more often that women are not in the councils at all. In 93 gmina councils (slightly more than 3.7%) after the election in 2010, there were only men elected" (Fuszara 2011: 6, see also Niżyńska 2011: 13). This study clearly shows that the number of gminas with no women is lower: 62 gminas with no women in 2010 compared to 111 gminas in the previous election (Fuszara 2011: 6), and that there was a significant increase in the number of gminas where women constituted at least half of the elected deputies: from 48 to 93 in 2010. As for the number of women in voivodeship councils (*sejmiki wojewódzkie*), in 2010 they constituted more than 22% (Fuszara 2011: 6).

The number of women running for **office at local level** is low; it reached **14% in 2010 but only 9% were elected** (compared to 7% in 2002 and 8% in 2006) (Niżyńska 2011: 14). This low number of women is caused, among things, by the fact that 70% of mayors were re-elected and only 8% of them were women (Druciarek et al. 2012, Niżyńska 2011: 16). Moreover, Anna Śledzińska-Simon and Adam Bodnar (2013: 155) argue that "The clear correlation between the number of female candidates in the mayoral elections and women mayors needs to be viewed as a consequence of the majority rule and the direct voting for a single candidate. The process of nomination of a single candidate for this office by a political party is likely to be dominated by male political incumbents".

Political barriers to women's participation in politics

Researchers suggest that the number of women in politics is influenced by the number of women activists, the electoral system, diffusion and competition and party characteristics (Caul 2001: 1215). More women involved in politics (in political parties, parliament) can also break some barriers, and change the stereotypes and expectations towards women in this sphere (Dahlerup 1988). Additionally, in Poland, the position on the list, presence in media and stereotypes are also important. These factors will be discussed in this chapter.

Electoral system

The electoral system is believed to be one of the most important factors influencing women's level of participation in politics, their representation as well as the effectiveness of gender-legislated quotas (Matland 2005, Galligan, Clavero 2008, Renc-Roe 2003). The literature suggests that a multi-member proportional representation system provides more balanced ballots, whereas single-member constituencies create more competitive conditions for women who need to fight with men for the electoral mandate (Renc-Roe 2003). In the former case, women and men should have an equal opportunity to be elected, as several candidates are chosen from numerous positions. Thus, a political party does not have to indicate only one candidate who should be supported, and voters have more freedom in choosing their own representative(s), but at the same there might be other measures used by a political party to suggest who the better candidate for the post is. Single-member constituencies restrict women's chances to be elected. As Druciarek et al. (2012: 19) note, "According to 1995 research on gender representation in parliaments of countries with stable democratic systems, parliaments elected under FPTP (first-past-the-post) systems had 11% of female MPs, whereas in parliaments elected under proportional representation, women's representation was approximately 20%. The rates in 2004 amounted to 14.4% and 27.6% respectively".

With regard to Poland, these assumptions about electoral systems provide a good explanation of women's absence in politics. The electoral system in Poland has been changing, and according to the 2011 Election Code the following models are used:

- FPTP with single-member/mandate constituency (majoritarian principle) in the election to the Senate (Upper Chamber of Parliament), which means that the election committee may present only one constituency candidate (article 256, 260, 264, 273 of Electoral Code)
- party-based multi-member electoral constituencies with proportional representation in the election to the Sejm (Lower Chamber of Parliament) (Article 193 of Electoral Code)
- single-member constituencies in gminas which are not registered as towns with powiat status in elections to local government (article 415, 425 of Electoral Code)

- party-based multi-member electoral constituencies with proportional representation in towns with powiat status in elections to local government (article 416, 425 of Electoral Code).

The data shown in the previous chapter shows that the **FPTP system in Poland clearly favours men and creates obstacles for women** as, first of all, the candidate is chosen by the political party and, secondly, only one candidate who received the most valid votes can be elected. When **women are not able to get past the gatekeepers** in their parties as they are rarely members of election committees (Dubrow, Woroniecka 2010: 14), it is unlikely that they are nominated as candidates in the election to the Senate. Getting through the recruitment process and structures would mean that women have to overcome the male-dominated decision-making process in order to be nominated as a candidate. However, Fuszara argues that this barrier created by a system with a majoritarian principle and single-member constituencies is **less favourable for women only for elections to the Senate**. As for the election to local government in gminas which are not towns with powiat status, this system allows women to be elected and become a part of local government (Prof. Fuszara: okręgi jednomandatowe do rad gmin mogą być dla kobiet zaletą 2014). In this case, the nomination of only one candidate may encourage people to vote for a person, not for the list (i.e. political party), and in this way this system promotes individuals rather than political parties. The comparison between the election to the Senate and the election to local governments illustrates that the **local level is more available to women** and that **personal networks and achievements**, which play a more influential role in elections to local government, have a positive impact on the choice of candidate.

Elections at local level introduce another mechanism supporting women, namely the possibility for candidates to be nominated not only by political parties but also by local committees. Women who stand in local elections are active within their own communities: they are involved in organisations, associations and informal initiatives, but rarely are they members of political parties. In this way, they are well recognised in their own environment, and this may lead to their further involvement, also in formal politics. However, due to political and socio-economic barriers it is difficult for them to achieve a position in political parties, and

the **possibility of being nominated by the local committee opens up for them the path to the political world** (see Fuszara 2011: 14).

Table 6: Women in local government. Source: Fuszara 2011: 5

Local committees are less dominated by men (compared to political parties lists) and they can be a good measure supporting women: 73% of female candidates in gminas which are not towns with powiat status are independent (non-party); they constitute 78% of women elected to the local government (rady gminy).

Party-based multi-member electoral constituencies with proportional representation create more opportunities for women to be elected, as proved by the results of elections to the Sejm and local governments over the past years. However, **the system implemented in Poland favours stronger parties**, and voters choose the list first and then the candidate. The mechanism of voting encouraged political parties to include women on their electoral lists prior to introduction of legislated (or even party) quotas, as they feared losing women's votes. However, due to socio-economic reasons (see further chapters in this report), women were included in various positions: some parties decided to put them in the opening positions, and others at the bottom of the list. In the latter cases, their chances of being elected were much lower. The election in 2005 and 2007 showed that **preferential voting** is a good mechanism allowing this obstacle to be overcome and increasing the number of women. As Kunovich (2012: 168) notes, "After the 2007 elections, there was a modest increase in the role of preferential voting, with 25% of female members having been elected by voters. Women comprised 20% of the party delegates for three of the four parties elected, and only one woman was elected from the PSL. Voters for both parties in the left alliance, LID and the centrist PO, increased the presence of women by more than 20%. In comparison to 2005, voters on the left found it necessary to shift more women up the lists to a positive position. These findings clearly show that voters play a critical role in the election of women by voting for female candidates farther down the list across almost all parties in Poland." Despite the fact that preferential voting increased the number of women elected into the Sejm by 20% to 30%, this trend is not stable: "While preferential voting explained more than 30% of women elected in some years, it explained only 20% in others. Within a single election, preferential voting explained 11% of female candidates within a party, while it explained 50% in another party" (Kunovich 2012: 174).

This analysis clearly shows that **female candidates are still underestimated by political parties**, and the increase of women in politics cannot be seen only as a result of implementing multi-member electoral constituencies, but also of preferential voting. Only support from voters led to women being shifted up the list and elected to either the Sejm or local governments. Responding to this voter behaviour, many parties increased the number of women in top positions on their list, and some introduced a party quota. Thus, voter support plays an important role in intraparty competition by shifting women up (although in recent elections at a lower rate), and in this way it influences the way in which electoral lists are created. Thus, the **inclusion of women in political parties is a result of a political game and political calculations**, and it is barely seen in terms of social justice and an equal society.

Position on electoral lists: lack of party support and zipper system

Despite introduction of the legislated quota system, the electoral system in Poland favours strong political parties and male candidates. Voters may choose their representatives from any place on the list, but findings based on the analysis of results from parliamentary elections clearly show that presence on the list does not create equal chances for men and women for electoral success. Quite the opposite: the **position on the list is regarded as an important factor influencing success in election** and winning a position. Obviously, the most winnable and desirable positions are at the top of the list (“number ones”), and excluding women from being the candidate opening the list may lead to a situation in which they are not elected. However, the quota system introduced in Poland does not include rules on placement of candidates on electoral lists.

The obstacles related to the selection criteria and placement in the electoral lists reveal the democratic (or undemocratic) character of political parties, and make the internal relations between party members more visible. The decision on how many women should be included in electoral lists as well as which position(s) on the list they should occupy is always a decision made by the political party, or rather the committee in charge of the party. Research on political parties indicates that “political parties in Poland are struggling with the problem of oligarchisation, have a poor member base, the quality of their candidates is low and the control over their finances is limited to a small group (the clique)” (Politics without women...: 4). These problems have a negative impact on compiling an electoral list. First, the leadership as well as central and local authorities and managing bodies of political parties are male-

dominated – women constitute less than 20% in almost all main political parties (Druciarek et al. 2012: 5). It is difficult for a woman to become part of a board or to achieve a position allowing her to promote more balanced power distribution among male and female members of the party. Moreover, there are no women’s sections or mentoring for women in political parties. As a result, it is **difficult for women to get tutoring and support** from those who have already been elected, and **women are rarely promoted by political parties**. Politics is still based on a male model of participation emphasising symbolic tools of power and domination, and a gender quota as affirmative action helps to increase the descriptive representation of women. In this context, it is obvious that we need a model which challenges the existing assumptions and empowers women to become more active in their communities, such as the “participatory parity” developed by Nancy Fraser (1998). In many cases, **decisions are made in an informal way**: during unofficial meetings of the “old boys’ network”, which excludes women from participation. In addition to this, the **majority of gatekeepers are male**, and they are oriented towards **protecting their position of domination and power**. This results in lower chances for women to be nominated as candidates by the party, as well as undervaluing of their competences, qualification and skills by placing them lower on the electoral list compared to men (see Fuszara, Spurek 2007, Renc-Roe 2003, Kunovich 2012). Analysis of the 2011 election shows that women were in the minority as far as the first positions were concerned, constituting **21% of all first places**. All parties decided to put mostly men at the beginning of their lists, although particular political parties adopted different approaches. For example, Civic Platform (PO) placed women in first position in 14 electoral districts (out of 41); PiS offered women 10 first places (Alternative Report 2014: 36). Moreover, only PO placed women among the first three positions in every electoral district. The number of “safe spots” offered to women was different among political parties: most of the women who were elected to the Sejm were placed in the opening positions in the electoral lists. Nine women who were placed in the top positions were not elected due to the fact that they were overtaken by their male colleagues: 5 of them were from the PSL electoral list and 4 from SLD. With PiS, women were not treated as equal partners to men, and functioned as “decoration” or “puppets” for men on the list. It seems that the legislated quota measure should be supported by another mechanism providing women better chances in the election.

Political party	Number of “safe spots” offered to women	Number of women in parliamentary club
PO	38%	35%
PiS	25%	18%
SLD	23%	15%
PSL	16%	7%

Table 7: Women in parliamentary club and number of „safe spots” offered to women

Similar mechanisms are also present in local elections. The findings presented by Fuszara indicate that in many cases women are removed from the first position in the electoral lists despite having great support in their communities and being popular among voters. Based on the analysis, she further argues that, “Regardless of the region, all respondents clearly state that the first place on both party lists and other election committees are taken by the leaders or people designated by the leaders. They are usually, though not always, men. Quite often, however, the procedure is believed by the respondents to be democratic, as the discussion about the order of the list takes place in a group of candidates, although it does not apply to the first places. Other places are determined using a variety of procedures: voting after discussion, alphabetical order or drawing. With these procedures, it is difficult to speak of ‘exclusion’ from the entire list, because, as many respondents indicated, the problem of many of the committees is to find an adequate number of people to fill the whole list” (Fuszara 2011: 9).

The tendency to preserve the status quo, namely the male domination of the top positions in electoral lists, has important consequences in elections. Pippa Norris argues that Polish voters identify themselves with the parties rather than the candidate and do not question the order of candidates, which for them reflects the party’s preferences (Kunovich 2012: 160). Thus, this further excludes women from being involved in politics. What should be noticed, however, is the fact that this attitude of voters can be overcome with a preferential voting mechanism and social media campaigns promoting women in politics, but it is more difficult to overcome the discrimination at the level of political parties. Matland (2005: 105)

concludes that: “In Poland, on the other hand, my analysis of party parliamentary nominating lists and electoral results found that women do better with voters than they do with the party committees putting together party lists, that is, the preferential vote leads to greater representation of women. Party leaders undervalue women candidates, either because of sexism among members of the selection committees or, possibly, because members of selection committees have a misplaced fear of sexism on the part of the voter.”

Almost 70% women were elected to the Sejm from the first three positions on electoral lists in 2011: 31 from first position, 25 from second position and 20 from third position on electoral lists. 33 women who were elected to the Sejm were not placed in the top positions (they were located even in 10th or 14th position).

Table 8: The position of elected women on electoral list in 2011. Source: Druciarek et al. 2012:24

Among the measures discussed in Poland for supporting female candidates in elections is a “**zipper system**”. This solution allows men and women to be alternated on lists, and as a result means that women can be included in the opening position and creates more gender-balanced lists. Another solution – called **twinning** – is based on the assumption that for a specific number of male candidates there should be a specific number of female candidates. To give an example: among three people of one sex on the list, there should be at least one person of the opposite sex. Introducing these mechanisms may reveal the capabilities of women, as well as leading to a decrease in the level of gender inequalities and discrimination in politics. Moreover, it may support the change from descriptive to substantial women representation: women are no longer treated as tokens added to the male world, but they will be able to question the gender order in politics instead of supporting the existing system.

Electoral district

The position on the electoral list is strongly related to the district in which the candidate stands for the position. Based on the previous elections, all political parties identify

the regions in which they can receive many votes and the number of their representatives will be higher, but also regions where they are unlikely to win a seat. During the election in 2011, there were cases of **women being put in first place in marginal constituencies**, namely those in which the party is weak or lost in the election in 2007. This phenomenon is called “**phony number ones**” (*fasadowe jedyнки*): despite the fact that women were in the top position (number one in the list), their chances of being elected and winning the seat were very low, as their parties could not get the support in the first place.

Party ideology

According to various studies, a party's ideology should affect the party's decision to adopt a gender party quota. While leftist parties are believed to be more inclined to support women's representation, rightist parties are seen as more reluctant, as their programmes are not focused on gender equality (or in a general sense – equality or egalitarian ideas) and interventions aimed at creating a more equal society.

This can be observed to some extent in Poland. Before introducing legalised quotas, the **leftist parties (SLD and UW) were among the first political parties to support women in elections**. Significantly, among the reasons for this approach was the hope of boosting the female vote. As Renc-Roe (2003: 18) claims: “Through ‘research into its electorate’, the UW decided that implementing gender quotas could reliably boost the female vote; party leadership wanted to place ‘at least one woman in the top three places on each list’”. Moreover, the increased number of women in electoral lists among other parties was also evoked by **interparty competition** and the **fight for the voters’** (especially female voters’) **support**. This change in party politics and approach to gender equality on electoral lists did not reflect or entail gender equality in the party or a commitment to women's issues and problems in political programmes (Kunovich 2012). Thus, in the case of Poland, party ideology plays a secondary role in establishing gender equality in politics, and the parties' approach is in many cases of a symbolic nature rather than a real reflection of their values.

Women's lobby and women's support

The development of women's representation at national and local level and enhancing women's political presence is also influenced by the **network and support from female politicians, political lobbies as well as organisations**. Prior to 2004, the political involvement of women's organisations and the creation of political lobby groups or political parties among

women had been developing slowly, as most of the initiatives undertaken by women were not directly focused on increasing the role of women in decision-making processes. According to Renc-Roe (2003), the beginning of a visible women's political lobby can be traced back to 2001, when the **Pre-election Coalition of Women** (PKK) was created. This was a network of more than 50 women's NGOs located in various places all over Poland which aimed to "make politicians aware of the political strength of women (as candidates and voters), promote female candidates and the idea of voting for women, and monitor the future government on its fulfilment of electoral program on women" (Renc-Roe 2003: 16). This coalition operated at national level with a programme council as the main decision-making body, but it also had local centres run by member organisations.

Another example of initiatives which evolved around the election in 2001 was the "**Women's Election**" (*Wybory Kobiet*) organised by the Women's Foundation eFKa in Krakow in 2001-2002. The aims of this project were twofold: political and civic education of women, support and networking of women leaders, female councillors, academics and activists and an increase in women's political activism and the promotion of women in local public life (<http://www.efka.org.pl/?action=gl&ID=16>).

Prior to 2004, the increase in women's representation in politics was mostly developed by feminist groups such as eFKa, OŚKA (Ośrodek Informacji Środowisk Kobiety) and PKK. Since the EU accession, the feminist movement and women's groups have continued to play an important role. Regarding the statutory quota regulation, an important role was played by the **Congress of Women** – a female association established in 2010, after the First Congress of Women which gathered women from all over Poland to discuss the situation of women 20 years after the transformation. At the very beginning of this initiative, the forum was thought of as a one-time event, but the willingness to participate motivated women to organise meetings in subsequent years. The Congress of Women has become an important actor representing women to the government, despite the fact that it does not represent any political party and is open to all women irrespective of their political belonging and values, profession or background. The first Congress did not have common political aims and common identities, but it succeeded in creating a sense of community based on shared experiences, emotions and the need to redefine the role and place of women in Poland.

Since the very beginning, the Congress of Women has been interested in increasing the number of women in politics and professional life, introducing an effective family support

policy, providing better health care (especially regarding reproductive rights), improving the employment policy and the situation of women in the labour market, and combating feminisation of poverty and domestic violence as well as reforming the education system in order to prevent discrimination of women. Despite such a wide spectrum of activities, introducing a gender quota in politics has become a flagship initiative undertaken by this association together with the Civil Legal Change Initiative Committee 'It's time for Women'. In addition to this legislative achievement, the Congress of Women created a space for discussion about women's rights in Poland.

The social movement "Poland is a women" led to establishment of the **Women's Party** (*Partia Kobiet*) in 2007. However, in the election in 2007 this party failed to register its electoral list in the majority of voting districts (they managed to be present in just seven electoral districts), and gained only 0.28% of votes (Żuk 2008: 67). The party failed to present a good and comprehensive political programme, although they talked about reproductive health and rights, child care and equal pay during their campaign. In 2011, the Women's Party allied with the SLD and ran in the election to the Sejm from the SLD's list. None of the candidates from the Women's Party succeeded.

The lack of support from female politicians may be a result of the assumption that **failure in political life is perceived as a personal failure** caused by a lack of skills, knowledge, social competences or confidence and the structural factor is not acknowledged (Galligan, Clavero 2008: 163). This individual dimension, namely lack of faith in their own competencies, prevents women from believing that women's representation depends on themselves, but it also shows a **lack of critical perspective and failure to understand (or admit) the privileged position of men**. On the other hand, Małgorzata Żuk (2008) claims that breaking the glass ceiling is so important for women that they adjust to the male world. They do not tend to fight for their own space and do not aim to create a women's lobby of committees to represent women's interests. Successful women in politics, as in the labour market, are considered to be "**unfeminine**". Such an attitude to female politicians prevents many women from pursuing a political career at a very early stage. Only through changing women's attitudes and encouraging them to build networks and cross-party solidarity will the change towards women's political participation be possible and women's empowerment not be hindered. However, at the moment, there are **few joint women's initiatives across political parties, capacity building and mentoring programmes** (including training in communication,

negotiation, presentation etc.), **network building or training programmes which could prepare women for pursuing a political career**. These measures could also develop better substantive representation of women. In the context of women's involvement in political and public life at local level, Fuszara (2011: 16) argues that "The large number of women in local councils does not necessarily lead to awareness of representing women, female voters, gender discrimination. This awareness is much higher in a powiat, where a strong women is a leader and the female councillors either are involved in the council for few terms or are administrative staff with long experience in the public sphere". Only in the latter case are women able to notice the difference between the situation of men and women, discrimination and exclusion faced by women; they are more gender-sensitive and aware that the aims of women and men are different. In other words, women are more sensitive to women's issues only if they are involved in politics or public life for a long period of time. Finally, it should also be mentioned that support from male politicians is necessary: change can only be achieved if men and women work together for gender equality in policy-making processes.

Socio-economic barriers to women's participation in politics

Article 33 of the Polish Constitution assures equal treatment of women and men in all spheres of life, including politics and public life. International conventions and directives further support this. In practice, this right has not been fully given to women, who face **cultural and social obstacles** in the political sphere.

Media and electoral campaign

Political parties' selection of candidates is a crucial stage, but equally important is the promotion and presentation of female candidates and politicians in the mass media, especially during the campaign. The first difference between women and men is related to their economic capital: since women more often work in lower-paid jobs, they have **limited access to funds to support their campaign and are less attractive members of the party**. Studies show that female candidates more often distribute leaflets on their own (or with their families and friends), while men usually have staff responsible for their promotional campaigns (Fuszara 2011: 12). Secondly, women are also in a disadvantaged position as far as campaigns led by political parties are concerned. Again, in this case too the role of **male gatekeepers** is important, as they are **reluctant to support female candidates** by restricting their nominations and financial resources for their campaign. They may not be invited to participate

in meetings to present themselves and their programmes, or their **access may be limited** (Fuszara 2011: 12). Moreover, **they are presented in a stereotypical way** (Druciarek et al. 2012: 26). During the electoral campaign for the parliamentary election, only 27% of candidates presented in public television broadcasts were women,¹⁴ and they had less time to present their comments and opinions.¹⁵ The media were also used to promoting stereotypes about women: their role as wives and mothers and as guardians of the family was reinforced. Female candidates usually spoke about and focused on family policies, which may have undervalued their competences and abilities as individuals responsible for decision making in the field of foreign and security policy, international relations or finances (Druciarek et al. 2012: 26, Fuszara 2011: 11).

Stereotypes and gender roles

Among the barriers preventing women from participation in politics are gender stereotypes, cultural attitudes and domestic responsibilities. To start with, there is an overwhelming perception of **politics as a “dirty”, male world and an “area which is not for women”**. This leads to a strong division into the private and public sphere, despite the fact that this dualistic approach was already questioned by feminists. This notion is still present in educational materials and programmes, further reinforced by the assumption that women should not become involved in politics as they lack important attributes: **they are thought to be emotional, have difficulties in making decisions, and not be competitive or assertive**. In addition to this, it is believed that women are socialised differently and are not taught to be interested in politics (see Żuk 2008, Fuszara, Spurek 2007: 28-29, Kunovich 2012, Galligan, Clavero 2008). Interestingly, both men and women express this conviction: these quotations from the study conducted by Fuszara and her team are good examples: “a man’s voice is always more concrete than a woman’s, and his discernment is better” (man’s opinion), or “Because men are more active in social life spheres, they have always struggled, changed and built more [than women]. It is a political struggle. One has to quarrel, clash opinions, there is always something going on, this is a struggle. Whereas the women’s role was always the

¹⁴ During the election campaign in the media, 37 women and 103 men were presented (Druciarek et al. 2012: 26). Women were present in 23% of nationwide coverage in the case of PPP and PiS, 32% for the SLD and 38% for PO and PSL (Fuszara 2011: 11).

¹⁵ The time given to women to present their programme was different for each party: 26% in the case of PO, 33% for the SLD and PS and 32% for PiS (Fuszara 2011: 11).

hearth and home, providing peace and quiet, making it work somehow, so that the warrior who came back home could find peace” (woman’s opinion) (Druciarek et al. 2012: 160). On the positive side, while discussing the role of women in politics, a similar argument is presented to the one in debates about women in the managerial position in the labour market. It is argued that women would bring a different perspective to politics, and that their increasing representation would change the political culture and enrich political initiatives.

Introducing a party or legislated quota in politics is a good starting point which can lead not only to an increased number of women in politics, but also to their perception. Women are still seen through the family role, and the **double burden** is seen as one of the most important barriers preventing women from being involved in politics. Political activity is seen on top of women’s obligations at home and in professional life: involvement in politics requires great effort and time, which makes it even more challenging and difficult to combine with family and professional responsibilities (Żuk 2008). Studies show that women involved in politics define politics as a “**third job**” (*trzeci etat*), coming after their duties at home and work and requiring a personal sacrifice to balance family and political obligations and responsibilities (Żuk 2008, Fuszara 2011: 7, Druciarek et al. 2012: 160). This problem is important not only in Poland but in other European countries too, and it shows the need to have gender-sensitive changes regarding sitting times or on-site childcare (Ballington 2008).

Concluding remarks

Gender equality in politics in Poland is first and foremost seen from the point of view of women’s representation in parliament and local government as well as in political parties. In order to secure the number of women in these political bodies, a legislated quota was introduced. This measure, the result of pressure from feminists and the EU as well as the political situation in Poland, proved to be an effective way of increasing descriptive representation of women in the context of only partial transposition of EU anti-discriminatory regulations and directives. However, as this chapter shows, it is still difficult to talk about their substantive representation. This lack of women’s representation for women’s issues, together with other social, cultural and economic barriers preventing women from participation in politics, would challenge the sustainability of quota in politics. It seems necessary to support legislated quotas not only by gender equality measures such as a zipper system, but also by

enhancing women's political skills, as well as changing the perception of female politicians among members of society.

The Polish case illustrates that the statutory provisions are not sufficient measures to provide more profound social change. Despite the obligation to include 35% of candidates of each gender on the electoral list, women have failed to achieve the critical mass of 30% of members of parliament, and only a few women hold decision-making positions in parties and parliamentary committees. Moreover, their presence in the Sejm has not encouraged them to act for and on behalf of women by promoting group-based interests. Despite the fact that they brought new insight to political decision-making processes, the majority of them constructed their position by referring to the male model, failing to recognise the patriarchal and privileged position of men. Thus, gender equality in national and local governments is far from being achieved in reality.

To sum up, the legislated quota can be seen as a good practice and a guarantee of equality, but in order to provide real equality between women and men in politics, it is necessary to actively promote equality among members of society as well as to include this agenda in the policies of political parties.

Gender equality in the labour market. Where do we stand?

In examining the legal regulations and policies on gender equality in the labour market, it should be borne in mind that the **transformation** reshaped the economic situation in Poland but to a great extent failed to change the gender order (see Kowalska, Migalska, Warat 2014). Despite the fact that the access to the labour market was improved for women, this process was not accompanied by changes at policy level regarding equal pay as well as a change in gender roles at home. The renegotiation of women's roles in the domestic sphere was limited, and they faced the situation of a double burden of career and responsibility for the home.

Joining the European Union was a significant factor contributing to changes to the model of the labour market, as the equality of women and men in the labour market is a central issue in **EU legislation**, and this priority is integrated not only in the main acts (such as the Treaty of Rome) but also in directives and strategies. It was clear that the national law had to be harmonised with the EU directives on equality in employment and working conditions, equality in social protection, parental leave and promoting equal treatment.¹⁶ As a result, significant legislative progress has been achieved, and ensuring gender equality is an important part of the Labour Code (changes introduced in 2001 and 2004) and National Action Programme for Equal Treatment for the years 2013-2016 (*Krajowy Program Działań na rzecz Równego Traktowania na lata 2013-2016*).¹⁷

The changes in the legal regulation of the labour market must be seen in the broader context of the **equality vs efficiency dilemma**. This myth has been present in the political debate since the beginning of the transformation, and had a great impact on the policy and strategic decisions undertaken in the 1990s, but their consequences can be seen even today. According to Tadeusz Kowalik, this myth is responsible for presenting gender equality as a zero-sum game: "What one can (re)gain, the others must lose" (2010: 11). This way of thinking about gender equality laid the foundations for the new model developed in Poland. The policy-makers believed that they had (and still have) to choose between these two values, and with almost no hesitation and without analysing other possibilities, such as the cooperative social model of capitalism in Scandinavian countries, decided to follow the model based on

¹⁶ There are 10 EU directives regulating the law related to the labour market. In 2006, a new directive was approved (2006/54) to collect dispersed regulation in one document.

¹⁷ The National Action Plan for Employment for the years 2012-2014 presents a gender-neutral model and only refers to improving the situation of women in a few recommendations.

efficiency. As a result, they developed a capitalist and neoliberal labour market, which is strongly linked with the **male model of employment** focusing not only on **efficiency**, but also on **flexibility, availability** and **competiveness**. Such an approach is the weakest point of the policies related to the labour market, since gender equality as a horizontal perspective was only added to the neoliberal model. In other words: the statutory provisions introduced in the Labour Code allowed gender differences to be emphasised in various aspects of the labour market (if necessary), but the female experiences are still not recognised. At no point is the discussion about reproductive work (and involvement of men in domestic work) addressed, nor is the model of the “double burden” faced by women questioned. In theory, the law promotes systems in which women and men have the same right to develop their career and their professional life and are equally supported by the state in their actions. The reality, however, shows that **men are still treated as “universal employees”**, and only women who can fit into this model may achieve a better position on the labour market. However, due to possible breaks in employment caused by care responsibilities and motherhood, they are often perceived as less competent, uninterested in developing their career or inflexible. Thus, the **shift from the male-breadwinner and female career model towards a dual-worker/dual-career model has not taken place**, and gender inequality and discrimination are still visible as far as economic independence, pay for equal work and of equal value or promotion to managerial positions is considered.

Women as “second-class employees”

The importance of the changes in the statutory provisions cannot be ignored, but it is also important to notice that their impact on the situation of women in the labour market is not sufficient. The alternative report on the implementation of CEDAW proves that “the Polish government has not taken any actions to achieve the following goals of the Beijing Platform for Action: promotion of economic rights of women and their economic independence, including access to employment, providing adequate work conditions and control of economic resources, help in getting access to resources, employment, providing access to business services and training as well as access to resources, information and technology, in particular for women with low income, strengthening economic capabilities and commercial networks, elimination of occupational segregation and all forms of discrimination in employment, promotion of harmonisation of work and family responsibilities among women and men” (Jawień, Łapniewska et al. 2005: 20, see: Alternative Report 2014). The international

regulations and dispositions contributed to the development of an equality law related to the labour market, and the policy introduced in Poland created a framework enabling women to participate in the labour market, but the obstacles experienced by women are not addressed properly. As a result, it was only possible to **transform the male-breadwinner model into a dual earner model** by adding women to the labour market, but the policies failed to support a more gender-sensitive model based not only on participation in the labour market but also on changes in care responsibilities and household duties. Such an approach is seen in various areas of employment and the labour market presented in this part of the report.

Access to the labour market

The most important changes forbidding discrimination in the labour market were introduced in the Labour Code on the basis of two acts: the Act of 24 August 2001 (in force from 2002) and the Act of 14 November 2004 (in force since 2004). These amendments focused on providing statutory provisions on anti-discrimination measures. Amongst others, they included regulations on **equal treatment of women and men in establishing and dissolving employment contracts and conditions, equal rights to promotion and training and the definition of direct and indirect discrimination**.¹⁸ These regulations are underpinned by the Law on Promotion of Employment and Institutions on the Labour Market (*Ustawa o promocji zatrudnienia i instytucjach rynku pracy z 20 kwietnia 2004*), which emphasises the idea of equality, namely by including directives prohibiting discrimination based on characteristics mentioned in the Labour Code at the stage of the recruitment process, but also providing equal access to counselling, vocational guidance and training. It also introduces measures in the case of contravention of anti-discriminatory regulations such as fines (art. 121, 123). The scope of protection for women also included special measures aimed at increasing the employability of women who are not able to find a job after having a baby by allowing them to take part in various reintegration programmes so that they can get back into the labour market (*Ustawa o promocji zatrudnienia i instytucjach rynku pracy z 20 kwietnia 2004*, art. 49).

¹⁸ Not only were equal rights and equal treatment on account of gender, age, disability, race, nationality, political and religious beliefs and belonging to trade unions (Art. 11³, Act from February 2 1996) reinforced, but the list of characteristics which should be protected from discrimination was broadened by including religion, ethnicity, sexual orientation and the form of employment (e.g. part-/full-time). Non-discrimination regulations are also included in Convention no. 111 of the International Labour Organisation.

The analysis and research on the situation of women and men in the labour market and employment shows that despite the high level of protection guaranteed by the statutory provisions, **discrimination is still present as far as the recruitment process** is concerned. As Karolina Kędziora, Krzysztof Śmiszek and Monika Zima pointed out, “despite many statutory provisions, the legal awareness of employers of the obligation of equal treatment of employees remains at a fairly low level. The content of many job advertisements, as well as the reactions to the intervention of PTPA (Polish Society of Anti-Discrimination Law) lawyers, have shown that employers do not know or do not take seriously the legal regulations prohibiting discrimination against employees or candidates for jobs. The results of research on the actions of state institutions related to the detection and prosecution of such violations have shown that there is a huge gap between the actual scale of discrimination in job advertisements and specific actions taken by the government in response to breaches of the law” (2009: 10).

Discriminatory practices in the recruitment process can be seen on two levels. First of all, job advertisements clearly show whether the employers are looking for a man or woman for the work by **using the feminine or masculine name of the occupation**: more than 40% of job advertisements violate the regulation of equal treatment by indicating the sex or age of applicants (Krajowy Program Działania na rzecz Równego Traktowania, 2012: 49, Kędziora, Śmiszek, Zima 2009: 12-13). In some cases, instead of using a gender-neutral form, only the male name of an occupation is used, except for jobs which are traditionally considered to be suitable mostly for women, such as nurse or secretary (Kędziora, Śmiszek, Zima 2009: 12-13. Lisowska 2014: 7). Secondly, according to the Labour Law and the Law on Promotion of Employment and Institutions on the Labour Market, **all questions about marital status, age, number of children and planned pregnancy are forbidden**, and a request to provide any of this data should be treated as unlawful. However, these regulations are proved not to be respected, as more than 50% of people were asked about their marital status and a similar number of people were asked to attach a photo to their CV (Krajowy Program Działania na rzecz Równego Traktowania, 2012: 49). It is important to note that these questions are more often asked during job interviews to women than to men, despite the fact that none of the above characteristics is related to the competences required by the employer. In order to combat this discriminatory practice, there is a need to “enable the abovementioned entities [organisations/associations/legal entities] to instigate proceedings even if the victim is not

individualised (so-called action popularis); that is when unlawful activities take place and no specific individual can be singled out as experiencing them (e.g. job ads (...) which for a long period of time contained discriminatory criteria of recruitment (...)). Introducing a law permitting so-called test situations as evidence to prove discrimination” (Alternative Report on the Implementation of CEDAW 2014: 9).

Institutions responsible for monitoring and prosecution of violation of anti-discriminatory regulations

- National Labour Inspectorate (*Państwowa Inspekcja Pracy*)
- Provincial Offices (*Urząd Wojewódzki*)
- Ministry of Justice (*Ministerstwo Sprawiedliwości*)

Table 9: Institutions responsible for monitoring and prosecution of violation of anti-discriminatory regulations

Over the past years, women have made considerable gains in educational attainment, but we can still observe inequality among women and men in the labour market: a **higher unemployment rate among women, obstacles in getting access to training or horizontal and vertical segregations** are only a few examples to be presented. It is quite likely that Poland will not be able to reach the employment rate of 75% for women by 2020 as recommended by the EU, since at present this rate (57.6% in 2013 according to Eurostat) remains behind the employment rate for men (72.1% in 2013 according to Eurostat) (Europe 2020. A European strategy for smart, sustainable and inclusive growth 2010). Moreover, women more often work part-time (11.1% compared to 9.8% among men), and the unemployment rate is also higher among women (Lisowska 2014: 6-7). In addition, a three-fold set of labour market issues affecting women have thus far not been addressed by the state. Those include the phenomena of women hired on temporary and precarious work contracts, being disproportionately low-enumerated (working-poor), and commonly pushed towards self-employment (Alternative Report 2014). More women than men also work in the public sector, which on the one hand is seen as giving more security, but on the other hand the salaries in

this sector are lower, and any cuts to public budgets mean that women are dismissed first. Zofia Łapniewska also argues that in times of crisis, the number of job offers directed to women is lower: “It is more difficult for women to get a job, not only because fewer job offers are addressed to them, but also because they have fewer opportunities to change their qualifications. The majority of professional training courses offered by employment agencies are related to professions traditionally defined as male; only few of them are directed to women” (Łapniewska 2010: 32, quoted in Centrum Praw Kobiet). It is also more difficult for women to get loans, and in some cases, especially for young mothers, women are asked to provide additional documents, including confirmation from an employer that they will be able to return to their job (Łapniewska 2010: 32).

This data shows that the statutory provisions on gender equality are rather declaratory and remain on paper, as gender equality in the labour market is yet to be achieved. Pressure from international institutions and women’s organisations has led to changes to the law, but they are rarely followed by changes to the **cultural and structural conditions** influencing women’s participation in the labour market.

Gender pay gap

One of the major changes introduced in the Labour Code (chapter IIa on equality) and in the Law on Promotion of Employment and Institutions on the Labour Market regards the **guarantee of equal pay for equal work** regardless of gender.¹⁹ Despite this statutory provision, the government has done little to close the pay gap between women and men, and this phenomenon is observed irrespective of occupation, economic sector, age and education. Moreover, the gender pay gap occurs not only in managerial positions, but is even more visible at intermediate level. Ewa Lisowska noted that “the largest average pay gaps are found in the group of industrial workers and of managers and higher-level officials” (2014: 11). Women with primary or vocational education can earn even up to 30% less compared to men in similar positions (Alternative Report 2014: 10, Lisowska 2014: 10-12, Kowalska, Migalska, Warat 2014: 11, Kobiety i mężczyźni na rynku pracy 2012, Zachorowska-Mazurkiewicz 2006, Zapewnienie prawa... 2013: 5). Lower salaries for women are also related to the horizontal and vertical segmentation of the labour market and feminisation of particular sectors.

¹⁹ Equal pay for equal work is also guaranteed by Convention no. 100 of the International Labour Organisation.

The gender pay gap may be explained using various theories and approaches, but it seems that in the case of Poland it is important to notice that **these differences in salaries are caused by structural and cultural conditions:**

- Policy or practices at the workplace: unclear regulation on salaries
- Women and men work in different sectors/departments of a company (women mostly in administrative departments and men in more specialist departments)
- Different methods of rewarding employees (through bonuses, allowances, mobile phone, tablets etc.)
- Different access to career development and training
- Women tending to look for a job which allows them to reconcile family and work
- Women more responsible for caring and family activities; balancing work and caring responsibilities
- Stereotypes and myths on employment of women; gender order and gender roles (Zapewnienie prawa... 2013).

Closing the gender pay gap should be included in all strategies and national action programmes on employment as well as in companies' equality strategies, as this phenomenon is an important barrier for achieving employment growth, competitiveness and equality. It can also help to reduce poverty among women during their employment and in retirement. Moreover, it may lead to better satisfaction from work for women, as their skills and competences will be properly valued and used and their career may be developed. In practice, this problem was prioritised only by the Plenipotentiary for Equal Treatment, for whom closing the gender pay gap is a condition not only for an equal society and social cohesion but also for economic growth.²⁰ Thus, the National Action Programme for Equal Treatment for the years 2013-2016 recommends a series of actions to tackle this issue, including the development of a methodology for assessment of the gender pay gap, improvement of the collection of statistics (an audit carried out by the Supreme Audit Office (*Najwyższa Izba Kontroli*) in selected ministries, regional and local governments and companies supported by the state in 2013), the dissemination of the results of monitoring of policies regarding equal pay for equal

²⁰ It is significant that closing the gender gap is not included in the National Action Plan for Employment for the years 2012-2014.

work, the analysis of international law preventing a gender pay gap (e.g. through seminars such as one organised with Germany to share experience, a seminar on European Equal Pay Day) and the promotion of the idea of equal salary for equal work. These aims cannot be accomplished by introducing a statutory provision on equal pay alone, and **tackling cultural and structural conditions by both the state and companies should be seen as the priority in providing equal opportunities** in workplaces.

Gender equality, social justice and diversity

Introducing gender equality policies in the labour market has opened a discussion on the position of women in managerial positions and quotas in business. The data shows that women comprise the majority of all graduates, but due to the gender stereotypes and social roles attached to men and women, women are almost excluded from promotion to managerial positions (Lisowska 2014: 14-16, Labour Force Survey 2014, Krajowy Program Działań na rzecz Równego Traktowania 2012). To quote Ewa Lisowska, “The result of the surveys carried out in stock market companies in Poland in 2009 and 2010 indicate a negative correlation between the managerial level and the number of women, as well as between the company size and the number of women at executive level: **the higher the position, the lower the share of women; the bigger the company (more employed workers), the lower the share of women holding top executive positions**” (2014: 14).

Women in managerial positions (2012)

- 17 companies with state funding (*spółki z udziałem Skarbu Państwa*): 17.5% female members of supervisory boards (*rady nadzorcze*) and 11.4% female members of boards (*zarządy*)
- stock-market companies (*spółki giełdowe*): 11.8% female members of supervisory boards (*rady nadzorcze*) and 8.2% female members of boards (*zarządy*)
- 26% women among directors, higher executives
- Presidium of Polish Academy of Science: 1 woman out of 24 members

Table 10: Women in managerial position in 2012. Source: Krajowy Program Działań na rzecz Równego Traktowania 2012: 57-58

The discussion about providing equal opportunities for promotion and equal access to managerial positions has recently focused on **quotas in business**,²¹ especially the legality and

²¹ This mechanism has been introduced in Norway, Belgium, the Netherlands, Iceland, Italy and Spain (albeit in a different form in each of these countries) and the European Commission is now considering imposing quotas across the EU.

usability of this solution. The controversy over this mechanism is strongly related to the myth that emphasises that gender quotas are illegal. The falseness of this approach is easy to prove. The international documents ratified by Poland such as CEDAW and the International Covenant on Economic, Social and Cultural Rights allows **temporary solutions to be introduced in the area of economic life and employment which improve equality between men and women** (see also Wieruszewski, Sękowska-Kozłowska 2012: 5). Moreover, the EU law and directives also provide a legal basis for introducing this mechanism in order to diminish inequality. Apart from the general regulation included in the Charter of Fundamental Rights of the European Union and Treaty on the Functioning of the European Union, the European Parliament adopted the *Resolution of 6 July 2011 on women and business leadership*, in which stresses that companies are required to follow gender equality regulations and equal opportunities for women and men at work, and “urges companies to reach the critical threshold of **30% female membership of management bodies by 2015 and 40% by 2020**”. A similar approach is promoted by the European Commission and Council of the European Union which emphasise the need to increase the number of women on managerial boards (see Green Paper: The EU Corporate Governance Framework 2011, Recommendation CM/Rec(2007)17 of the Committee of Ministers to member states on gender equality standards and mechanisms, Wieruszewski, Sękowska-Kozłowska 2012: 7-8). There are also no legal obstacles at national level: the Constitution and the Labour Code do not forbid such mechanisms. Even more: recognising the importance of gender inequalities on managerial boards, in 2013 the Ministry of Treasury announced an ordinance regarding all state-supported companies to include in their boards men and women with great skills and competences for gaining good and balanced ownership supervision. According to the code of good practice, the Ministry of Treasury urges companies to include **30% of female members on their supervisory boards by 2015** (Zarządzenie nr 6 Ministra Skarbu Państwa z dnia 7 marca 2013 zmieniające zarządzenie w sprawie zasad nadzoru właścicielskiego nad spółkami z udziałem Skarbu Państwa).

The other argument, which is widely discussed in the context of gender quotas in business, is related to the usability of this measure. Over the past few years, the main axis of division has been formulated around the following values: **economic freedom, equality and diversity**. While the former emphasises the neoliberal, individual model of the economy, the latter allows the state to intervene in cases of social injustice, claiming that equal

opportunities cannot be attained without the enforcement of this measure. As Poland is under the impact of EU directives and due to economic crisis (related to uniform, male management style), the equality approach has become present there. It addresses the structural and cultural obstacles caused by differential power relations and opportunities for women and men in terms of building a just and balanced society. The advantages of having **more diverse management boards, new leadership and communications forms, bringing new talents to company boards** (which are translated into higher creativity, innovation and – as a result – higher company profits) **as well as a positive impact on board decision-making processes** are some of the arguments supporting quotas in managerial positions.



Table 11: Support for gender quotas in business in Poland. Source: Polacy chcą kobiet w radach nadzorczych, 2012

Moreover, it is believed that including women in managerial boards creates **more opportunities for female employees**, e.g. by presenting role models as well as mentoring opportunities. Such an approach is supported by the Plenipotentiary for Equal Treatment, who not only included gender quotas and women’s participation in managerial boards among the actions mentioned in the National Action Programme for the Equal Treatment for year 2013-2016, but has also become actively involved in promoting this measure. As a result, a conference on women’s entrepreneurship was organised, and the Plenipotentiary joined the project *The equality of women and men in decision-making in the economic sphere – a tool for social change (Równość kobiet i mężczyzn w procesach podejmowania decyzji ekonomicznych – narzędziem zmiany społecznej)* funded by the European Commission.

On the other hand, the government evaluates quotas in business from the point of view of **economic rationales**, namely **economic gains and development** seen from the macro- rather than the microeconomic perspective. In this context, the value of economic freedom is

often contrasted with the argument focusing on diversity, pushing the idea of building a just society to the margins and replacing it with economic profits and prosperity.

Gender quotas in business are a good solution for **increasing the number of women** in boards and in managerial positions, but they **may not lead to changes in attitudes**. Introducing this mechanism also requires a profound discussion about the model of economy which should be further developed, namely if the focus should be on the **male-centric model** of success based on availability and mobility. Failing to introduce changes to the system and reconfiguring the model for success in business will result in limited opportunities for women's access to managerial positions and a lack of sustainability for mechanisms such as gender quotas. Thus, the support is needed for increasing the number of women in managerial positions from the state and companies to build a more equal society with equalisation of power and participation in the labour market as well as to address the roots of existing inequalities and the insufficient number of women in top positions.

Stereotypes

The analysis presented above clearly shows that the inequality in the labour market is caused by **stereotypes of woman and man's responsibilities** and expectations towards their roles. Men are still seen as responsible for financial support for their families, and women as responsible for care and household duties. Thus, **women are perceived as less flexible, less available and of less worth due to being caught up at home and motherhood**. Moreover, it is believed that women do not possess the skills and competences required in managerial positions: they are seen as emotional, lacking career orientation and self-esteem, and unable to take quick and risky decisions.

Despite the fact that data shows that recently the proportion of sole male providers has dropped (by 2%) while the share of households with a relatively equal male/female contribution has increased (Mills et al. 2014: 14-17),²² the stereotypes about the role of women still have a great impact on their position on the labour market. Lower employment rate, difficult access to managerial positions and equal salaries as well as the limited number of reconciliation programmes are evidence that fulfilling the "moral responsibility" for family

²² Around 25% of households in Poland are based on a sole male provider, which is still relatively high compared to Nordic countries (Norway, Denmark, Iceland, Sweden and Finland), where the share is under 10% (Mills et al. 2014: 14).

and the reconciliation of professional and family duties are still defined as the private matters of employees and are not addressed properly in equality policies related to the labour market.

Abuse and sexual harassment in the workplace

Under pressure from the EU, **bullying, abuse/harassment and sexual harassment** as a form of gender discrimination were forbidden in the Labour Code (Art 18^{3a} § 6.7, Act 2003). The statutory provisions guarantee that employees will not face negative consequences for claiming the rights to be treated equally in the workplace, as well as **shifting the burden of proof to the employer**, which means that the employer must provide evidence that discrimination did not take place.

Implementation of this new regulation lags behind the law. The definition of bullying presented in the Labour Code is based on vague concepts. Moreover, bullying is difficult to prove in court, as all of its characteristics have to appear together. Finally, there is a lack of proper institutional support for the victims of sexual harassment. As proved by monitoring done by Feminoteka, there is a **“lack of competences, lack of knowledge, lack of familiarity with the law on sexual harassment²³ among National Labour Inspectorate (*Państwowa Inspekcja Pracy*) employees** who are supposed to help people experiencing harassment” (Chelstowska, Sosińska 2008: 10). Other problems revealed by this study include difficulties in contacting NLIs (the researchers managed to contact 16 out of 60), double victimisation and lack of respect for the victim as well as lack of training for NLI employees in how to behave in contact with a person who has suffered from sexual harassment. Moreover, in many cases, due to the lack of knowledge on legal regulations, NLI employees refused to provide help and shifted the responsibility to the prosecutor’s offices, claiming that the NLI and labour court were not responsible for dealing with cases of sexual harassment (Chelstowska, Sosińska 2008: 11).

Abuse and (sexual) harassment are difficult to report, due to not only a lack of institutional support but also social **stigma and the threat of losing one’s source of financial income**. In many cases, the victims of harassment are in a difficult financial situation (such as single mothers or divorced women), which makes them even more vulnerable to harassment (Krajowy Program Działania na rzecz Równego Traktowania 2012: 56).

²³ In more than 50% of situations no information was provided by NLI employers.

Bullying and harassment in the workplace. Case studies

- Research conducted by KARAT about working conditions in hypermarkets showed the extent of bullying and abuse experienced by workers (especially women) in the following forms: lack of good will of managers toward employees, ignoring the needs of employees, instrumental treatment, insulting, degrading in front of other employees and customers, threatening, using female workers to perform work exceeding their physical capability, malicious work hours, long sequences of work days, work at weekends and in holidays, lack of breaks during work (Oponowicz, Chmielecka 2008, Chmielecka, Krzyśków, Wojciechowska-Nowak 2008).
- Three women testified that they had experienced sexual harassment in their workplace – the Frito-Lay factory – between 2002 and 2004. This case was presented to the court (Bodnar, Bychawska 2005). Despite the presented evidence, the accused were acquitted in 2008.

Table 12: Bullying and harassment in the workplace. Case studies

Concluding remarks

Gender equality has become an obvious value defining the position of women and men in the labour market. Polish law has been harmonised with the directives of European Union, and this creates an illusion that there is nothing to be done to improve the situation. However, women continue to be underrepresented in professional life, and have not reached the employment indicators.

The regulations included in the legal acts should be reflected in the national programmes: the National Action Plan for Employment for the years 2012-2014 (*Krajowy Plan Działań na Rzecz Zatrudnienia na lata 2012-2014*) and the National Action Programme for Equal Treatment for the years 2013-2016. While the first document proves weak commitment to gender equality and insufficient engagement of the state in implementing the regulations on gender equality and raising women's employability, these issues are better covered in the latter. The National Action Plan for Employment 2012-2014 does not recognise gender as important grounds for inequality and exclusion, as well as not treating gender as a horizontal layer of other discriminations in the labour market. The actions included in this programme are written using **gender-neutral language** and addressed to "people", "employees" or "parents", even if they cover issues influencing women to a much greater extent than men.

For example, while analysing the most important challenges for the labour market, the issue of gender equality is almost invisible, and referred to only in the case of **unemployment** (as it is difficult not to notice that the majority of unemployed people are women), **flexible forms of employment and reconciliation of work and family life**. Significantly, even these problems are addressed not from the perspective of equality, but rather from that of **economic gains and development** (at the level of the state or an individual person), **demographic crisis** (aging society) and **improving the situation of the family** (Krajowy Plan Działań na Rzecz Zatrudnienia 2012: 23). As a result, a reference to the position of women in the labour market is articulated only on these two occasions: actions aimed at increasing the employability of women (including introducing the same retirement age for men and women) and improving the measures allowing work and family to be reconciled.²⁴ This proves that the government focuses mostly on exposing the problems women face in the labour market, but it does not provide information on how this discrimination will be included in its actions and how it will be addressed in national action plans. Moreover, in order to provide a comprehensive programme on combating discrimination of women in employment, detailed monitoring is necessary. However, at the moment the government fails to provide statistics on various forms of discrimination against women in the labour market.

Both programmes – the National Action Plan for Employment 2012-2014 and the National Action Programme for the Equal Treatment for 2013-2016 – include a general goal such as increasing the presence of marginalised groups, including women, in the labour market. However, gender equality is only one of the aspects addressed in the actions, and the recommendations describing how it should be achieved are based on **soft measures**, namely **social campaigns, reports and programmes on television and the radio**.²⁵ As part of these programmes, issues such as gender pay gap, barriers for promotion, sexual harassment and bullying should be covered. On the one hand, these actions should lead to introducing gender mainstreaming in policies related to the labour market, improving the structural and cultural conditions for women's employment, creating a network of institutions which could support women's employment and changing social awareness among members of society on gender

²⁴ The recommendations in the sphere of reconciling work and family are also directed to families (not only women).

²⁵ Actions aimed at promoting the idea of equal chances in employment for women and men are planned to be funded by European Structural Funds (Krajowy Plan Działań na Rzecz Zatrudnienia 2012: 39).

equality (Krajowy Plan Działań na Rzecz Zatrudnienia 2012: 40). Only by addressing the structural and cultural roots of inequalities in the labour market will a new model of employment and participation in the labour market promoting a gender-sensitive approach (instead of a male-oriented model) be developed.

Reconciling work and family responsibilities: challenge for policies

Work-life reconciliation has become a new global phenomenon caused, among other things, by the large participation of women in the labour market, demographic changes, ageing societies and the sharing of care responsibilities between men and women. These problems have brought many challenges, not only to employment policies, but also to family policy. On the one hand, the relationship between motherhood and childcare and employment activity seems to play an important role for policy-makers and is treated as a key issue in improving the situation of women in the labour market. On the other hand, due to the low birth rate, fertility decision making has become a public issue and a central point addressed in family policy. Significantly, the solution included in both policies appears to refer to the same measures:

- Supporting parents by offering maternity/paternity/parental leave and increasing the role played by fathers in childcare
- Providing institutional support in the form of nursery schools and kindergartens.

Analysis of these measures proves that the structural transformation of society related to work-life balance is still the ultimate goal to be achieved, as the model of the policy seems to a great extent to be family-oriented and to mostly support women as child carers.

The changing face of family leave

The commitment to improving the situation of women in the labour market and to increasing fathers' participation in family life has shaped the policy related to work-life balance. It would seem that achieving this goal would be framed within the gender equality policy. However, in the case of Poland, this is only partially true, and the measures suggested in the law should also be seen as improving the situation of the "family" defined as one of the most important values. This approach was adopted and promoted by the former Polish prime minister, Donald Tusk (Wystąpienie premiera Donalda Tuska w Sejmie "Drugie Exposé" 2012) and by President Bronisław Komorowski (Dobry Klimat dla Rodziny 2013), who argued that **providing security for the family** and introducing changes in policies so that **women do not have to decide whether they want to work or to have a child** are one of the most important areas for the government.

Legislation on work-life reconciliation is also required by the European Union (Directive 2010/18/EU), which set the minimum requirements for parental leave (distinct from maternity leave) as an **individual and non-transferable right**²⁶ **for at least a period of four months**. According to this regulation, all member states should also try to provide social benefits during parental leave, as the level of income which is guaranteed during parental leave is the important factor influencing its take-up by parents, and especially fathers. Apart from the regulations on parental leave, this directive enforces the implementation of employment and non-discrimination rights, such as the right to return to the same (or a similar) job, to be protected from less favourable treatment or dismissal on the grounds of taking (or even applying for) parental leave, and to have time off from work on the grounds of urgent family reasons (e.g. sickness, accident). Significantly, this directive is framed within the gender equality context by emphasising that its objective is to improve equality between men and women in the labour market and care.

The work-life reconciliation did not remain only a promise, and the policy was revised and changes introduced in order to promote equality between women and men as well as to encourage fathers to become involved in childcare. The first changes were introduced to the Labour Code by the **Law of 6 December 2008** (*Ustawa z 6 grudnia 2008 o zmianie ustawy – Kodeks pracy oraz niektórych innych ustaw*). For the first time, additional maternity and paternity leave were declared. According to this law, a woman has the right to **longer maternity leave** – 20 weeks for one child compared to 18 weeks according to the previous regulation, and 31 weeks for two children delivered at the same time, compared to 28 weeks given on the basis of the previous regulation. More importantly, paid **paternity leave** was introduced. From 2010, a father has the right to two weeks of paternity leave, which should be taken before the child is one year old. Moreover, both parents have the right to **additional maternity leave**: six weeks for one child and eight weeks for more than one child delivered at the same time. It is worth noting that these regulations were implemented gradually, and the number of paternity leaves and additional maternity leave announced in the Labour Code

²⁶ According to Directive 2010/18/EU, member states are allowed to introduce parental leave also as a transferable right. Member states may also decide whether the parental leave is given on a full-time or part-time basis, as well as on the form in which it is offered.

should be reached by 2014.²⁷ These legal regulations on work-life reconciliation were further improved by the **Act of 28 May 2013**, which introduced parental leave (26 weeks). This change was supported by the majority of Polish society (91% in total, and 68% definitely supporting it). The extended paid parental leave was supported by respondents from all socio-demographic groups, but the positive approach was more common among women (73% compared to 63% of men) and parents of children under the age of 5 (77% compared to 69% of other respondents) (CBOS 2013: 1).

The below table summarises the most important regulations on all types of leave for parents.

Type of leave	For whom	Length of leave	Regulations
Maternity	Mother and father	20 weeks for 1 child 31 weeks for 2 children born at the same time 33 weeks for 3 children born at the same time 35 weeks for 4 children born at the same time 37 weeks for 5 children and more born at the same time	Max. 6 weeks of maternity leave can be taken before childbirth 14 weeks must be taken by mother and 6 weeks must be taken by either mother or father Father can take maternity leave after 8 weeks only if mother is in hospital Gives right to maternity benefit: 100% of average monthly salary for the past 12 months or 80% if maternity, additional maternity and parental leave will be taken and this decision will be declared up to 14 days after childbirth Working during maternity leave is prohibited but it is possible to work on the basis of an <i>umowa zlecenie</i> or <i>umowa o dzieło</i> (precarious contracts)
Additional maternity	Mother and father	6 weeks for 1 child 8 weeks for more than 1 child born at the same time	Employee may work during this leave (half-time) in the same workplace Allows for work on the basis of an <i>umowa zlecenie</i> or <i>umowa o dzieło</i> (precarious contracts) Can be taken as one leave (6 weeks) or divided into 2 parts (3+3 weeks) for both parents Gives right to maternity benefit: 100% of average monthly salary for the past

²⁷ From 2010, additional maternity leave is given for 2 weeks for one child and 3 weeks for more than one child born during one delivery, extended respectively to 4 weeks and 6 weeks in 2012 and 2013 and 6 weeks and 8 weeks in 2014. Paternity leave is given for a week in 2010 and 2011, extended to 2 weeks in 2012.

			12 months or 80% if maternity, additional maternity and parental leave will be taken and this decision will be declared up to 14 days after childbirth
Paternity	Father	2 weeks	Can be taken before a child is one year old Paid: 100% of average monthly salary for the past 12 months
Parental	Mother and father	26 weeks	Introduced for the first time in 2013 Can be divided into 3 parts, the min. number of weeks in each part is 8 weeks Both parents can take it simultaneously Gives right to maternity benefit: 60% of average monthly salary for the past 12 months or 80% if maternity, additional maternity and parental leaves are to be taken and this decision is declared up to 14 days after child birth Allows working half-time in the same workplace Allows for work on the basis of an <i>umowa zlecenie</i> or <i>umowa o dzieło</i> (precarious contracts)
Childcare	Mother and father who are employed at least 6 months	3 years At least one month must be taken by mother and one month must be taken by father (the max. period for one parent is 35 months)	Can be taken before a child is 5 years old Allows for work in the same workplace Allows for work on the basis of an <i>umowa zlecenie</i> or <i>umowa o dzieło</i> (precarious contracts) Can be taken simultaneously (for max. 4 months) Can be divided into max. 5 parts Not paid

Table 13: Leaves for parents

The development and improvements of various forms of leave for parents in Poland were aimed at introducing positive changes by helping working parents to achieve better reconciliation of work and family responsibilities. The measures which are included in the Labour Code are tailored to capture the EU regulations, which to some extent were already provided in the Labour Code, namely protection for mothers and fathers from being

discriminated against on the grounds of taking family leave²⁸ as well as dismissed from work²⁹ and providing the right to time off to take care of a child. In order to harmonise the national law with the EU directive and improve the equality between men and women, paternity and parental leave were introduced. On the other hand, the law on work-family reconciliation is not a simple reflection of EU expectations. For example, one of the significant characteristics of the Polish labour market is the growing number of precarious contracts. In order to support parents who work with this type of contract (*umowa zlecenie*), the regulations were reviewed and the recent law allows women who do not have full-time employment to receive maternity benefits (although maternity leave or parental leave is not available for them). Unfortunately this solution covers only one type of precarious contract – *umowa zlecenie* – whereas women working on the basis of an *umowa o dzieło* are left with no financial support after having a baby.

Impact of family leave on women (June 2013)

- 44% of respondents claimed that longer parental leave would have no impact on the situation of women in the labour market
- 24% believed that it would improve their situation
- 19% claimed that their situation would be worse after implementing this solution
- More optimistic opinions were presented by the respondents who believed that fathers would use at least part of the parental leave

Table 14: Impact of family leave on women. Source: CBOS 2013: 2-3

²⁸ In this document, family leave is used to describe maternity, paternity and parental leave.

²⁹ There are only two exceptions from this regulation: if there are reasons justifying the termination of employment without notice due to the fault of the employee, or in the event of the bankruptcy or closure of the company.

The objective of regulations on work-life reconciliation is to increase the equality between women and men. However, the changes in the Polish regulations have not brought sufficient results. First of all, **maternity, additional maternity and parental leave are based on woman's employment status**. As a result, if a mother is not eligible for maternity leave, the father cannot receive additional maternity or even parental leave, even if he is employed on a contract. In this way, the model that is reinforced is that the mother is mostly responsible for childrearing and childcare. This notion of traditional division of responsibilities between parents is further emphasised by the fact that **paternity leave is very short**: a father can only be offered two weeks of non-transferable and individual leave.

Secondly, the difference in the length of non-transferable leave, namely two weeks for a father and 14 weeks for a mother, has an impact on their situation in the labour market. From the employer's point of view, **a father's short leave does not influence his efficiency and availability at work**, whereas longer maternity leave, the belief that women will take the entire additional maternity leave and parental leave and the assumption that it is very likely that during pregnancy women will take sick leave are still the main barriers preventing women from having the same opportunities in the labour market. Despite the fact that both the mother and father are protected by the law and are guaranteed the same position and salary upon returning from maternity/parental leave, longer work interruptions may decrease the chances of women returning to work or even lower their salaries, which would further deepen gender inequalities at work. Another problem worth mentioning is the lack of communication between the employer and employee on family leave. This good practice has not been adopted yet in Poland, and companies rarely offer reintegration programmes after parental leave to make the transition smoother.

	Data about people receiving ^{1/} :			
	Maternity benefit ^{2/}	Maternity benefit for additional maternity leave ^{3/}	Maternity benefit for paternal leave ^{3/}	Maternity benefit for parental leave ^{3/}
	<i>in thousands</i>			
2012				
Total:	526.1	115.2	28.3	X
<i>women</i>	360.6	115.0	X	X
<i>men</i>	165.5	0.2	28.3	X

2013				
Total:	513.2	124.3	28.5	54.3
women	362.5	123.9	X	53.5
men	150.7	0.4	28.5	0.8
Jan-Aug 2014				
Total:	483.7	164.3	79.2	236.6
women	381.2	163.5	X	232.7
men	102.5	0.8	79.2	3.9

- 1) These figures represent data about the number of people who received maternity allowance even for one day.
- 2) This data includes people who received maternity benefits as well as those who received maternity benefits for additional maternity, paternity leave and parental leave.
- 3) For 2012 and 2013 these figures only include people who received benefits for additional maternity leave, paternity leave and parental leave from the Social Insurance Institution (ZUS).
The data does not include persons for whom the payment of these benefits was realised by social insurance contributors, namely workplaces employing more than 20 people.

Table 15: People receiving maternity and paternity allowances. Source: data received from Social Insurance Institution (ZUS)

Thirdly, the maternity benefit is based on the income of the person taking the leave. Taking into account the fact that there is a gender pay gap and that women usually have a lower income than men, it is likely that **due to economic reasons it would be mothers who stay on additional maternity and parental leave**. Thus, better social benefits and financial solutions should be introduced to encourage men to take on an equal share of additional maternity and parental leave. Moreover, as Agata Chełstowska and Agnieszka Zarzyńska (2014: 28) argue, fathers are still reluctant to apply for paternity and parental leave as they are afraid of their employer's reaction and comments. It seems that their doubts are justified, as proved by the case of a man who was dismissed from work on the grounds of applying for paternity leave (see: Chełstowska, Zarzyńska 2014, www.ptpa.org.pl). This case illustrates that it is necessary to change the perception of the role of women and men among employers so that both mothers and fathers are seen as responsible for childcare. Otherwise it will not be possible to decrease gender inequality in the labour market.

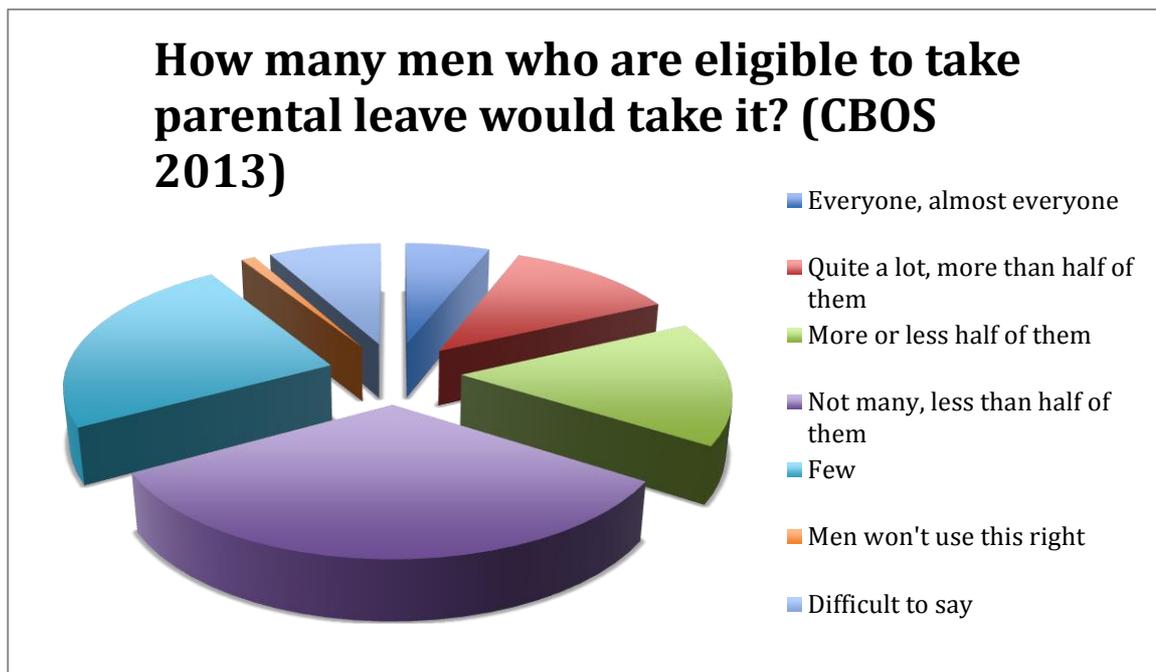


Figure 3 Public opinion regarding the number of men taking parental leave. Source: CBOS 2013

Last, but not least, the myth of the Mother-Pole and the **traditional model of family** are still present in Polish society. **Women are seen as responsible for raising children and taking care of the household.** As a result, even nowadays, it is believed that fathers are unable to take care of their children and stay at home (Fuszara 2008). Such arguments and comments also appeared during the debate when paternity leave was introduced: it was believed that this leave would be treated as **additional or extended holiday**, since fathers would not be willing and able to participate in the care of their children. On the other hand, data from the Social Insurance Institution (*Zakład Ubezpieczeń Społecznych – ZUS*) proves that the number of fathers who took paternity leave (2 weeks) is increasing: 28,600 of fathers (working in companies employing up to 20 people), compared to 14,900 in 2011 and 17,200 in 2010 (Chelstowska, Zarzyńska 2014: 12). Despite the fact that men, especially those living in cities and with higher social capital, are becoming more and more involved in child care (Fuszara 2008), **fatherhood is still seen in a relational way, by comparing it to motherhood.** Moreover, the **involvement of fathers** in childrearing was also seen from the perspective of **women's emancipation, the crisis of the traditional family and the crisis of masculinity.** On the one hand, this approach prevents many men from active participation in family life by renegotiating their role, and on the other it is also a **barrier for developing a more egalitarian model of parenthood.** What is significant is that the younger generation more often declares that they would like to develop a partnership model in their relations (Titkow, Budrowska,

Duch-Krzystoszek 2004), and young mothers are more willing, due to financial reasons or self-development needs, to enter or return to the labour market, despite facing the expectations that they should stay at home with their children.

Why are parental and paternity leave unpopular in Poland?

- 43% of respondents believe that families would suffer economic loss
- 29% of respondents believe that fathers think that mothers will take better care of children
- 26% of respondents think that this is against our tradition
- 21% of respondents believe that fathers think that they will be incapable of fulfilling care duties

Table 16: Public opinion on parental leave. Source: Chełstowska, Zarzyńska 2014:28

The social models of motherhood and fatherhood are also addressed in national action plans: the National Action Plan for Employment 2012-2014 and the National Action Programme for Equal Treatment for the years 2013-2016. Both programmes include general actions promoting various solutions and good practices related to the reconciliation of work and family responsibilities, promoting parental and paternity leave among fathers and employers, supporting the return to work after childbirth and child-rearing and offering financial support for various initiatives allowing parents to return to work (opening or co-funding nurseries, children's clubs and other forms of institutional support, covering the social insurance contributions for nannies for children up to 3 years old, monitoring of the realisation of policy providing institutional care for children up to 3 years old in the *Maluch* project³⁰). Apart from the measures directed to parents, they also include solutions, such as workshops, aimed at increasing the awareness among employees of Public Employment Services (*Publiczne Służby Zatrudnienia*) and social campaigns promoting the model of family based on partnership, various mechanisms of work-life reconciliation and combating stereotypes.

³⁰ *Maluch* is a governmental project which offers financial support for both public institutions and private companies to open care facilities for the youngest children.

Institutional support: unmet targets and needs

Beyond the various types of family leave, childcare services have become a matter of political actions. Kindergartens, nursery schools, financial help in covering the cost of nannies as well as flexible working hours are seen as important measures improving work-life reconciliation. **Good, affordable and available institutional support for parents lowers the cost of childrearing in terms of labour market opportunities.** The importance of this measure was acknowledged by the former prime minister, Donald Tusk, who in his policy statement (*expose*) declared that “the availability of kindergartens in 2015 will be solved 100%” and that the financial support for pre-school care will increase. Furthermore, Poland is bound by the Barcelona Objectives established by the Barcelona European Council:

- Provision of childcare to at least 90% of children between three years and mandatory school age by 2010
- Provision of childcare to at least 33% of children under three years old by 2010.³¹

The data proves that Poland has not reached the Barcelona target: **the number of nurseries and kindergartens is still low and does not meet the demand of working parents**, and the progress in increasing the number of institutional care centres has been low in recent years (Kowalska, Migalska, Warat 2014). These differences are even bigger when urbanised and rural areas are compared. Currently, according to Eurostat, only 2% of children attend nurseries (data from 2009) and 84.3% of children aged between 4 and mandatory schooling age attend kindergartens (data for 2012). The increase in the number of children in kindergartens was also possible due to EU funds and governmental programmes supporting the establishment of new kindergartens such as the “Alternative Forms of Pre-School Education” programme, or the “Year of the Pre-school Child” run by the Ministry of Education (Szelawa 2011: 13).

The insufficient number of nurseries and kindergartens leaves parents with no other option than to take **unpaid childcare leave** (and lose part of the family income), **enrol their child in private child clubs, kindergartens, or leave the child with a nanny or family member.** The prices for private kindergartens are relatively higher compared to public ones and the

³¹ The commitment to increase the amount of institutional care for children was reinforced in the European Commission’s Strategy for equality between women and men 2010 to 2015 and the European Pact for Gender Equality which was renewed in 2010 for the period 2011 to 2020.

subsidy from the state is lower (75% in 2013 compared to 100% for public kindergartens³²). As a result, the decision about the participation in the labour market is in many cases the result of a trade-off and financial calculations of the costs of childcare which should be provided if parents are employed and withdrawal from the labour market to stay at home with a child. It is not only parents who have children under the mandatory school age who face this problem, but also those whose children already attend school. In the latter case, due to the lack of common rooms as well as formal and informal care at school, parents are responsible for collecting their children during their working time. This may be a barrier for parents, especially mothers, to fully engage in the labour market. Thus, another challenge which should also be addressed is the **opening hours of facilities, which are incompatible with full-time jobs or require that parents pay an additional fee.**

Percentage of children from 3 years of age to the mandatory school age cared for under formal arrangements by weekly time spent in care (2010-11)		
	2010	2011
From 1 to 29 hours	10	9
30 hours or more	32	34

Table 17: Percentage of children from 3 years of age to the mandatory school age cared for under formal arrangements. Source: Barcelona Objectives 2013: 30

³² The subsidy covers 5 hours, and parents have to pay for additional time spent by their children in kindergartens.

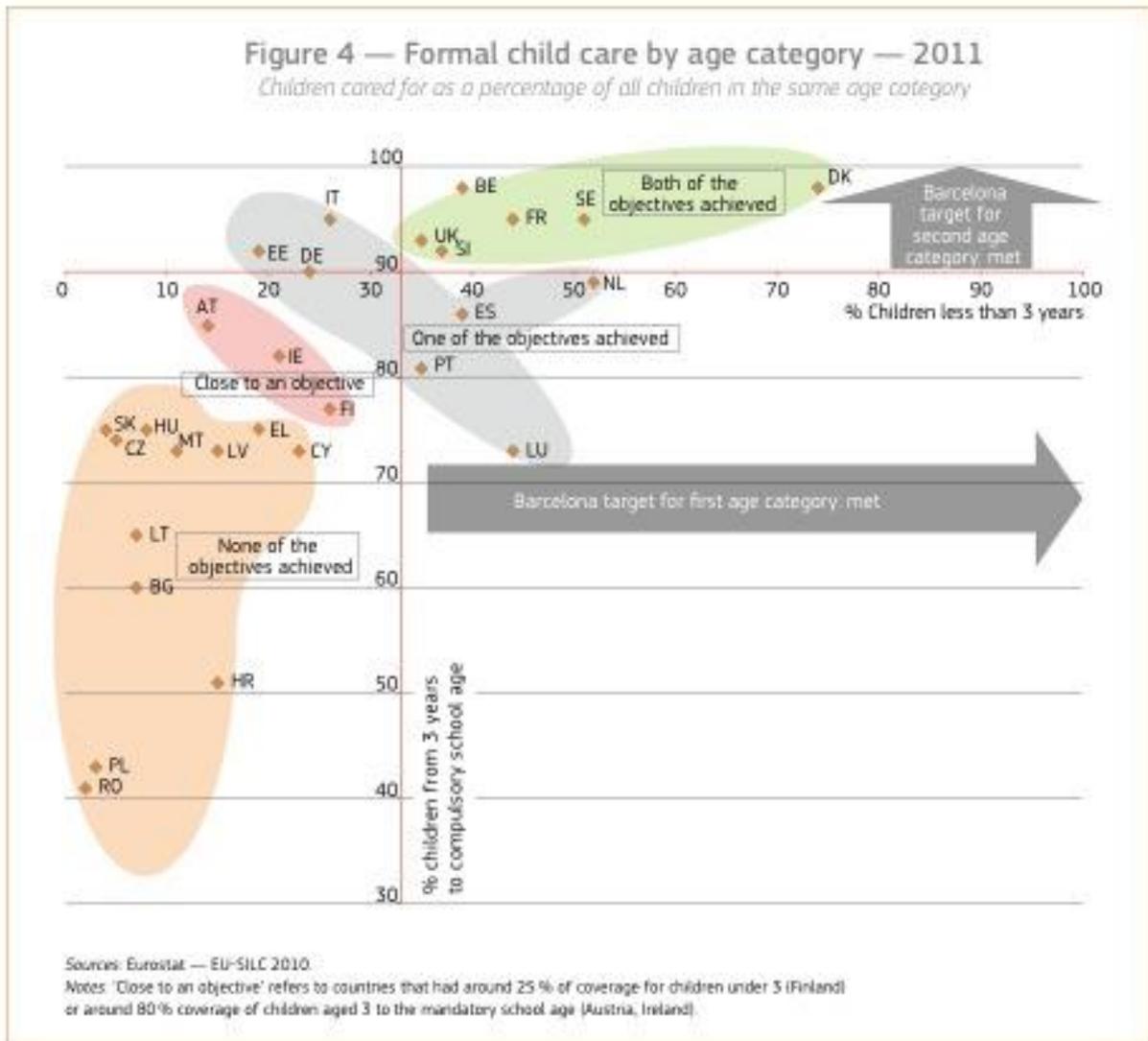


Table 18: Formal child care by age category. Source: Barcelona Objectives 2013: 10

The Barcelona Objectives define the availability of provision of childcare from the quantitative side. It is equally important to monitor the quality of institutional support. According to the regulation established by the Ministry of National Education, the maximum number of children in a group is 25 and the average staff-child ratio is 1:15 (The Provision of Childcare Services 2009: 44). However, due to the demographic situation and financial reasons, it often happens that **groups are oversized**, especially for afternoon classes. Significantly, childcare facilities are characterised by a **female workforce**, whereas “Experts agree that the number of men working in the sector should reach 10% in order to combat gender stereotyping” (Barcelona Objectives 2013: 14).

Availability, accessibility (also financial accessibility) and quality of kindergartens, nursery schools and other childcare facilities influence the participation of women in the labour market. This matter is important not only for family policy or employment policy, but also the development of business and the economy. Data shows that the greatest gender pay gap is in countries with undeveloped provision of childcare facilities. Thus, investment in institutional care guarantees not only decreases in inequalities between women and men, but also diversified and better resources for the company to be more competitive (Barcelona Objectives 2013).

Apart from constraints related to availability and affordability of institutional care for children, the belief that children under the age of 3 should stay with their mother at home is still present in Poland. Consequently, the **lack of acceptance of institutional care for children due to cultural reasons and conservative family values** might prevent mothers from undertaking professional activities or make them feel guilty for leaving their children in nursery schools or kindergartens and not fulfilling their moral responsibility to their family. In these cases, institutional care might be replaced by informal childcare offered by grandparents or family members. However, this informal childcare is often available only on a part-time basis, and the tendency to extend working life (increasing the retirement age) may make this form of support more difficult.

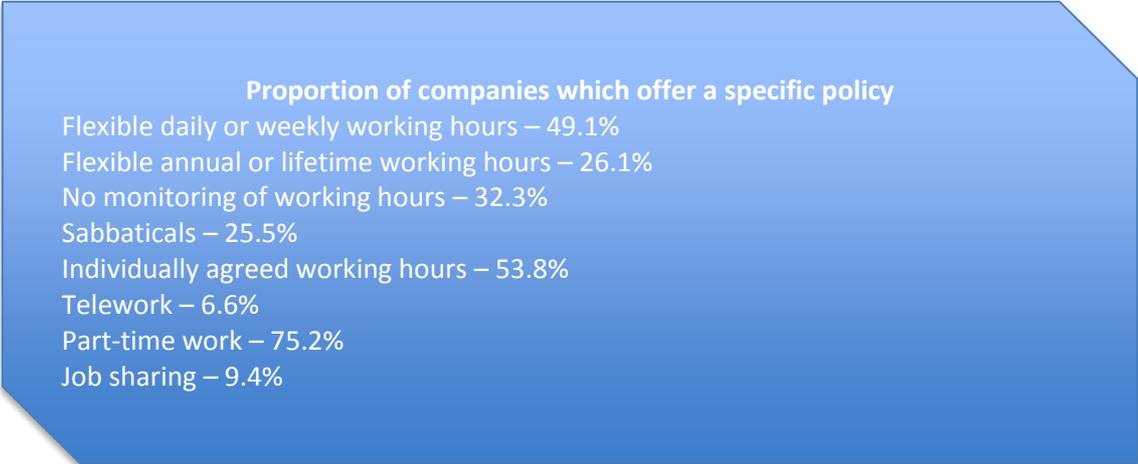


Table 19: Proportion of companies which offer a specific policy. Source: European Company Survey 2010: 16

Another measure introduced in Poland is **financial support to pay for nannies**: the cost of the salary is shared by the state and the parents as the state subsidises social insurance contributions. It seems that this is one of the most efficient political solutions: 51% of respondents evaluate this measure positively, and only institutional care (58%) and paternity

leave (54%) are seen as more beneficial for families (CBOS 2012: 2). It is thus surprising that the role of this measure is marginal – **only 80 children stayed with a nanny in 2012** (Dobry klimat dla rodziny 2013: 24). The explanation indicates that this solution is barely known to local governments, parents and child-minders and the regulations are difficult as they are subject to many conditions.

Flexible working hours, part-time work or the possibility of working remotely are further measures aimed at improving work-life reconciliation. Ewa Lisowska (2014: 17) argues that the number of women, especially mothers, is higher among part-time employees: only 7% of women worked part-time in 2010, 20% of whom claimed that this was a way of reconciling work and family responsibilities (Dobry klimat dla rodziny 2013: 17). At the same time, almost 90% of women work more than 40 hours per week (more than full-time) when their child is between 1 and 3 years old, 5% of women are able to differentiate their working hours on a daily basis and 4% work according to a flexitime model (Dobry klimat dla rodziny 2013: 17). It seems that these measures are **less popular and less available** in Poland, as companies are less interested in offering them. Significantly, even if flexible modes of working are introduced, only 26.5% of companies implement family-friendly solutions to meet employees' needs (European Company Survey 2010: 18). The managers of companies argue that one of the main obstacles hindering the implementation of work-life balance policies is the **lack of state support such as tax relief of subsidies** (European Company Survey 2010: 28). Other factors refer to low corporate responsibility and the belief that these solutions are unnecessary as the statutory provisions are sufficient, as well as the unfavourable business situation and rising costs of introducing these policies (European Company Survey 2010: 28). It is also worth noting that these statutory provisions may easily be overused by employers and become a vicious circle for working mothers, who, instead of having the opportunity of flexible working arrangements, will be forced to work part-time.

Concluding remarks

Introducing a variety of measures allowing work and family responsibilities to be reconciled has recently been one of the most important matters for policy-makers. Positive results may be noticed, but motherhood still remains negatively related to employment and career opportunities for women (the employment rate for women with children is the lowest), whereas the employment rate among men with children is higher (Titkow, Budrowska, Duch 2004, The Provision of Childcare Services 2009: 23-24). One of the possible explanations might

refer to the **perception of men as the main breadwinners who should be protected in the labour market for the sake of their families**. Other possible explanations emphasise that **men need to find a stable and well-paid job before they decide to have a family**. At the same time, women involved in the labour market remain responsible for taking care of their children and home (**double burden**). Hence, it is important to reopen the debate about the model of policy aimed at reconciling work-life responsibilities which should be developed in Poland.

Employment rate for women and men (aged 25–49) according to their family status					
Women without children	Women with a child under 12 years	Gap	Men without children	Men with a child under 12 years	Gap
79.1	67.5	-11.6	79.6	90.2	10.6

Table 20: Employment rate for women and men (aged 25-49) according to their family status. Source: Barcelona Objectives 2013: 23 (see: Eurostat – EU-LFS 2010)

The model for work-life reconciliation in Poland could be described as a **parallel model**: the period of family leave is followed by either a return to work or childcare. The state plays an important role in helping working parents to reconcile work and family responsibilities and obligations, and the **statutory provisions are the main guidelines** for employers to provide access to family leave and flexible working arrangements. Closer analysis of these provisions and their implementations reveals that they are based on three intertwined approaches:

- **A social democratic approach** with a strong obligation of the state to serve all citizens and support them in their professional, private and family life
- **Conservatism** emphasising the value of family and traditional division of work and responsibilities between women and men
- **Gender equality** focusing on the development of a just society and providing the same opportunities for men and women.

The measures implemented in Poland clearly show that both the **family and the state share the responsibility for a child**. Due to the economic situation, this model is becoming more and more popular among members of society, who expect the state to support families at various levels, including work-life arrangements (see CBOS 2012). However, analysis of the programmes and legal regulations shows that the state reduces its role to the development

of a general framework facilitating flexible work arrangements, whereas the **main decision on how to achieve an equal share of family responsibility is left to the parents**. This can be proved using several examples. First of all, despite the fact that family leave should be introduced as non-transferable, individual rights to take care of a child (EU Directive 2010/18/EU), the model implemented in Poland introduces various kinds of family leave which are based on the mother's employment status and can be shared by both parents as they choose. Moreover, in the case of non-transferable leave, namely part of maternity leave and paternity leave, the part offered to the father is much shorter compared to the length of the leave for the mother. Such solutions leave no doubt, especially when we analyse them in the context of the current economic situation, the employment conditions for men and women and cultural patterns: **mothers are still seen as the main people responsible for childcare**. The symbolic exclusion of fathers is even visible in terms of the language used to describe measures offered to fathers who can share "maternity leave" or "parental leave" and receive "maternity benefits". Such a model focuses on the **welfare of the family** (which is even declared by the government as the main goal) and **hinders the development of more egalitarian relations between parents**, leading to a situation whereby women must face the situation of a double burden. It seems that gender stereotypes and women's role as mothers are still obstacles for their participation in the labour market and for the greater involvement of fathers in family life. Thus, the government should provide more effective measures to encourage men to share family responsibility equally, including: longer paternity leave, better paid parental leave and non-transferable individual leave. It is also important to **introduce parental leave based on the father's employment status**, undertake actions encouraging employers to offer **flexible working arrangements**, and organise **social awareness campaigns** combating gender stereotypes and providing information about family leave. Otherwise, the policy will lead to a situation in which men are encouraged to become involved in family life and women are encouraged to develop professional careers, but no systemic change will be introduced to support them in performing their duties. The measures introduced in Poland, including paternity and parental leave, are only the first step towards balancing women's activity in the labour market with men's activity in the domestic sphere.

Secondly, the **government is obliged to provide institutional support**. Again, this measure could indicate that the state would like to play an active role in helping to achieve

better reconciliation of work-family responsibilities, gender equality and a more just society. In practice, due to the economic crisis, spending on education and welfare is the subject of budgetary cuts. As a result, the reconciliation of work and family responsibilities will be more difficult: the lower availability of kindergartens and nursery schools may force people to withdraw from professional activity. It is also significant that the development of infrastructural support such as nurseries, kindergartens, and reintegration programmes for parents is supported by European Union funds. Since 2012, through the European Social Funds and Human Capital Operational Programme, the EU has given 46 million euro to co-finance (at 85%) projects and institutional childcare services (see Barcelona Objectives 2013, The Provision of Childcare 2012). It is interesting to note that even the Polish government’s flagship project Maluch is co-funded by the EU.

The state may support families in different ways. Do you think that the state should support:	Respondents’ answers		
	February 2000	February 2006	April 2012
	%		
All families with children	36	43	60
Only families in a difficult financial situation	61	53	37
The state shouldn’t support families at all	1	1	1
Don’t know	2	3	2

Table 21: Public opinion on state support for families. Source: CBOS 2012:4

Finally, the majority of measures and their implementation are **not sensitive to an intersectional approach and do not reflect the situation of single parents**. In the latter case, parents have to reconcile work and family obligations, as they do not have a partner able to share the responsibilities with them.

The government argues that the state should play an active role in developing measures related to achieving the reconciliation of work and family responsibilities so that parents do not have to choose either work or family and improve the welfare of the family and gender equality. The last aim seems to be suppressed by the former ones. The debate revolves around the demographic and economic gains such as increased employability,

employment rate and stimulating the economy, leaving little space for reflection on how these measures will influence the positions and responsibilities of women and men.

Violence

Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed. Knowledge about its causes and consequences, as well as its incidence and measures to combat it, have been greatly expanded since the Nairobi Conference. In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. The low social and economic status of women can be both a cause and a consequence of violence against women (Beijing Platform for Action, 1995, art. 112).

Violence against women is recognised as a major infringement of human rights and affects women's health, well-being, power and dignity, as well as preventing women from full participation in society and limiting their economic, political and social rights. The prevention of violence against women is one of the biggest challenges for the Polish government, since it requires tackling the unequal power relations between men and women shaped by the structural and cultural conditions. The framework for the policy addressing the violence is shaped by international documents and regulations signed and ratified by Poland (such as CEDAW), but also by national laws and plans.

The first attempts to introduce a law on preventing violence can be traced back to the 1990s, when women's organisations (with a major role played by the Women's Rights Centre) prepared a draft act on preventing violence. Due to the lack of political will among the members of the government and political parties, this draft was neither presented nor discussed. Only thanks to the support of Izabela Jaruga-Nowacka, the Plenipotentiary for the Equal Status of Women and Men, was it possible to include the issue of violence in the National Programme for Women for the years 2003-2005 in the form of a recommendation aimed at preparing the Act on Preventing Violence in the Family (Nowakowska 2006: 13). This effort met with great objections from the Ministry of Justice, which claimed that the Polish Penal Code covered violence-based crimes and there was no need to implement additional legal regulations. The Plenipotentiary decided to continue the work on the act, which was finally passed in 2005. However, the lack of support from the Ministry of Justice and political parties as well as cultural barriers influenced the character of the regulations and the scope of the measures included in it (Nowakowska 2006: 14). As a result, the first Act on Preventing

Violence in the Family was not progressive, and the “hard” regulations on free access to support for victims, restraining and eviction orders as well as the compensation fund were either restricted or removed from it. On the other hand, the importance of this act was “(...) that the mere fact of this issue [of acts on preventing violence] stopped a centuries-old conspiracy of silence around this problem and showed the public opinion that the government treats its obligation to eliminate this phenomenon seriously” (Zielińska 2006: 19). Moreover, this act opened new avenues to be explored, which led to the implementation of amendments in 2010. What is significant is that the Act on Preventing Violence in the Family was passed mostly due to the pressure from women’s organisations as well as international pressure on the Polish government to take action and to adopt EU directives and harmonise Polish law with international regulations such as CEDAW to prevent and eliminate all forms of violence against women.

The most important acts and national action plans on preventing violence

- Act from 29 July 2005 on Preventing Domestic Violence (*Ustawa z dnia 29 lipca 2005 roku o przeciwdziałaniu przemocy w rodzinie*) – referred to in this paper as the 2005 Act
- Act from 10 June 2010 on Changing the Domestic Violence Prevention Act (*Ustawa z dnia 10 czerwca 2010 r. o zmianie ustawy o przeciwdziałaniu przemocy w rodzinie oraz niektórych innych ustaw*) – referred to in this paper as the 2010 Act
- Ordinance of the Cabinet from 13 September 2011 regulating the “Blue Cards” procedure and the templates for the “Blue Cards” form (*Rozporządzenie Rady Ministrów z dnia 13 września 2011 r. w sprawie procedury „Niebieskie Karty” oraz wzorów formularzy “Niebieska Karta”*), referred to here as the 2011 Ordinance
- National Programme for Women for the years 2003-2005 (*Krajowy Program na rzecz Kobiet na lata 2003-2005*)
- National Programme for Counteracting Domestic Violence for the years 2014-2020 (*Krajowy Program Przeciwdziałania Przemocy w Rodzinie na lata 2014-2020*)
- Government Programme: Safer Together (*Program Rządowy: Razem Bezpieczniej*)
- National Action Programme for Equal Treatment for the years 2013-2016 (*Krajowy Program Działań na rzecz Równego Traktowania na lata 2013-2016*)
- Civil and penal law
- Regulations on social assistance and health assistance.

Table 22: Acts and national action plans on preventing violence

Violence in the family or violence against women?

The discussion about violence, its form and scope was initiated in Poland after the ratification of the Beijing Declaration, according to which violence against women and children in any form is unacceptable. Since then, Poland has been obliged to fulfil the recommendation of the Beijing Platform for Action (1995), which is supposed to reflect the government's commitment to preventing violence, providing help and support for women and children and holding perpetrators responsible for their actions. Such aims can be found in the main legal act and national programmes counteracting (domestic) violence, but it is still clear that violence against women and children remains a serious problem in Poland: in 2013, women constituted 67% and children and young people 22% of all victims of violence (www.statystyka.policja.pl).

It seems that there is agreement between various actors involved in policy on preventing violence that policies addressing prevention, protection of victims and punishment for perpetrators are needed. However, there are tensions and contradictions about the measures that should be included in these policies and groups/individuals who should be protected. The statistics clearly show that violence in Poland is not a gender-neutral phenomenon. However, this is not further reflected at the level of policy, and is barely seen in the programmes preventing violence. Quite the opposite: when we analyse the national law (2005 Act, 2010 Act), it is clear that **violence is reduced to violence in the family**:

domestic violence – should be understood as a one-time or repeated deliberate act or omission in violating the rights or personal rights/goods of people mentioned in paragraph 1, in particular exposing these people to the danger of loss of life, health, violating their dignity, bodily integrity, freedom, including sexual freedom, causing harm to their physical or mental health, as well as causing suffering and moral damage to the people affected by violence (Domestic Violence Prevention Act 2005, art. 2.2).

This definition was seen as a success at the time when the 2005 Act was passed, as it includes physical, psychological, emotional and sexual violence as well as other practices leading to health problems or even death (Zielińska 2006). However, it only applies to violence in families (understood in a broad sense, including people who are related but who also live in one household), making individuals (especially women and children) invisible. As a result, the 2005 Act and to a great extent the 2010 Act reinforced the notion that violence was a **private matter**, which should be dealt with at the level of the family, without noticing that it affected women to a greater extent than men. Violence was not seen as a political issue, and the state

obligation to protect its citizens – both women and men – and to prevent them from violating their rights could not be fully fulfilled. The definition of violence provided in the 2005 Act also failed to acknowledge the existence of economic violence, which prevents women from meeting basic economic needs and makes them dependent on their husbands/partners, since it is they who control the economic resources. This form of abuse has an enormous negative impact on women's life, but it has not yet been recognised by law.

The way of understanding violence included in the 2005 Act was criticised and questioned. On the one hand, the focus on violence in the family was still seen in the mainstream policies and national plans on preventing and combating violence. On the other hand, women's organisations proved that this approach denies women their basic rights and is against gender equality and justice. Based on the international documents and conventions, they claimed that violence against women is a public matter and that the state should be accountable for the shift in policies from violence in the family to violence against women. In this way, they addressed violence within the **framework of human rights**. This perspective was included in the draft proposals³³ for the amendments to the 2005 Act presented in 2008 and finally partially included in the 2010 Act. It was admitted that violence is a serious human rights violation and an assault on human dignity, health and even life, and as such it should not be left in the margins of public policies, and the state should be accountable for combating violence and for the safety of citizens (see Spurek 2010, Kelly 2009/2010). Thus, preventing and combating violence **was treated not as a moral obligation** but as a **political concern**. This was the reason why better measures preventing perpetrators from contact with the victims of domestic violence (such as restraining orders, eviction) were included. But the new legal framework still only scratched the surface of the problem, by restating that all measures should be aimed at preventing and combating violence in the family.

The focus on domestic violence is still present in the Domestic Violence Prevention National Programme for the years 2014-2020, which was passed in 2014. The introduction to the programme makes it clear that the **family is seen as the most important value**, which should be protected. However, the programme also refers to the fact that **women are**

³³ Three projects with amendments were presented in 2008: the civic project proposed by the Committee of the Legislative Initiative of the Act Preventing Violence in the Family and Certain Other Laws, a project proposed by left-wing parties (it was never discussed or presented in the Sejm, as it was kept by the Speaker) and a project submitted by the Ministry of Labour and Social Policy. For analysis of all three projects see: Czerwińska, Piotrowska 2008: 98 and www.razemlepiej.pl.

statistically more often victims of violence. It also indicates other groups prone to violence, such as young people, the elderly and people with disabilities, without mentioning their sex/gender, due to the fact that information about sex is not gathered in the statistics (Domestic Violence Prevention National Programme for years 2014-2020, 2014: 5).³⁴ Unfortunately, this is not further reflected in the measures and actions recommended in the programme.

Domestic violence is also defined within the framework of **public safety and crime**, as it is with the “Safer Together” (*Razem bezpieczniej*) programme, launched in 2006 by the Ministry of the Interior and Administration (<http://razembezpieczniej.msw.gov.pl/>). Each year, the ministry secures 3 million złoty to cover the costs of running programmes. However, closer analysis of the aims of this programme proves that its goals and measures reflect the main areas from the 2010 Act.

As shown above, in recent years there have been significant changes regarding the approaches to violence, and domestic violence in particular. A legal framework was finally created (also under pressure from women’s organisations and international documents and expectations), but the cultural and structural contexts of domestic violence and violence against women were barely included in national regulations. First of all, the legal regulations could not introduce radical measures preventing domestic violence due to the common belief that it might be perceived as **intervention in family life**. Secondly, domestic violence was seen as a **result of poverty, addictions (e.g. alcoholism) or unemployment**. In this way, the structural conditions of violence diminished, enforcing the belief that individuals should be blamed for their own fate and that violence is a “gender-neutral” phenomenon occurring mostly in families with difficulties. Moreover, this creates a superficial image of violence, without doing more profound research to get to the heart of this problem: violence against women happens regardless of social class, economic situation, educational level or occupation, and cannot be limited only to pathological situations. Last but not least, the legal framework at the very beginning did not acknowledge that the majority of victims of domestic violence are women. It was only the 2010 Act when the first data was presented, but this did

³⁴ The data is based on the study “Diagnoza dotycząca realizacji zadań wynikających z ustawy z dnia 29 lipca 2005 r. o przeciwdziałaniu przemocy w rodzinie (Dz. U. Nr 180, poz. 1493, z późn. zm.) wykonywanych przez zespół interdyscyplinarny/grupy robocze, a także realizacji procedury ‘Niebieskie Karty’ w oparciu o rozporządzenie z dnia 13 września 2011 r. w sprawie procedury ‘Niebieskie Karty’ oraz wzorów formularzy ‘Niebieskie Karty’ (Dz. U. Nr 209, poz. 1245)”, commissioned by the Ministry of Labour and Social Policy.

not lead to implementation of a gender-sensitive approach to violence focused on protecting women as one of the most important priorities for the Polish government. This approach **reinforces marginalisation of violence, defining it as a private issue**: the reasons for and consequences of violence are still not addressed, since the measures are aimed only at helping families. According to the report *Kogo chronimy przed przemocą? Dwa lata ustawy z dnia 29 lipca 2005 r. o przeciwdziałaniu przemocy w rodzinie – raport krytyczny* (Mrozik, Rutkowska, Stefańczyk 2007: 12), this approach is against the EU minimum standards and practices, which clearly state that each country should acknowledge the existence of violence against women and prevent it. In other words, it is necessary to note that it is members of the family who should be protected (in some cases even from their own family). Despite the efforts from women's organisations and the obligation to fulfil the requirements of international documents, Polish law fails to recognise gender-specific measures and language.

The attempts to include a **gender-sensitive approach** in policy-making came not only from women's organisations, but also from the Government Plenipotentiary for Equal Status of Women and Men. Unlike the 2005 Act and the 2010 Act, the programmes prepared by the Plenipotentiary – the National Programme for Women for 2003-2005 and the National Action Programme for the Equal Treatment for 2013-2016 – declare that preventing/combating violence against women is the priority for the Polish government. Both documents went much deeper in presenting the scope of violence, but only the latter managed to underline the multidimensional aspect of violence, which cannot be reduced to domestic violence alone. This perspective was supported by Eleonora Zielińska, who in her comment on the draft proposal of amendments to the 2005 Act noted that the human rights approach suggested in the proposal is not a sufficient and adequate tool to describe the situation in Poland, as it does not reflect upon the fact that the majority of victims are women, and fails to refer to the discriminatory practices violence may entail (Spurek 2010). Her standpoint was criticised by members of parliament, who believed that human rights are universal and also cover women's rights, meaning that there is no need for the 2005 Act (with further amendments) to stress that women are the majority among victims of violence.

Despite the commitment to bringing violence against women into mainstream policies, the National Programme for Women for the years 2003-2005 did not go beyond practices and measures preventing violence in relationships. Thus, the importance of this document lies in

the fact that it showed the **structural conditions for gender-based violence** and provided the **key facts and data on violence against women**. The most comprehensive and complex approach to gender-based violence is present in the National Action Programme for Equal Treatment for 2013-2016. First of all, this provides a broader definition of violence by shedding light, amongst others, on economic violence, sexual violence and hate speech. Secondly, the gender-sensitive approach adopted in this Action Programme is based on **human rights and citizens' rights perspectives** but also on the approach presented in the Council of Europe Convention on preventing and combating violence against women and domestic violence,³⁵ namely **victim-centred approach and gender approach**. Moreover, for the first time violence against women is linked not only with **social justice** but also with **gender inequality**. Thus, it is seen as a form of **discrimination**, which diminishes women's ability to participate in the political, economic and civil sphere.

The gap between the gender-neutral perspectives included in the legal regulations and the reality is reduced by projects conducted by non-governmental organisations such as "Preventing violence against women, especially those living in rural areas" (*Przeciwdziałanie przemocy wobec kobiet, zwłaszcza zamieszkujących obszary wiejskie*). These projects may have positive effects, but they will not bring structural change, as they cannot replace government actions. Hence, it is required that more attention be paid to the situation of women, and violence against women should be separated from domestic violence at the level of legal regulations.

Institutional support for the victims of violence: good law, weak implementation?

A good policy should integrate legal regulations and implementation: prevention and empowerment of victims should be followed up by sanctions for perpetrators, resulting in diminishing the scope of violence and increasing social awareness of domestic violence. However, the efficacy of the legal regulations introduced in Poland has been questioned. Adam Bodnar claims that "It is recognised that the present [before 2008] legal regulations are too 'soft', they rather indicate the direction of proceedings, and do not provide specific solutions or ways of preventing violence (e.g. the protection of victims of violence by introducing restraining orders or an order to the perpetrator to leave the apartment).

³⁵ The Convention on Preventing and Combating Violence against Women and Domestic Violence was signed by Poland in 2012 but not ratified. In fact, preparing the documents for the ratification was one of the goals of the National Action Programme for Equal Treatment for the years 2013-2016.

Information campaigns still do not break through to the general public awareness. Police interventions are often ineffective. This is caused by both the inertia and the passivity of the police, as well as the lack of effective instruments. **It is worth remembering that in the case of a deeply socially rooted problem, ordinary tools which can be used to terminate it are not sufficient, but particular care and consistency while fighting against it is advised. This, unfortunately, cannot yet be seen**" (Czerwińska, Piotrowska 2008: 112-113). In theory, the 2005 Act and the 2010 Act introduced good mechanisms: they provided information on what help and support can be offered to the victims of violence in the family and who is responsible for offering that help. Both acts clearly state that public institutions should cooperate with non-governmental and religious organisations to eliminate any kind of violence. The scope of protection offered to the victims was also broadened: the act of violence must be reported to the police by everyone who finds out about it while carrying out their professional duties (Nowakowska 2006, Zielińska 2006), restraining orders and eviction orders can be issued by the court, and a victim of domestic violence can be offered help in support centres or crisis intervention centres. Nevertheless, these mechanisms still proved inadequate. First of all, despite the wide range of actions aimed at eliminating violence, there are **no measures as far as economic violence** is concerned: there is no rule on securing the victim's claims (*zabezpieczenie roszczeń ofiary*) and a **Compensation Fund** (*Fundusz Kompensacyjny*) has never been included in the legal regulations (Jawień, Łapniewska et al. 2005: 25). Secondly, the measures included in the acts should empower women, allow them to exercise their rights and protect them. These aims will not be achieved by defining violence only from the perspective of criminal law, but **changes in the administrative law** (e.g. police law), **family law and social welfare or labour law are required** (Hagemann-White 2009/2010). Thirdly, there are problems with the implementation of **Blue Cards** – the most important measure preventing and combating violence in the family. This procedure, prepared by the police and introduced in the 1990s, was later supported by the 2005 Act. This non-litigious tool allows incidents of domestic violence to be reported and monitored, provides basic legal information and individual plans for both the victim and the perpetrator and also punishes the perpetrator (Rozporządzenie Rady Ministrów z dnia 13 września 2011 r. w sprawie procedury "Niebieskie Karty" oraz wzorów formularzy "Niebieska Karta"). The legal regulations on Blue Cards were further developed under the 2010 Act and the Ordinance (*Rozporządzenie*) 2011. Since then, the **consent of the victim is no longer required to initiate the procedure**. This may be seen as

a turning point, introducing a more proactive approach by putting **more responsibility on public institutions** (the police or interdisciplinary teams) as well as shifting the focus onto violence as a public matter. However, in practice, there are many cases in which the police do not intervene or their intervention is not sufficient. Moreover, **interdisciplinary teams** have been created. These include a representative(s) of the police and social welfare agencies (*pomoc społeczna*), but also a Municipal Agency for the Prevention of Alcohol-Related Problems (*gminna komisja rozwiązywania problemów alkoholowych*), school superintendent (curator), health services and NGOs. Additionally, the team may also include prosecutors and the representatives of other institutions working to prevent domestic abuse. The development of interdisciplinary teams has been important, allowing the responsibility of reporting the acts of violence to be shifted from the police and welfare state agencies to all bodies included in the interdisciplinary team.

The interdisciplinary teams were appointed to complete the activities set by the local domestic violence prevention programme as well as to coordinate the cooperation between various institutions dealing with domestic violence. Taking on board representatives from various institutions was supposed to facilitate and improve execution of the programmes and actions as well as providing support for people prone to violence faster (direct contact with a vulnerable person through many institutions). It was believed that acts of violence might be noticed earlier by educational institutions and health care centres. It was also thought that the meetings of interdisciplinary teams might be a unique opportunity to discuss the problem of violence and work on a better solution among people from different backgrounds and with different professional experience and from different institutions (Teisseyre 2011).³⁶ Krzysztof Sarzała (2012) notes that this change in the functioning of Blue Cards is unfortunately rarely implemented, as the police and social workers are still seen as the main (and even sometimes only) institutions responsible for preventing and eliminating violence in the family, and other institutions define their role as the “fan” or “sponsor” (*zleceniodawca*) of the intervention. This is proved not only by the minutes of the meetings of the Working Groups or the Interdisciplinary Teams, which show their members mostly comprise police officers and social workers (rarely teachers, doctors and other specialists), but also by the results of checks carried out by the Supreme Audit Office, which showed that 90% of cases are still reported

³⁶ Piotr Teisseyre (2011) also notices that this difference between members of interdisciplinary teams may make their work difficult to conduct, as it may be difficult to find common ground.

only by the police (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 6-7).

Tasks performed by the interdisciplinary teams:
<ul style="list-style-type: none">• Initiating action against perpetrators of domestic violence<ul style="list-style-type: none">• Diagnosis of the problem of domestic violence• Initiating interventions in the environment affected by domestic violence<ul style="list-style-type: none">• Preventing violence in local area• Providing information about support for victims• Establishing Working Groups who solve problems related to the occurrence of family violence in individual cases.

Table 24: Tasks performer by the interdisciplinary teams

The report of the Supreme Audit Office and the National Action Programme for Equal Treatment for the years 2013-2016 (2013) show that the gap between the goals presented in legal documents and actual practice is a large one. Many *gminas* face the **problem of appointing interdisciplinary teams**. Among the reasons for this is the shift of many responsibilities for providing protection to victims of violence from police to interdisciplinary teams without providing them with the proper ability to act: the interdisciplinary teams have **no executive power** and limited possibilities of submitting an application to the prosecutor's office without the consent of a victim or forcing a perpetrator to provide an explanation for the committed actions during the team's meeting (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 26-27). Moreover, if the Blue Card is filled in by institutions other than the police, the police are informed of this only after the meeting of the interdisciplinary team, which leaves the family with no support until then (it is not required to pass a copy of a Blue Card to the police immediately). The **communication between different institutions is also weak**, as there is no regulation on the flow of information between interdisciplinary teams and prosecutors and courts (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 8, 17). As a result, in many cases the interdisciplinary team is not informed about the outcome of the court, and has no information on perpetrators. The inefficacy of interdisciplinary teams is also caused by the **lack of budget**. There was no

additional financial help provided to the *gmina*, and MOPS³⁷ especially, to support the functioning of the interdisciplinary team. As a result, they have no funding for their campaigns, meetings or training to broaden their knowledge (especially training including a gender-sensitive perspective on violence). In some cases, the work in the interdisciplinary team is either done voluntarily or additional duties are added for full-time employees.

The Supreme Audit Office concludes in its report: “The findings of the audit show that appointing working groups and interdisciplinary teams has a negative impact on the efficiency of activities aimed at helping families affected by violence because it has resulted in a longer reaction time” (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 22). As a result, “a practice has been created that the procedure aimed at helping victims of violence operates in two tracks: on the one hand, there is the interdisciplinary team, and on the other hand the police, who take action regardless of the decision taken by the interdisciplinary team” (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 23). These weak points of policy aimed at eliminating violence lead to a situation in which violence happens among 45% members of society but only 26% want institutional support.

The Blue Card procedures are also seen as **too bureaucratic**, and **focused on documents rather than on people**: “The solutions are based on an excessive bureaucratic structure, a significant increase in the amount of documentation created and its duplication, as well as the chronic course of action, which has basically prevented efficient and quick assistance, despite the involvement of many people representing various public institutions and non-governmental organisations” (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 6). Institutions must complete many documents in order to report acts of violence, and neither the police nor social welfare agencies and doctors have enough time to do paperwork while the intervention is being processed.

³⁷ According to the 2011 Ordinance, MOPS is responsible for financial support for the interdisciplinary team.

Results of implementing new legal regulations on Blue Cards (2011):

- Difficulties in reporting acts of violence: the number of cases reported between January and June 2012 was 40% lower
- Untimely handling and proceeding with cases by the interdisciplinary teams – in some cases even a few months after the act of violence was reported; no regulation of frequency of visit (previous regulation: the first contact with the family was within 7 days and later once a month)
- No regular meeting of interdisciplinary teams (meetings were organised 15-75 days after the Blue Card was submitted, although according to the regulations Card A should be submitted within 7 days to the Chair of the Interdisciplinary Team and should be given to the members of the team within 3 days)
- Difficulties in preparing individual support plans for the victims of violence and undertaking actions for perpetrators who fail to attend meetings
- Lack of belief that Blue Cards are useful measures allowing victims of domestic violence to be helped

Source: Przeciwdziałanie przemocy w rodzinie przez administrację publiczną (2013)

Table 25: Results of implementing new legal regulations on Blue Cards

One of the weakest points of the Domestic Violence Prevention Act is the **dispersal of responsibilities among various authorities**. On the national level, it engages a range of ministries to be accountable for actions aimed at preventing violence, but has not created a common space for cooperation and joint programmes. Moreover, people nominated for the **National Coordinator for Implementation of Violence Prevention National Programme** (*Krajowego Koordynatora Realizacji Krajowego Programu Przeciwdziałania Przemocy w Rodzinie*) as well as the members of the **Monitoring Team for the Domestic Violence Prevention** (*Zespół Monitorujący ds. Przeciwdziałania Przemocy w Rodzinie*) quite often **do not have experience** in the subject, as they are **chosen randomly**. There is no calendar of their meetings or detailed list of their actions (Mrozik, Rutkowska, Stefańczyk 2007: 23). In this context, the actions recommended in the National Action Programme for Equal Treatment for the years 2013-2016 (2013), such as debates and consultation about the way interdisciplinary teams work, surveys among people who work in institutions responsible for combating violence, and workshops for the members of the interdisciplinary team, might be significant for the functioning of interdisciplinary teams.

The challenges and problems discussed above result in poor protection for victims of domestic violence, lack of trust for the institutions responsible for combating violence and a lower number of cases where violence is reported by victims.

Double victimisation

The victims of violence in the family struggle with **double victimisation** caused either by the hostile attitude expressed by family, neighbours or members of the community, or by institutions responsible for providing help. The latter case proves the failure of the support system which, instead of helping, contributes to humiliation, alienation, feelings of shame and self-blame among the victims of violence. In this way, the blame for violence is shifted to the victims (“no one will believe you”), while the feeling of impunity by the perpetrator is reinforced (Goetz 2012). In this way, the judicial system reinforces double victimisation as the perpetrator is treated with respect, even if he/she is not telling the truth, because he/she has the right to a defence, while the victim even has problems with getting access to a free support system (Walijewski 2010). This negative experience stemming from contact with the institutions responsible for preventing violence may be further reinforced by the obligation to repeat testimonies to many institutions or give them to the interdisciplinary team, which means testifying in front of five people (2011 Ordinance). Lack of understanding can also come from forensic doctors who – while examining the victim – “often doubt the ‘credibility’ of the wounds and believe the injuries are self-inflicted in order to receive favourable divorce settlements” (Dziewanowska, Khomuk, Krawczyk 2009/2010: 69).

Lack of privacy and feeling of safety in the place where testimonies are given, the obligation to confront the perpetrator and his/her version of story, hurtful and absurd questions and comments expressed by the perpetrator or his/her witnesses (while the same is not expected from the perpetrator) as well as impersonal or even hostile contact with the representatives of the judicial system (e.g. refusing to accept some evidence, discrediting victim’s witnesses) may lead to a situation in which victims feel ignored and may withdraw their testimonies. Thus, this lack of institutional support may lead the proceedings to be discontinued without even trying to understand and notice the reasons lying behind the withdrawal of the witness (e.g. fear of the perpetrator, blackmail, threats to children or close family) (Walijewski 2010).

Counselling and shelters

Providing counselling to the victims of violence is a standard procedure recommended by international documents, as well as being reflected in the national law. However, the change between the 2005 Act and the 2010 Act should be emphasised. While the former included only the right for a victim to have access to psychological, medical, social and legal counselling, forensic examination, crisis intervention and a safe place to stay to be protected from the perpetrator (art. 3), the latter provides all **support free of charge**. This shift – introduced also thanks to pressure from women’s organisations and international documents – illustrates the development of national policy: **from policy putting a great deal of responsibility on the victims to policy focused more on the state’s responsibilities for the protection of citizens**. In both cases, the measures were presented as **gender-neutral**, which results in the failure to recognise the situation of female victims of violence.

The Polish government understands that the victims of violence are often vulnerable and need immediate action. To ensure that proper support is provided, access to institutional support, namely psychological, medical, social and legal support free of charge, access to shelters or providing workshops for women who suffer from domestic violence, is included in the national programmes aimed at preventing domestic violence and improving gender equality (Krajowy Program na rzecz Kobiet 2003, Krajowy Program Działań na rzecz Równego Traktowania 2013). In order to improve the infrastructure for the victims of domestic violence, governmental programmes put great emphasis on monitoring availability (e.g. by preparing a list of institutions offering help) and increasing the number of crisis intervention centres, shelters and houses for mothers with children, as well as developing a 24-hour hotline for the victims of violence (Krajowy Program na rzecz Kobiet 2003, Krajowy Program Działań na rzecz Równego Traktowania 2013, Krajowy Program Przeciwdziałania Przemocy w Rodzinie 2014). Moreover, the National Programme for Counteracting Domestic Violence for the years 2014-2020 (2014) pinpoints an important direction of national policy implementation by introducing a new way (compared to other programmes) of supporting the victims of violence by enabling them to obtain social housing.

There is no question that intervention centres and shelters are of great importance for the safety and empowerment of victims of violence, as they guarantee them the right to safe accommodation. However, this service cannot be delivered to all victims, as the centres and shelters are **overcrowded, their number is insufficient and the density of women’s services**

– **especially in rural area and smaller towns – is low**. This means that in many cases the victims are forced to stay with the perpetrator. As Monika Płatek notes,

“(…) according to article 14, if there are good reasons for provisional detention, then if someone uses violence against the family, instead of detention, if he agrees to move out, he can go elsewhere. This is a joke. ‘Services’ must be organised that actually allow a person who needs it to hide from the perpetrator of violence. Not centres for the mother and child, but for women suffering from violence. Not every woman who is beaten has a child!” (Czerwińska, Piotrowska 2008: 101). She adds that the measures and solutions should be complex and comprehensive: e.g. a long restraining order and isolation from the perpetrator may have economic consequences for women, as they may not have the funds to meet their basic needs (women might be economically dependent on their husbands/ partners).

Safe accommodation cannot be reduced only to the place of living. The role of shelters, crisis intervention centres and specialised support centres should reflect the aims of the policies preventing violence in the family. In order to provide proper protection and help, all support institutions should offer **gender-specific policies**. Unfortunately, this does not happen in many cases in Poland, and women are left with no psychological, legal or social support, which in their opinion is essential for rebuilding their self-confidence and overcoming their problems. Another element of gender-sensitive policies implemented in shelters and support centres could be **provision of childcare for children under the age of 6**. Lack of this support prevents women from participating in the labour market. It also creates a vicious circle: due to the lack of job, they cannot afford to pay for kindergarten, and lack of care for their children means that they need to stay with them and are unable to work and become financially independent.

Due to the lack of funding, the infrastructure which should support victims of violence, such as crisis intervention centres and support centres, may be of **poor quality** (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 31). This is confirmed by the opinions of women who stayed in support centres. They emphasise the need to improve the conditions of stays: the rooms might be smaller and enhanced so that they do not have to be shared with other women and their children, and room allocation should be done according to the age of children (Bilska 2012). The length of possible stay at shelters or support centres is also mentioned frequently. According to the regulations, a woman needs

to **leave the place after three months** (in special circumstances six months), which is too short a period to solve her problems and regain self-confidence (Bilska 2012).

As in the previously discussed measures, counselling and shelters/crisis intervention centres are one of the basic support tools offered to women, and they play an important role in empowering women. However, in order to make them beneficial for the victims of violence in the family, their accessibility and quality have to be improved.

Between resocialisation and criminalisation: the failure of measures against perpetrators

Despite the fact that protection of victims of violence should always have priority, perpetrator-related interventions are necessary to end domestic violence. In other words, preventing violence in an effective way means getting tougher on perpetrators. This kind of approach exists mostly on paper in Poland. The law combating violence and the national action programmes focus on measures directed to the victims of violence, but there are also regulations defining the possible actions directed at changing the behaviour of perpetrators. The latter mostly include **soft measures**, such as providing a **list of institutions** which offers programmes aimed at preventing people who have committed violent acts from doing so or helping them (Krajowy Program Przeciwdziałania Przemocy w Rodzinie 2014) and providing **correctional and educational programmes (*programy korekcyjno-edukacyjne*)** based on **voluntary participation of perpetrators** (Krajowy Program na rzecz Kobiet 2003, Krajowy Program Przeciwdziałania Przemocy w Rodzinie 2014, Ustawa z 2005 o przeciwdziałaniu przemocy z późniejszymi zmianami). In principle, the measures aimed at changing the behaviour of perpetrators seem to be a good idea, and create a comprehensive system of support in case of violence in the family (see Goetz 2010), but in practice they proved to be ineffective, and are not used by the court (Lewoc 2010). This gap between theory and practice is clear, as there is **no educational programme in many *gminas*** and there are **not enough people trained to offer these courses** (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 9, 29). The lack of funds in public institutions results in the obligation to organise correctional and educational programmes being shifted mostly to non-governmental organisations. In order to make this measure effective, correctional and educational programmes should be treated as a part of the system of measures preventing domestic violence, but they should play an **additional and supplementary role** for other legal and administrative measures (Banasiak, Prejzner 2012). The success of these programmes also

depends on the attitude of perpetrators, namely their willingness to **take responsibility for their own actions**. They must also accept that the priority of these programmes is the protection and safety of the victim, which also means that in any case the co-responsibility of the victim should be accepted. Due to cultural patterns and power relations between men and women, these conditions meet with enormous resistance from people using violence.

The failure of these programmes may also be caused by their negligence among institutions, which do not treat them as important measures against violence. According to Marta Małachowska (2012), the problem is “**lack of knowledge about these programmes and underestimating their effectiveness**. The lack of or insufficient information about available places and dates of conducting such programmes, as well as problems in cooperation between the various institutions are also a common problem.” Deeper analysis of the policy preventing violence also shows that the low level of awareness about the advantages of these programmes discourages the representatives of the judicial system from forcing the perpetrator to take part in corrective-educational programmes. In other words, the participation is based on the good will of perpetrators, which makes this regulation useless as far as the protection of the victim is concerned. This issue has already been addressed by policy-makers, who recommended in the National Programme for Counteracting Domestic Violence for the years 2014-2020 (2014: 36) an increase in the number of perpetrators sentenced by court to participate in corrective-educational programmes.



Table 26: Educational programmes for perpetrators. Source: Małachowska 2012

The educational programmes proved to be an inadequate measure for preventing perpetrators from committing violence. It became clear that better instruments under the **criminal law** are required. The first attempt to improve the penal code came with the 2005 Act, which included restraining orders as one of the measures for protecting victims. These led to amendments to the Penal Code by introducing Article 72 § 1 on **police supervision (*dozór policyjny*), restraining orders or eviction of a suspect on whom there are reasons to impose temporary arrest** (Nowakowska 2006, see: Czerwińska, Piotrowska 2008: 88, Mrozik, Rutkowska, Stefańczyk 2007: 5). Due to the political compromise and the pressure of time when the act was being presented in the parliament (a new election was approaching), the regulations on restraining orders and eviction were insufficient. Urszula Nowakowska claims that, “Effectiveness in cases of violence depends to a great extent on the speed of intervention, and the victim is the most threatened just when she/he decides to break the silence and take action. Meanwhile, according to the new law, it is not possible to order the perpetrator to leave the house during police intervention. Particular circumstances must be met to use detention. (...) The Prosecutor may, if she/he believes that there are particular circumstances for using temporary custody, apply to the court to replace the arrest of the perpetrator by police supervision. But the perpetrator must leave home voluntarily. If the offender decides to leave the premises, the court may also require him to refrain ‘from contact with the victim in a certain way’. The use of this preventive measure therefore depends fully

on the goodwill of the perpetrator” (Nowakowska 2006: 16). This regulation was later improved in the Act on Changing the Domestic Violence Prevention Act (2010) and better preventive measures regarding the order to leave the dwelling by perpetrator, restraining orders given by courts and the introduction of a new, rapid procedure related to the execution of a suspended sentence of imprisonment or revocation of conditional release from prison were introduced. According to the 2010 Act, the public prosecutor and court should be involved to a greater extent to protect the victim. Moreover, a new regulation was included on immediate eviction of the perpetrator when domestic violence occurs. Thus, the law offers measures protecting a victim from a perpetrator, but due to the lack of awareness of the problem and the knowledge about the possible measures on the side of the court and prosecutors, the practical realisation of these regulations falls behind (see also Czerwińska, Piotrowska 2008: 88, Mrozik, Rutkowska, Stefańczyk 2007):

- The proceedings are excessively long, and sentences and supervision of perpetrators inadequate.
- Only the most severe cases are taken to court. More than 80% of sentences given in cases on violence are suspended and only 6% of perpetrators are directed to correctional and educational programmes (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 30). The probation sentences are not changed even if the act of violence is committed repeatedly. While analysing the data, Andrzej Dominiczak noticed that “even in cases of violence with extreme cruelty, in one third of cases the judges give perpetrators suspended or minimal sentences” (2009/2010: 63).
- In many cases, the trial is discontinued at a very early stage of the judicial proceedings as there are no grounds of further investigation (lack of sufficient evidence). According to the Women’s Rights Centre the main reason for dismissing a case is the tendency to blame women for the violence they experienced (Dominiczak 2009/2010: 63).
- Temporary detention was barely used, and only when the life of the victim was threatened (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 29).
- Weak implementation of the restraining order and eviction order procedure (2010 Act): in most cases it is the victim who leaves home in order to protect herself (most victims are female). The prosecutor rarely asks for an eviction order for the

perpetrator, even in a situation of repeated violence (Przeciwdziałanie przemocy w rodzinie przez administrację publiczną 2013: 29).

- The number of convicts sentenced for abuse diminished in the past few years (Lewoc 2013).

The above numbers clearly show that there is a need to enhance effective prosecution of cases: despite the fact that the number of cases of domestic violence has increased, they do not result in a larger number of proceedings. Again, preservation of the family is seen as a more important value than the well-being and safety of victims.

Measures	2011	2012
Eviction orders	849	1241
Police supervision with an obligation to refrain from contact with the victim	1280	1412
Police supervision under the condition of leaving the premises occupied jointly with the victim	505	627

Table 27: Eviction orders. Source: Lewoc 2013

The data proves that the changes introduced to the penal code by the 2005 Act with further amendments do not offer efficient measures to separate the victim of violence and the perpetrator due to weak implementation and lack of awareness of the importance of this crime. Moreover, leaving the decision to the court meant that the actual time of eviction or granting protection is delayed. This is why NGOs and people working directly with the victims of violence suggested that this power should be transferred to the police, as they have direct contact with the victims (see Mrozik, Rutkowska, Stefańczyk 2007). Thus, there is a great need to work on the implementation of the 2010 Act (with amendments) in two areas: interventions, which refers mostly to measures such as reporting the violence, evicting and arresting the perpetrator, as well as issuing restraining orders forcing perpetrators to stay away from the victim, and closely monitoring the intervention directed to the perpetrators.

A shift in policy: focusing on prevention

Domestic violence/violence against women is a phenomenon deeply rooted in cultural and structural conditions. Changing the level of awareness and improving prevention is at the core of the policy against violence, which emphasises **social campaigns** (e.g. No Tolerance for Violence), **awareness-raising campaigns** (e.g. on legal regulations, self-confidence,

assertiveness), debates (at voivodeship level) and **educational programmes** aimed at changing the attitude and behaviour among members of society (Krajowy Program na rzecz Kobiet 2003, Krajowy Program Przeciwdziałania Przemocy w Rodzinie 2014). These actions should lead to deeper diagnosis and monitoring of domestic violence in local communities and aim to change the social perception and the level of knowledge about violence among the members of society. It is also important to improve the professional qualifications of people who will be working with the victims and perpetrators of domestic violence by, amongst others, including problems related to violence³⁸ in their **study programmes**, publishing **informational materials**, preparing **guidance for conducting workshops** on the issues related to violence as well as organising **coaching, support groups and workshops** for police, social workers, NGOs and health services and other institutions working with violence (Krajowy Program Przeciwdziałania Przemocy w Rodzinie 2014, Krajowy Program Działań na rzecz Równego Traktowania 2013).

The 2010 Act boosts the measures of protection from violence in the environment vulnerable to this phenomenon by introducing the obligation to prepare and implement **domestic violence prevention programmes at *gmina* and *powiat* level** as well as the obligation to appoint **interdisciplinary teams** to develop better cooperation between public institutions and non-governmental organisations in the area of combating domestic violence. What deserves special attention is the cooperation between public institutions and churches and religious institutions (Krajowy Program Przeciwdziałania Przemocy w Rodzinie 2014: 19-21). In the Polish context, religious organisations and institutions (mostly Christian-run) provide support in the case of violence in the family, but their main goal is not support for the victim but rather family re-unification by encouraging women to be more “obedient”. This approach shifts the blame to the victim and treats violence as an act against the family (and its integrity), not the individual (see Dziewanowska, Khomuk, Krawczyk 2009/10: 67). This attitude will reinforce the notion that violence in the family is a private matter.

³⁸ One of the aims of the National Action Programme for Equal Treatment for the years 2013-2016 is to include the gender perspective in the study programme for students who will be working in the area of violence.

Main actors responsible for policymaking and implementation

- National level: Ministries, Plenipotentiary
- Wojewódzki Koordynator Realizacji Krajowego Programu Przeciwdziałania Przemocy w Rodzinie, Krajowy Koordynator Realizacji Krajowego Programu Przeciwdziałania Przemocy w Rodzinie and Zespół Monitorujący do spraw Przeciwdziałania Przemocy w Rodzinie
- Local level: interdisciplinary teams (social worker, a person from gminna komisja rozwiązywania problemów alkoholowych, police, a person from education institutions and health services as well as representatives of NGOs, possible to include probation officer, prosecutor and the representatives of other bodies involved in actions against violence) and working groups

Table 28: Main actors responsible for policymaking and implementation

The shift to prevention measures was another important step in policy making, although it may also be seen as the obvious measure promoted in international documents (such as CEDAW or the Convention). In the Polish context, the authorities believed that it would lead to a decrease in violence. This aim has not been achieved yet, especially when we look at violence against women. One of the reasons that neither local nor national authorities are able to provide proper information about the scale of violence against women is the lack of good official data, since violence against women is **under-reported**. Beata Gruszczuńska claims that “the analysis of violence against women on the basis of official data is very limited. The reason for this is, among others, the imperfect design of the statistical system, which, despite many demands, did not include a ‘sex of the victim’ variable, which makes it impossible to determine how many women have been the victims of various crimes, including those that are victims of domestic violence. (...) Another weakness of the crime statistics (...) there is an incompatibility of databases, i.e. of the police, judiciary and penitentiary. Each of them is a separate statistical system without the possibility of ‘data transfer’, which means that it is not known how many perpetrators of abuse of women in a given year have been tried, convicted and sentenced” (quoted in: Mrozik, Rutkowska, Stefańczyk 2007: 33). Moreover, violence is most often classified as (physical and psychological) abuse. As a result, other forms of violence disappear and are omitted (Mrozik, Rutkowska, Stefańczyk 2007: 38-39). The lack of information about the scale of violence, especially violence against women, creates an obstacle for preparing mandatory domestic violence prevention programmes at

local and regional level, as the authorities do not know who the programmes should be addressed to and what measures should be suggested. Thus, these programmes exist only on paper and have no impact on preventing or combating violence (Przeciwdziałanie przemocy domowej przez administrację publiczną 2013: 8).

Introducing domestic violence programmes at the *gmina* and *powiat* level in principle was seen as a positive measure. It was believed that the institutions, which are closer to the local communities, would be able to address the issue of violence in a better way. However, in practice, due to the lack of information about the phenomenon of violence and **lack of separate budget** to implement the programmes, they have become another **bureaucratic requirement**. The local authorities treat them as another programme to be prepared, without connecting them to other social programmes for creating comprehensive and coherent policies. In some cases, the issue of violence even becomes part of other programmes such as preventing alcoholism or drug additions. This approach to social policy will not result in a positive social change and development of good measures for preventing violence.

Women's organisations as support providers

Women's organisations are seen as the most active and efficient actors taking action to prevent and combat violence (see Krajowy Program na rzecz Kobiet na lata 2003-2005: 35). The range of their activities is broad, covering psychological, medical and legal counselling (support group, mediation, centres for women suffering from domestic violence), workshops and publishing educational materials, helplines as well as awareness-raising campaigns such as Stop Violence Against Women, Stop Violence in the Family, I love – I don't hit, Stop Rape, 16 Days Action Violence Against Women, and Run Against Violence. In many cases, they work in close collaboration with other institutions such as schools, health centres, and prosecutor's offices, so that the programme and help they offer is coherent and comprehensive. The study on violence shows that "on the basis of information obtained from people working in the third sector emerges a picture of a helpless, or rather an idle state, in which the whole burden of the implementation of the Law against Domestic Violence was dropped on associations and foundations, not providing them with good funding sources, even potentially through the publication of a greater number of grant competitions" (Mrozik, Rutkowska, Stefańczyk 2007: 49)

Conclusion

In 2007, the Committee on Elimination of All Forms of Discrimination against Women presented its opinion about violence against women in Poland, which summarises all the problems mentioned in this chapter:

While noting the efforts undertaken by the State party to prevent and address violence against women, the Committee is concerned about the remaining gaps in the 2005 Law on Combating Domestic Violence, the perception of domestic violence as a gender-neutral phenomenon, and about insufficient services for victims, including immediate eviction of the perpetrator, free legal aid and the number of shelters available. It is also concerned about the remaining gaps in data collection on all forms and manifestations of violence against women (2007, CEDAW recommendation no. 18).

The Committee urges the State party to accord priority attention to preventing and combating all forms of violence against women and girls, in accordance with its general recommendation 19. It calls upon the State party to ensure that victims have immediate means of protection, by way of restraining orders issued by the police and access to a sufficient number of safe shelters staffed by expert personnel and other services including free legal aid, and also to ensure that systematic collection of data, disaggregated by types of violence and by the relationship of the perpetrator to the victim, is undertaken. The Committee recommends that the State party: conduct awareness-raising campaigns to combat violence against women, including domestic violence; undertake research on the root causes of violence against women, in particular domestic violence; and use such research as a basis for enhanced awareness raising efforts to prevent and eliminate violence against women (2007, CEDAW recommendation 19).

It seems that seven years later, these words are still true and violence against women is a still unresolved form of discrimination of women. The goal of women's organisations, namely the decrease of violence against women, has not been achieved, and the gendered pattern of violence is still underestimated (or even denied) in legal regulations. The policy on violence is still a focus on responding to the problem rather than preventing it with a new, proactive approach.

A future avenue for the development of policy preventing and eliminating violence against women refers to the **Council of Europe's Convention on preventing and combating violence against women and domestic violence**. This convention is the most progressive regulation emphasising the need to protect women and young girls from domestic violence, and it obliges the state to take specific actions to combat all forms of violence irrespective of age, ethnicity, race, (dis)ability or social class. It also addresses the cultural and structural roots of violence against women and promotes integrated policies to combat them. Despite the fact

that Poland signed the Convention in 2012, it has not been ratified and implemented yet – the project was withdrawn from the agenda for the lower chamber of parliament on September 9, 2014 due to pressure from the right-wing party Law and Justice (PiS). Recent events clearly show how political and controversial the issue of violence is.

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