

POLAND

Article 33 of the Polish Constitution (2 April 1997) grants equal rights to men and women in family life, as well as in political and societal life.¹

1. Discriminatory family code

The 1964 Family and Guardianship Code (Article 10 paragraph 1) sets the **minimum age of marriage** in Poland at 18 years for both men and women, but the court may grant women permission to marry at 16 years. This decision is taken on the basis of a hearing involving both parties and their parents, but the permission of the woman's parents is not required.² This exception applies if there are important circumstances and indications that would serve the welfare of the new family and it does not envisage such possibility in the case of men.³

Article 93 of the Family and Guardianship Code (*Kodeks rodzinny i opiekuńczy*) grants **parental authority** to both parents.⁴ Article 27 states that both the mother and the father are responsible for looking after their children's upbringing,⁵ article 96 of the Family and Guardianship Code refers to the obligation to care for the child's intellectual development and to prepare the child for future work that will benefit society, in accordance with his/her abilities.⁶ In case of a **divorce**, the court rules over for minor children and decides the amount that each parent must contribute for the child's upbringing and maintenance. In particular, article 58 of the Family and Guardianship Code states that the court may entrust one of the parents with the exercise of the parental authority, therefore limiting the rights and duties of the other parent to certain activities.

Women and men enjoy equal rights in **inheritance**.⁷

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Both women and men have the right to **initiate divorce** in Poland.⁸

¹ Polish Constitution (Konstytucja Rzeczypospolitej Polskiej - Rozdział II)

² Legislation Online (Family life)

³ CEDAW (2004)

⁴ CEDAW (2004)

⁵ Family and Guardianship Code

⁶ CEDAW (2004)

⁷ Legislation Online (Family life)

⁸ European Commission Judicial Network, http://ec.europa.eu/civiljustice/divorce/divorce_pol_en.htm#2. (accessed 22/05/2014)

2. Restricted physical integrity

Poland signed the Council of Europe Convention on Preventing and combating violence against women and domestic violence in December 2012, but it has not yet been ratified.⁹

The 2005 Law on Domestic Violence defines **domestic violence** as “a single or repetitive intentional action or nonfeasance that violates the rights or personal goods of [family members], and particularly exposes those persons to danger of loss of life, health, destroys their dignity, personal inviolability, freedoms, including sexual freedom, harms their physical and psychic health, as well as causes suffering and moral damage to persons affected by violence.” The law imposes a pre-trial police supervision of perpetrators of domestic violence, but only if they leave the place where they stayed with the victim.¹⁰ The court may also require that the perpetrator stays away from the victim or undergo a therapy or educational programme – but there have been limitations in the successful implementation of these provisions.¹¹ The 1997 Criminal Code punishes perpetrators of domestic violence from 3 months to 12 years of prison, depending on the gravity of the act.¹²

The National Programme of Combating Violence in Family for 2006-2016 was adopted by the Council of Ministers on 25 September 2006¹³ and aims to change public attitudes towards violence; increase the number of professionals helping the victims and perpetrators of domestic violence; and increase the number of support centres for family victims.¹⁴ In 2007, the Prime Minister appointed the Inter-Ministry Team to monitor the implementation of the National Program of Counteracting Domestic Violence.¹⁵

The 2010 Counteracting Domestic Violence Act was amended to introduce the establishment of a Monitoring Committee on Combating Violence in the Family, which was established in March 2011. The tasks of the Committee include monitoring activities in the area of combating violence and developing standards of help for victims of violence and standards of work with violence perpetrators, among others.¹⁶

In addition, since August 2010 when the amended Counteracting Domestic Violence Act of 10 June 2010 came into force, there are interdisciplinary teams in every *gmina* in Poland (territorial self-government unit), which include representatives of: social assistance organisational units, *gmina* committees for solving alcohol-related problems, the police, educational system, health protection system, NGOs and they may include other institutions. Interdisciplinary teams are responsible for taking measures aiming to provide joint assistance in individual cases but also for coordinating all activities concerning domestic violence.¹⁷

⁹ Council of Europe Convention on preventing and combating violence against women and domestic violence, <http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=&DF=&CL=ENG>

¹⁰ Polish Law on Domestic Violence (2005)

¹¹ The Advocates for Human Rights, Violence Against Women in Poland (2009)

¹² Criminal Code

¹³ EUCPN

¹⁴ The Advocates for Human Rights, Violence Against Women in Poland (2009)

¹⁵ The UN Secretary-General's database on violence against women

¹⁶ EUCPN

¹⁷ EUCPN

During the first half of 2012, police identified 8,942 cases of domestic violence (459 fewer than the same period in 2011). According to women's organisations, the number of women affected by domestic abuse is under-reported, especially in small towns and villages.¹⁸

Poland has a nationwide emergency service for domestic violence victims called the "Blue Line".¹⁹ There is also the "Safer Together" government programme launched in 2007 that aims to reduce crime and antisocial behaviour and is a good example of counteracting domestic violence.²⁰ "Safer Together" is an eight-year programme (2007-2015) that includes educating victims about legal procedures and strengthening cooperation between the various organisations assisting victims.²¹

Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. Stalking is punishable by a term of up to 10 years in prison.²²

Article 197 of the Criminal Code states that whoever forces another person to have sexual intercourse by force, threat or deceit shall be punished by a sentence of two to twelve years' imprisonment.²³

Article 199 of the Criminal Code punishes anyone who, using the relation of dependence or the critical situation of another person, forces that person to have sexual intercourse or any other form of sexual activity or forces a person to perform such an activity, by three years imprisonment.²⁴

According to national police statistics, during the first half of 2012 there were 734 reported cases of rape, but the actual numbers are much higher according to NGOs, as women are often unwilling to report due to social stigma.²⁵

Sexual harassment is understood as any unlawful conduct, both of a sexual nature and related to the sex of the victim. In terms of preventive measures, the Labour Code requires the employer to counteract discrimination in employment, for example on the ground of sex (section 94(2b)), as any incidents of unequal treatment make him accountable.²⁶ Persons convicted of sexual harassment may be sentenced up to three years in prison.²⁷

Sexual harassment is reportedly commonly accepted with high levels of tolerance; however, there is a lack of reliable statistics and studies on the extent of sexual harassment.²⁸ According to the Women's Rights Centre, in 2012 sexual harassment continued to be a serious and underreported problem. Many victims do not report due to shame or fear of losing their job.²⁹

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¹⁸ US Department of State (2012)

¹⁹ Niebieska Linia

²⁰ EUCPN

²¹ The Advocates for Human Rights, Violence Against Women in Poland (2009)

²² US Department of State (2012)

²³ Criminal Code of Poland

²⁴ Criminal Code of Poland

²⁵ US Department of State (2012)

²⁶ European Commission, DG Justice (2012)

²⁷ US Department of State (2012)

²⁸ European Commission, DG Justice (2012)

²⁹ US Department of State (2012)

Abortion is illegal in Poland, except for the following reasons: to save a woman's life; to preserve a woman's physical and mental health; in case of rape or incest; and because of foetal impairment. Article 4a of the „Law on family planning, human foetal protection and conditions for allowing termination of pregnancy” lists those exceptions.³⁰

Poland is a source, transit and destination country for both men and women subjected to conditions of forced labour and for women and children subjected to **sex trafficking**.³¹

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted in Warsaw on 16 May 2005. This Convention intends to prevent and combat trafficking in human beings by guaranteeing gender equality and protecting the rights of victims of trafficking in human beings. In addition, the National Action Plan for Prevention and Suppression of Trafficking in Human Beings for 2005-2006 was formulated.³²

3. Son bias

The male/female **sex ratio** for the working age population is 0.99 while the sex ratio at birth is 1.06.³³ There is no evidence to suggest that Poland is a country of concern in relation to **missing women**.

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In 2012, the ratio of female to male in primary school enrolment was 100.4 and 98.6 for secondary education.³⁴

4. Restricted resources and entitlements

No information could be found on women's **access to and ownership of land**. Typical male and female occupations still persist in agriculture, for example house chores are the domain of women and they feel like it is their husbands' role to manage the farm. Women tend to get involved more often with issues such as credits or the purchase of livestock. However, widow women, women with sick husbands or single women can act as independent manager of their farm.

There is no information on discrimination against women in respect to **access to and ownership of non-land assets**. The Family Code (article 31) specifies that property is owned by both spouses, Property acquired before marriage remains in the husband or wife's ownership.³⁵ The Family and Guardianship Code stipulates that spousal consent is required when taking a mortgage loan by married persons.³⁶

³⁰ Polish Journal of Laws (1993), „Law on family planning, human foetal protection and conditions for allowing termination of pregnancy”

³¹ United States Department of State, 2012 Trafficking in Persons Report - Poland

³² Member state questionnaires for 15th anniversary of Beijing Platform for Action

³³ CIA. <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html>

³⁴ World Bank Development Indicators Database <http://databank.worldbank.org/data/views/reports/tableview.aspx> (accessed 30/04/2014)

³⁵ Legislation Online (Family life)

³⁶ CEDAW (2010)

The law does not discriminate against women's **access to financial services**, such as opening a bank account.³⁷ In principle, banks do not discriminate on the basis of gender when granting credit to its customers.³⁸ According to the 2012 national report submitted to CEDAW, banks grant credit contingent upon the borrower's creditworthiness, irrespective of the borrower's sex. As to mortgage loans taken by married persons, provisions from the Family and Guardianship Code apply, irrespective of sex.³⁹ In 2011, 72.37% of men and 68.29% of women aged 15 years or older hold bank accounts at a formal financial institution.⁴⁰

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The 2009 Poland questionnaire for 15th anniversary of Beijing Platform for Action reported that despite women still struggling in the labour market in terms of career promotion or **wage gap**, more and more women successfully establish their own enterprises, and 1/3 of businesses are run by women.⁴¹ In 2009, Poland was the 6th country among EU countries with a nearly 35 per cent share of women among business owners.⁴²

According to a 2012 study, there are several barriers to the development of **female entrepreneurship** in rural areas and increasing women's participation in the labour market in Poland. These include the lack of flexible working arrangements (i.e. long-distance work), difficulties from poor transportation and road infrastructure, and inadequate social infrastructure, such as relating to the care of the elderly.⁴³

5. Restricted civil liberties

Both women and men enjoy the same rights in terms of **access to public space**. Women have the same rights as men to freely apply for a passport, travel outside the country⁴⁴ and confer their citizenship to their children (see article 14 of the Act on Polish Citizenship⁴⁵). Freedom of association and assembly are guaranteed by the 1997 Polish Constitution.⁴⁶

In 2000, there were 70 women's organisations and associations particularly active in the area of women's rights, employment, violence against women, participation in public and political life and issues connected with Poland's accession to the European Union.⁴⁷ The Government Plenipotentiary for the Equal Status of Women and Men regularly cooperated with non-governmental organizations. In 2002, the Plenipotentiary established the Programme and Advisory Board which acted as a permanent consultative and opinion-shaping team. In addition, the Council's role was to ensure mutual communication between the Plenipotentiary and non-governmental organizations and provide financial support. Non-governmental organizations may now apply for support under the 2009-2013 Government

³⁷ Women, Business and the Law (2013)

³⁸ CEDAW (2010)

³⁹ CEDAW (2010)

⁴⁰ The World Bank (2011)

⁴¹ Member state questionnaires for 15th anniversary of Beijing Platform for Action

⁴² CEDAW (2010)

⁴³ Focus Group Konsorcjum Badawcze Albert Terelak (2012)

⁴⁴ Constitution of the Republic of Poland (1997), Art.52

⁴⁵ Polish Citizenship Law

⁴⁶ Legislation Online (Freedom of association)

⁴⁷ CEDAW (2004)

Operational Programme Civic Initiatives Fund, which is financed from the state budget. In addition, since 2009 the Congress of Women (co-organized by the Ministry of Labour and Social Policy) brings together various stakeholders and is a social movement aimed at social and political activism for women in Poland.⁴⁸

The Federation for Women and Family Planning consists of 9 nine member organisations and plays a key role in raising awareness about women's reproductive rights and engaging decision-makers and the general public, mainly through strategic public campaigns, media and advocacy efforts.⁴⁹ There are many women's organisations in Poland that play an active role in promoting gender equality, including 'Feminoteka', KARAT Coalition, and many others.⁵⁰

There are legislated **quotas** for women at the national or sub-national level. As of 2011, women represented 23.7% in the Parliament or *Sejm* (legislated candidate quotas).⁵¹ 22.2% of ministers were women in 2012, compared to an average of 24.9% in other OECD countries.⁵²

Except for some political parties that introduced gender quotas for their candidate lists to national elections in 2001 or 2010, there were no measures aiming at increasing women's political participation in politics until 2011. An electoral gender quota system was adopted in January 2011 for parliamentary and local election and also for elections to the European Parliament: candidate lists should include at least 35% of the representatives of one gender. This law does not include elections for the Senate due to the majoritarian voting system.⁵³

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In respect to **workplace rights**, Article 18 (3a) of the 1974 Labour Code specifies that men and women should be treated equally in terms of establishing and terminating contractual relations, conditions, promotion as well as access to training aimed at upgrading professional qualifications. In addition, both the Labour Code and Polish Constitution set forth the principle of equal pay for men and women, for the work of equal value. However, in practice, women are usually paid less than men. The 1994 Law on Employment and Counteracting Unemployment also contains gender-related anti-discrimination clauses addressing issues such as vacancy information or recruitment of candidates.⁵⁴

Paid **parental leave** was introduced in Poland in 28 May 2013,⁵⁵ when the Polish Parliament unanimously enacted the amendment to the Labour Code provisions related to the personal care of the child after his/her birth. Parents of children born after 31 December 2013 will be entitled to 20 weeks of maternity leave (14 weeks can be used by the mother only), 6 weeks of additional leave (or 8 weeks if

⁴⁸ CEDAW (2010)

⁴⁹ Global Fund for Women

⁵⁰ See list of other meaningful women's NGOs: www.feminoteka.pl ; <http://fundacjamama.pl/> ; KARAT Coalition; <http://www.kongreskobiet.pl/>; <http://www.cpk.org.pl/> ; www.konsola.org.pl; <http://przestrzenkobiet.pl/> ; <http://www.efka.org.pl/>; <https://pl-pl.facebook.com/porozumieniekobiet8marca>

⁵¹ OECD (2014), *Gender, Institutions and Development Database*, <http://stats.oecd.org>

⁵² OECD, *Government at a Glance* (2013)

⁵³ European Parliament (2011)

⁵⁴ Legislation Online (employment)

⁵⁵ Labour Code, law change (2013)

more than one child, see article A182) and 26 weeks of parental leave. Parental leave can be used by either the mother or father of the child. After this amendment, maternity benefits will amount to 100 % during the first 26 weeks and 60 % in the remaining 26 weeks. If the mother has twins, her maternity leave extends from 20 to 31 weeks, if triplets, to 33 weeks (see article 180, paragraph 1). Additional maternity leave can be shared by both parents, according to article 179.

It is important to mention that “parental leave” (*urlop rodzicielski*) is different from childcare leave (*urlop wychowawczy*), which is regulated by Directive 2010/18.⁵⁶ They differ in terms of both monetary and time entitlements. While parental leave is paid and must be taken right after maternity leave, childcare leave is not paid, but can be taken at any time from the moment the child is born and up to his/her 5 years. Parents can decide to take childcare in 5 separate times within the 36 months bracket, whereas parental leave can be taken in 3 times within the 26 weeks bracket and each time must be at least 8 weeks.⁵⁷

⁵⁶ The European Labour Law Network

⁵⁷ Ministerstwo Pracy i Polityki Społecznej (2013)

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