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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## Visit to Poland

### Report of the Working Group on the issue of discrimination against women in law and in practice\*, \*\*

#### *Summary*

The Working Group on the issue of discrimination against women in law and in practice conducted a visit to Poland from 3 to 13 December 2018. In the present report, the Working Group assesses the situation regarding the human rights of women in the country, noting achievements and challenges. It examines the country's legal, institutional and policy framework for promoting gender equality and the participation and empowerment of women in family, economic, social, political and public life, paying particular attention to women who experience intersecting forms of discrimination. The Working Group also makes recommendations for further progress in eliminating discrimination and promoting equality.

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\* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only.

\*\* The present report was submitted late in order to reflect the latest information received.



## Annex

### **Report of the Working Group on the issue of discrimination against women in law and in practice on its visit to Poland**

#### **I. Introduction**

1. The experts of the Working Group on discrimination against women in law and in practice, Ivana Radačić and Melissa Upreti, visited Poland from 3 to 13 December 2018 at the invitation of the Government. In accordance with the mandate of the Working Group, the objective was to gain first-hand understanding of issues related to eliminating discrimination against women in law and in practice, including efforts made, remaining challenges and promising practices. The Working Group expresses its appreciation to the Government for its cooperation before and during the visit.

2. The experts met with a broad range of central and local authorities and with representatives of women's organizations and women's rights experts in Warsaw, Łódź, Gdańsk and Kraków. In Warsaw, the Working Group met with representatives from the Ministry of Foreign Affairs, the Ministry of Health, the Ministry of Family, Labour and Social Policy and the National Labour Inspectorate, the Ministry of Science and Higher Education, the Ministry of National Education, the Ministry of Justice, the National Public Prosecutor's Office, the Prison Service, the Ministry of the Interior and Administration, the National Police, the Office for Foreigners, the Border Guard, the Government Plenipotentiary for Civil Society and Equal Treatment, the Government Plenipotentiary for the Rights of Persons with Disabilities, the Commissioner for Patients' Rights, the Office of the National Broadcasting Council, judges from the Constitutional Tribunal and the Supreme Court, and members of parliament. The Working Group also met with the Commissioner for Human Rights, civil society organizations working on women's rights, scholars and representatives of the United Nations. In Łódź, Gdańsk and Kraków, the Working Group held meetings with municipal authorities and representatives of municipal councils for equal treatment. The experts also visited a prison in Grudziądz and a high school in Kraków. The Working Group expresses its appreciation to all its interlocutors for their engagement and valuable input.

#### **II. Context**

3. The political transition of Poland from over four decades of State socialism to a democratic system in 1989 was followed by serious economic challenges. Stabilization of the economy was the primary task of the first Governments, and gender equality was not prioritized on the political agenda. The rise in traditional values regarding the role of women in society, as well as the rising influence of the Catholic Church, which was widely regarded as playing a key role in the pursuit of democracy, has been reported post-transition.<sup>1</sup> Conversely, the accession of Poland to the European Union in 2004 has led to the introduction of legislative, policy and institutional reforms on gender equality and the active participation of women's organizations in promoting equal opportunities.<sup>2</sup>

4. The visit of the Working Group took place at the time when Poland was celebrating 100 years of independence and women's suffrage, Poland being one of the first countries in the world to have granted this right to women. The important role women have played in the country's history and their contributions to many fields, including labour and science, were being highlighted and celebrated nationwide. At the same time, women's place in

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<sup>1</sup> John Feffer, "Church and State in Poland", Huffpost, 18 May 2016.

<sup>2</sup> European Parliament, Directorate-General for Internal Policies, "The policy on gender equality in Poland", 2011.

society was being debated in increasingly polarized discussions. Many interlocutors pointed out that Poland was at a critical moment of deciding about women's role in society. They expressed concerns that the rise of conservatism and the political influence of the Catholic Church had put into question some of the gains women had fought for, particularly in relation to reproductive rights. At the same time, the backlash concerning women's human rights has generated renewed energy in the women's movement across the country, with increasing activism among young women and at the grassroots level. Women's rights activists have become more determined, united and visible through their continuous protests against the attempts to roll back their rights.

### **III. Legal, policy and institutional frameworks**

#### **A. Ratification of international instruments and cooperation with international human rights mechanisms**

5. Poland has a good record of ratification of international human rights treaties and has shown a strong commitment to cooperate with United Nations human rights mechanisms, evidenced by its engagement with the treaty bodies and the universal periodic review, as well as its standing invitation to the special procedure mandate holders of the Human Rights Council. Poland has ratified seven of the nine core treaties, including the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). It has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights or the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

#### **B. Constitutional, legal and policy framework**

6. The 1997 Constitution of Poland guarantees equality in law of all persons and prohibits discrimination against anyone (art. 32). In addition, it guarantees men and women equal rights in family, political, social and economic life, in particular regarding education, employment and promotion, and the right to equal compensation for work of similar value, to social security, to hold office, and to receive public honours and decorations (art. 33). Limitation of rights on the basis of, inter alia, gender, is prohibited (art. 233(2)).

7. In 2010, Poland adopted the Act on the Implementation of Certain European Union Regulations in the Field of Equal Treatment (the Act on Equal Treatment), in an effort to bring its legal framework into line with the European Union acquis. The Act prohibits discrimination on the ground of sex (including direct and indirect discrimination, harassment and sexual harassment) in addition to nine other grounds. While it covers a wide range of areas, the scope of protection differs for the various grounds. Unequal treatment on the basis of sex is prohibited in areas such as access to vocational training, employment and the performance of a business or professional activity, activities in trade unions, employers' organizations and governing bodies of professional organizations, access to and conditions on the use of labour market instruments and services, social security, and access to services, but it is not prohibited in the areas of health care or access to education and higher education, which are of great relevance for women's equality. The Act does not specifically deal with intersectional discrimination. Moreover, very few cases have been litigated on the basis of the Act, and the Commissioner for Human Rights is of the opinion that the number of cases is disproportionate to the scale of discrimination in the country.

8. There are other legislative acts that are relevant for women's rights, including: the Labour Code; the Civil Code; the Criminal Code; the Family and Guardianship Code; the Act on the Prevention of Violence in the Family; the Act on Employment Promotion and

Labour Market Institutions; the Act on Mental Health Protection; the Act on Family Planning, Protection of the Foetus and Conditions for the Admissibility of Abortion; the Act on Social Assistance; the Act on the Education System; and the Act on Health-Care Services.

9. At present, Poland does not have a national strategy or plan for gender equality and women's empowerment. The evaluation of the former National Action Plan for Equal Treatment (2013–2016) has still not been published. The absence, after more than two years, of a new plan with the appropriate accompanying budget allocations is indicative of the current lack of focus on gender equality.

10. Conversely, the National Action Plan on Women, Peace and Security 2018–2021, which builds on the country's long-standing support for an international woman, peace and security agenda, was adopted in October 2018. Among other things, it aims to strengthen the position of women in uniformed services, increase the number of women heads of diplomatic missions and those serving abroad, provide training for mission staff on women's rights and support victims of conflict-related violence who may apply for international protection in Poland.

### C. Institutional framework

11. Poland does not have a dedicated institution focusing on women's empowerment and gender equality. Rather, the Government Plenipotentiary for Civil Society and Equal Treatment is responsible for promoting and enhancing equal treatment. The institution has undergone various structural changes, and equality issues are currently delegated to a small unit with a small budget. Moreover, there is no separate budget for activities to promote gender equality. The Government Plenipotentiary informed the experts that gender equality was only a narrow aspect of its work and that its mandate did not cover issues related to abortion and homosexuality. The Working Group notes the assessment by the Committee on the Elimination of All Forms of Discrimination against Women that Poland has failed to implement the Committee's recommendation on strengthening the mandate and authority of the Government Plenipotentiary for Civil Society and Equal Treatment.<sup>3</sup>

12. Plenipotentiaries for equal treatment in *voivodeship* (regions) and coordinators for gender equality in ministries are officially in place, but, according to some interlocutors, they are not active in practice, their expertise varies, and their coordination should be improved.

13. The Commissioner for Human Rights, as a long-standing independent human rights institution, is the designated equal treatment body pursuant to the 2010 Act on Equal Treatment, together with the Government Plenipotentiary for Civil Society and Equal Treatment. In 2015, the Deputy Human Rights Commissioner for Equal Treatment was appointed and the Equal Treatment Team established. The Office of the Commissioner for Human Rights has been very active in promoting and protecting women's rights and has gained international recognition. However, it is confronted with serious challenges of inadequate resources, as well as insufficient cooperation from some relevant governmental bodies. Moreover, it is facing increasing attacks, including by some politicians, which is of serious concern.

14. Some local authorities have developed their own models for equal treatment. Of particular note is the model in Gdańsk, which includes the grounds of sex, age, ethnic and national origin, religion or worldview, disability and sexual orientation and was developed through a broad consultation process. The Working Group considers this model to be a good practice that could be replicated by other municipalities and is concerned that it has been challenged by the regional governor. Local governments are also increasing funding

<sup>3</sup> Letter of the Rapporteur on follow-up of the Committee on the Elimination of All Forms of Discrimination against Women dated 13 April 2018, available at [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/POL/INT\\_CEDAW\\_FUL\\_POL\\_30901\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/POL/INT_CEDAW_FUL_POL_30901_E.pdf).

for women's organizations and covering areas such as sexuality education and women's reproductive health. However, the Working Group learned that there is considerable disparity in terms of local governments' engagement in gender equality across the different regions of the country.

15. The Working Group stresses that gender equality and women's empowerment need to be addressed in a comprehensive manner both as a stand-alone goal and as cross-cutting concepts across all other development goals. The limited understanding of equality as equal treatment and the lack of explicit focus on addressing women's disadvantage in society undermine the potential for developing targeted gender equality measures. Therefore, the legal, policy and institutional framework should be strengthened, and particular attention should be paid to women who experience multiple and intersecting forms of discrimination, such as minority and migrant women, particularly Roma, women with disabilities, rural women, sex workers and lesbian, bisexual, transgender and intersex women.

## **IV. Political and public life**

### **A. Political participation and representation in public institutions**

16. The Working Group welcomes the improvements in the political representation of women resulting from the adoption of the Electoral Code in 2011, which requires that at least 35 per cent of candidates of either sex are represented in political party lists in proportional elections at the European, national and local levels. Significantly, the Act contains enforcement measures, namely, electoral lists not meeting the requirement will not be registered.

17. The most recent local elections in October 2018 saw progress in women's representation, from 24 per cent in 2010 to 30 per cent in 2018. However, progress in parliament has been more limited. While there was a significant increase in women candidates (from 23 per cent in 2007 to 42 per cent in 2011 and 2015), this only led to a 4 per cent increase in membership of the Sejm (the lower chamber of parliament) in each of the two elections, partly due to the generally low places women candidates occupied in the list.<sup>4</sup> Poland ranks fifty-fifth out of 193 countries for women's representation in the national parliament, which stands close to the regional average in Europe (28.6 per cent) and above the world average (24.3 per cent).<sup>5</sup>

18. The Act, however, does not apply to elections to the Senate, which are run on the basis of single-member constituencies. Currently, only 14 per cent of senators are women, which is significantly below the world average of 24.1 per cent and the regional average of 27.2 per cent.<sup>6</sup> While Poland has great potential to lead the world in women's political representation, in view of its long history of women's participation in political and public life, women do not yet fully occupy their rightful place at the highest level of political representation.

19. At 69.7 per cent, women are systematically well represented in the public administration and institutions across sectors, with the exception of the Foreign Service. According to data provided by the Government, an overwhelming majority of supporting positions are occupied by women, though women also occupy half of the senior positions.

20. Currently, there are 6 women cabinet members out of 23. In the Foreign Service, the number of women in senior positions has gradually increased, though it is still much lower in comparison with men (e.g., only 29.3 per cent of heads of missions are women). In the judiciary, women are well represented, including as presidents of the courts. However, at the most senior level, their representation drops significantly. The current Constitutional

<sup>4</sup> Women's representation increased from 20.4 per cent in 2007 to 23.9 per cent in 2011 and 27.1 per cent in 2015.

<sup>5</sup> <http://archive.ipu.org/wmn-e/world.htm>.

<sup>6</sup> Ibid.

Tribunal has 3 women judges out of 15. The Supreme Court has 10–25 per cent women in its various chambers.

21. During the visit, it was widely acknowledged that women faced social and cultural barriers preventing them from occupying the most senior-level positions in the political life of the country. In this respect, the initiatives taken by NGOs aimed at encouraging women to be interested and equipped as candidates are welcome, and they need to be complemented by further legal and policy measures by the Government. The 2015 proposal introducing an alternating zipper system for electoral lists put forward in order to enhance the chance of women being elected has been met with strong resistance and is currently stalled. Views were expressed during the visit, including by the Government Plenipotentiary for Civil Society and Equal Treatment, that adoption of such measures would be anti-constitutional.

22. The Working Group reiterates that special measures, including quotas for women, as recommended in the Convention on the Elimination of All Forms of Discrimination against Women, are necessary to achieve equality between men and women in political and public life, in order to contend with the underlying structural disadvantaging of women. The Working Group has found that the most significant increase in the number of women in national parliaments over the years had been witnessed in countries where special measures, such as gender quotas, had been effectively implemented (see A/HRC/23/50).

## **B. Women human rights defenders**

23. Women's rights organizations have been a key part of the vibrant civil society in Poland and have an essential role to play in the country's effort to eliminate discrimination against women and ensure the empowerment of women. They have cooperated with State authorities and assumed essential public functions in a range of areas, conducting sexuality education and providing support to victims/survivors of gender-based violence.

24. The Working Group is concerned that their capacity to operate is being undermined, with cuts in State funding and an increasingly intimidating atmosphere. The simultaneous search of premises and seizure of computer hard drives containing sensitive information of four women's rights organizations (and some others), in connection with proceedings regarding the abuse of authority by a public officer, a day after the "black protests" in October 2017 in which the leaders of the organizations had actively participated, has left a lingering effect of fear and uncertainty.

25. The Working Group learned of the trend in recent years of excluding women's rights groups from State funding, while preference seems to be given to organizations affiliated with the Church, often with a conservative agenda. Although the selection is through an open competition, as submitted by the Government, numerous interlocutors pointed out that feminist organizations today have little chance of receiving State funding. Indeed, several well-established NGOs with a proven record in providing services for women victims/survivors of domestic violence and training on gender equality in schools have experienced funding cuts since 2016. Some of them received the explanation that providing support only to women violated the gender equality principle, as it discriminated against men. This demonstrates a profound lack of understanding of the concept of substantive gender equality, which requires the adoption of targeted measures to challenge women's disadvantage.

26. The Working Group further echoes the concerns expressed by civil society organizations, the Commissioner for Human Rights and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe regarding the recent establishment of the National Freedom Institute – Centre for the Development of Civil Society as the sole institution with the power to distribute public funds among non-governmental organizations. The centralization of government funds for public organizations in the control of a single entity could have a negative impact on the functioning of civil society.

27. Throughout the visit, the Working Group heard from various interlocutors about the disabling impact of the funding cuts on the ground. In this context, the experts were particularly pleased to learn that local councils in several cities were stepping up their efforts to fill in some of the gaps caused by the cuts in State funding. The experts were also pleased to note the positive spirit of solidarity among women's organizations in working together and supporting each other. The existence of funds established by a feminist group also plays an important role in filling the gap, while its informal flexible working methods make it accessible to grassroots women in small towns and rural areas.

28. The valuable knowledge and experiences of women's rights organizations should not be dismissed. Not only should they receive the appropriate funding, their voices must be heard in the formulation of government policies and strategies. International and regional support should also prioritize women's rights organizations in the current context of the shrinking space for civil society organizations.

## V. Economic and social life

### A. Women's participation in the labour force and economic leadership

29. The Labour Code provides for protection against discrimination on the ground of gender, among others. Employees who have been discriminated against have the right to sue for compensation for material as well as non-material damage in the areas of establishing and terminating employment relationships, employment conditions, promotion at work and access to training for the purpose of raising professional qualifications. The 2010 Act on Equal Treatment widens this protection and covers any other form of employment, such as civil law contracts, self-employment and independent professions, and covers all grounds.<sup>7</sup> Further amendments to the Labour Code have been introduced regarding the protection of women's health during pregnancy, the extension of maternity and paternity leaves and flexible working time arrangements.

30. Women have strong participation in the labour force in Poland. Throughout history, women have contributed significantly to the country's economy and development while standing up for the rights and dignity of all workers. Stories of the 5,000 women workers of the Gdańsk Shipyard, which the experts visited during the mission, are a humbling example. Still, disparities in labour force participation between women and men persist. Women's labour force participation currently stands at 48.4 per cent, as compared with 65.2 per cent for men.<sup>8</sup> It drops significantly for women with young children, older women, women with disabilities, Roma women and women in rural areas. For instance, 13.1 per cent of women with disabilities were active in the labour market according to the 2011 National Census.<sup>9</sup> A labour force survey conducted by the Government in the second quarter of 2018 shows that, although unemployment rates for women and men are identical (4.9 per cent), women's employment rate at 46.1 per cent is significantly lower than the 62 per cent for men.<sup>10</sup> Furthermore, there are twice as many women (10.8 per cent) in part-time jobs than men (4.7 per cent). Among those not working full-time, the majority who want to work full-time are women. For some groups of women, the employment rate is much lower, for example, 35.5 per cent in the case of older women 55 to 64 years of age, as compared with 54.2 per cent for men in the same age group.<sup>11</sup>

<sup>7</sup> European Commission, European Network of Legal Experts in Gender Equality and Non-Discrimination, *Poland Country Report: Non-Discrimination*, 2018.

<sup>8</sup> [www.ilo.org/ilostat/](http://www.ilo.org/ilostat/).

<sup>9</sup> Study on Discrimination and Access to Employment for Female Workers with Disabilities, Case Study: POLAND, European Parliament, March 2017.

<sup>10</sup> [www.ilo.org/ilostat/](http://www.ilo.org/ilostat/).

<sup>11</sup> European Commission, "European Semester Thematic Factsheet: Adequacy and Sustainability of Pensions", November 2016.

31. The gender pay gap in Poland stands at 7.2 per cent, which is below the European Union average of 16 per cent.<sup>12</sup> The gap is particularly high in the private sector. The Working Group acknowledges the Government's recent efforts, in line with the recommendation of the Committee on the Elimination of Discrimination against Women, to address the problem through the development of a new "Equal Pay" computer application to enable private businesses to assess their gender pay gap. The Working Group considers this to be a good practice. However, further work is required. Horizontal and vertical occupational segregation, including the undervaluation of women's work in highly feminized occupations or enterprises, should be examined. As explained by ILO, not only are gender pay gaps rooted in well-entrenched stereotypes, they also represent a summary indicator that captures many disadvantages faced by girls and women both within and outside the labour market, thus requiring comprehensive, cross-cutting approaches to gender equality to reduce the gender pay gap.<sup>13</sup>

32. The lowest earnings are in the "feminized professions", such as the garment industry and cashier jobs, thus contributing to a growing phenomenon of working poor women.<sup>14</sup> Furthermore, in these low paying sectors and in the informal economy in general, the working conditions are often exploitative, and the legal protection is weaker or non-existent, as is the case with domestic workers, many of whom are migrant women from Ukraine. This appears to be an understudied phenomenon and requires further attention by the Government to prevent the exploitation of unprotected workers and ensure access to basic services and labour and social protection.

33. These factors in women's labour force participation, such as lower pay, higher numbers of part-time workers and shorter working careers, have implications for women's financial independence in the short and long term and their retirement benefits. The majority of women collect a much lower level of retirement benefits than men. The gender pension gap stands at 23 per cent.<sup>15</sup> According to a survey, only 39 per cent of Roma women in comparison to 56 per cent of Roma men have or expect pension entitlements.<sup>16</sup> The different retirement age for men and women, standing at 65 years and 60 years respectively, is a factor leading to reduced old-age pensions for women, and the European Commission has recommended equalizing the retirement age for women and men.<sup>17</sup>

34. The Working Group welcomes the fact that the proportion of women managers in Poland (36 per cent) is one of the highest among Organization for Economic Cooperation and Development (OECD) countries (the average is 32 per cent). However, at 7 per cent, the proportion of women on boards is below the OECD average of 10 per cent.<sup>18</sup> The Working Group is also pleased to learn that the Government has introduced temporary special measures to achieve equal participation of women in the supervisory boards of State-owned companies. The 30 per cent quota has already been met, and a 35 per cent quota is set for 2020. The Working Group encourages the adoption of measures for publicly listed companies. This would place Poland in a leading position in this field, as one of the few countries that have adopted effective temporary special measures specifically directed

<sup>12</sup> In the context of the European Union, the unadjusted gender pay gap is defined as the difference between the average gross hourly earnings of men and women expressed as a percentage of the average gross hourly earnings of men. It is calculated for enterprises with 10 or more employees. See [https://ec.europa.eu/eurostat/statistics-explained/index.php/Gender\\_pay\\_gap\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php/Gender_pay_gap_statistics).

<sup>13</sup> International Labour Organization, *Global Wage Report 2018/19: What Lies Behind Gender Pay Gaps*.

<sup>14</sup> KARAT Coalition, *Alternative report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women*, February 2014.

<sup>15</sup> European Commission, "European Semester Thematic Factsheet: Adequacy and Sustainability of Pensions", November 2016.

<sup>16</sup> European Union Agency for Fundamental Rights, "Analysis of FRA Roma Survey Results by Gender", 2013.

<sup>17</sup> European Commission, "White Paper: An Agenda for Adequate, Safe and Sustainable Pensions", 2012.

<sup>18</sup> Organization for Economic Cooperation and Development (OECD), "Closing the Gender Gap: Act Now: Poland". Available at [www.oecd.org/gender/Closing%20the%20Gender%20Gap%20-%20Poland%20FINAL.pdf](http://www.oecd.org/gender/Closing%20the%20Gender%20Gap%20-%20Poland%20FINAL.pdf).



at accelerating de facto equality for women in corporate leadership, entrepreneurship and trade.

## B. Education

35. The Constitution provides for free and compulsory education up to the age of 18 years, and discrimination in education is prohibited under the 2016 Law on School Education. In recent years, the Government has been undertaking reforms of national curricula for basic compulsory education, including measures to advance equal opportunities for women and men.

36. Girls have achieved a high educational attainment at all levels, particularly at the tertiary level. According to OECD, 54 per cent of women and 34 per cent of men complete tertiary education. Fifty-five per cent of new entrants into doctoral programmes in Poland are women, one of the highest rates across OECD countries. However, women represent a minority among academic staff in higher education institutions. Furthermore, only 39 per cent of graduates in vocational education and training are female, compared with the OECD average of 46 per cent.<sup>19</sup>

37. In addition, Roma girls are at a disadvantage in the education system. Not only do challenges to secure non-discriminatory education for Roma children persist, as there are still attempts to place them in special schools on the ground of their insufficient knowledge of Polish,<sup>20</sup> Roma girls are more likely than Roma boys to stop school before 16 years of age.<sup>21</sup>

38. Human rights education is not a compulsory stand-alone subject. At the primary and secondary school levels, this type of content may be conveyed during the teaching of other subjects, but the topics of gender equality and gender stereotypes are largely left out of the core curriculum, according to the Commissioner for Human Rights. Non-discrimination and gender equality do not seem to be part of the values underpinning the core curriculum, which include generosity, cooperation, solidarity, altruism and the building of social relations. These topics have been taught only in interested schools through cooperation with human rights NGOs, after obtaining the consent of the school's headmaster and the parents' council. However, such cooperation has become increasingly difficult, due to the pressure put on the schools by various actors. For example, many interlocutors mentioned the cancellation of the "Rainbow Friday" event, an important initiative undertaken by various schools to address homophobia, in the light of the pressure they were facing from ultraconservative groups, which were sometimes supported by the authorities. In this context, some municipalities such as Gdańsk have developed their own human rights education programmes.

39. The Working Group learned about the problems with sexuality education, which is indispensable for the practical realization of women's and girls' sexual and reproductive rights. According to information from the Government, sexuality education has always been a part of general education and is included in the subjects of science, biology and social studies. There is also an optional "Education for Family Life" course. However, as the title suggests, the focus of this course is on preparation for heterosexual marriage and women's traditional roles in the family, while important dimensions of reproductive and sexual health and autonomy seem not to be addressed. According to some interlocutors, the teaching of the subject is frequently infused with references to Catholic religious doctrine and raises questions about its consistency with the current state of scientific knowledge and respect for the principle of gender equality.

<sup>19</sup> OECD, *Education at a Glance: OECD Indicators 2018, Poland Country Note*.

<sup>20</sup> Information provided by the Commissioner for Human Rights to the Committee on Economic, Social and Cultural Rights in September 2016.

<sup>21</sup> European Union Agency for Fundamental Rights, "Analysis of FRA Roma Survey Results by Gender", 2013.

40. Sexuality education, together with human rights education, is indispensable for addressing the problem of gender-based violence, including harassment and sexual harassment. There is no law regulating harassment based on gender or sexual harassment in education institutions, as the Act on Equal Treatment does not cover this area. While the Working Group received no data regarding the extent of the problem in primary and secondary education, a study from the Commissioner for Human Rights indicates that many female university students have experienced some form of harassment or sexual harassment during their studies, often by university employees. The Working Group learned that shame and stigma attached to sexual harassment and situations of domestic violence often make it difficult for students to come forward.

41. Furthermore, threats to freedom of expression in education institutions and to academic freedom have been reported, which is a trend observed in many countries recently. The Working Group has received information that some teachers who participated in the “black protests” were disciplined. Moreover, the Working Group learned that funding for gender studies research, for which Poland has been known in the region, is becoming more restrictive, while gender studies scholars report facing a more hostile environment.

## **VI. Health**

42. The Constitution provides for universal health care for the citizens of Poland, while the 2004 Act Concerning the Public Funding of Health Care extends the coverage to those granted refugee status or subsidiary protection in Poland. According to the same Act, care for pregnant women and girls during childbirth and confinement is financed through public funds, as are specialist obstetric-gynaecological health-care services for women and gynaecological services for girls.

43. The Working Group acknowledges that the Government has in recent years adopted several measures aimed at protecting women’s health needs, particularly those related to maternal health care, including the recent adoption of standards on perinatal health care, the issuance of recommendations for reducing the number of caesarean sections, and the introduction of a programme to coordinate care for pregnant women. In addition, the Government has developed the Strategy for Persons with Disabilities 2018–2030, which should, *inter alia*, improve access for women with disabilities to medical facilities, and has started implementation of the Accessibility Plus for Health programme. The 2016 Act on Support for Pregnant Women and Families (“For Life”) provides for support for women with a prenatal diagnosis of severe defects of the foetus in relation to pregnancy, prenatal diagnostics and therapy as well as palliative and hospice care.

44. However, certain challenges remain in securing women’s right to health, particularly for women facing multiple and intersecting forms of discrimination. The Working Group learned that in certain places rural women still faced obstacles in their access to health services and health-care providers such as gynaecologists, for example due to geographical distance, and that women with disabilities, Roma women, sex workers and lesbian, bisexual, transgender and intersex women have limited access to health services that are tailored to their needs. Access to health services is particularly difficult for migrants in irregular situations, who constitute the majority of sex workers, according to interlocutors.

45. Moreover, notwithstanding the effort to improve the quality of care and women’s experience during childbirth, the Working Group learned of cases of negligence, mistreatment and various types of abuse experienced by pregnant women in health facilities. In addition, infertility treatment in the form of *in vitro* fertilization is no longer being funded by the State. The Working Group was informed of challenges to meeting the health needs of women and children with disabilities and ensuring their full integration into society. In addition, women’s right to reproductive self-determination (i.e., the right to decide whether or not to have children and to determine the number, timing and spacing of children, as well as to have the information and means to do so) is seriously restricted.

## A. Affordable modern contraception

46. While the Government subsidizes some contraceptives, NGO interlocutors noted that modern contraceptives and related information and services were not readily available to many women because of costs, lack of information, geographic location and legal status. It is reported that women have to pay full price for the vast majority of hormonal contraception, the costs of which are too high for many women.<sup>22</sup> Adolescent girls face additional barriers in accessing contraceptives, as they require parental consent.

47. Furthermore, emergency contraceptive pills, which were previously available over the counter, can now only be obtained with a doctor's prescription. Considering the circumstances in which emergency contraceptive pills are typically used, this requirement poses a significant barrier and defeats the very purpose of their use. Not only does it take time to be seen by a doctor, it has been reported that many doctors refuse to prescribe the pills, claiming conscientious objection. Moreover, some pharmacists have started to invoke the conscientious objection clause to refuse the sale of emergency contraceptives, even though this is illegal. Emergency contraception and antiretroviral drugs or related information are not provided to women victims/survivors of sexual violence at police stations.

48. Women cannot voluntarily choose surgical sterilization unless there are medical indications established by a doctor, such as that pregnancy would constitute a threat to life. This is not consistent with the State's obligation to provide access to a full range of contraceptive methods. Conversely, there have been reports of women with intellectual and psychosocial disabilities living in institutions being sterilized.<sup>23</sup> These allegations require investigation.

## B. Voluntary termination of pregnancy

49. The 1993 Act on Family Planning, Protection of the Foetus and Conditions for the Admissibility of Abortion brought an end to decades of liberalization of the law whereby abortion was allowed on request. The 1993 law, often referred to as one of Europe's most restrictive abortion laws, permits termination of pregnancy in three circumstances only: (1) when the pregnancy threatens the life or health of the pregnant woman; (2) when prenatal tests or other medical circumstances indicate the high probability of severe and irreversible impairment of the foetus or an incurable disease threatening its life; and (3) when there is a reasonable suspicion that the pregnancy arose as a result of a prohibited act. The first two circumstances need to be established by a doctor and the third one by a public prosecutor. A minor or a fully incapacitated woman will need to have the consent of her legal representative, and of a custody court if she is under 13 years of age. Moreover, some hospitals impose additional requirements such as the opinions of at least two specialist physicians, or a special council, or the head of the hospital maternity ward, which leads to a prolonged waiting period resulting in restricted access to the medical procedure guaranteed by law.

50. In addition, the mechanism for resolving disagreements between doctors and pregnant women in cases of risk to the health of the pregnant woman or the foetus, namely the Patients' Ombudsperson appeal procedure, is not effective, as considered by the Committee of Ministers of the Council of Europe.<sup>24</sup> Not only does the 30-day time limit on such a time-sensitive procedure represent a barrier to timely access, only four complaints have been received under the procedure, and all of them were dismissed. Analysis undertaken by the Commissioner for Human Rights has found significant irregularities in the procedure's operation.

<sup>22</sup> KARAT Coalition, *Alternative report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women*, February 2014.

<sup>23</sup> Association of Women with Disabilities ONE.pl and Women Enabled International, *Submission to the Committee on the Rights of Persons with Disabilities for its Review of Poland*, 2018.

<sup>24</sup> CM/Del/Dec(2019)1340/H46-31.

51. Moreover, the regulatory framework on the use of conscientious objection is not effective, as recognized by the European Court of Human Rights judgments.<sup>25</sup> No data is available on the extent of the use of the conscientious objection clause by doctors, who are no longer obliged to provide referrals since the lifting of the requirement by a Constitutional Court ruling in October 2015. It has been reported that in certain areas there are no abortion providers and that there have been attempts to create abortion free zones. According to some interlocutors, frequent use of conscientious objection by doctors is not only based on personal religious convictions but is also due to fear of prosecution and a stigmatizing environment for doctors.

52. As a result of the additional barriers in practice, access to legal abortion is limited. Some women travel abroad for abortion services or opt for illegal abortion in Poland and, in the event of complications, are afraid to seek medical attention in hospitals. The restrictive framework particularly affects women who are socioeconomically disadvantaged and migrant women in irregular situations.

53. In recent years, regulation of abortion has increasingly been a subject of national discussion, with repeated attempts to change the Act. The issue has come under a particularly intense spotlight in the last few years, when citizen-led legislative initiatives seeking to introduce a total ban on abortion and others aimed at liberalization of the law were introduced.

54. The Working Group stresses that restrictive laws on abortion increase maternal mortality and morbidity rates due to unsafe abortions and are not efficient in reducing the rate of abortion, as shown by data from the World Health Organization.<sup>26</sup> The Working Group has previously called for allowing women to terminate their pregnancy on request in the first trimester (see A/HRC/32/44).

## VII. Family and culture

55. As expressed by the Special Rapporteur in the field of cultural rights,<sup>27</sup> the Working Group experts were deeply impressed with the richness and diversity of the Polish culture. At the same time, they observed with concern the current trend of normalizing only certain cultural and family norms and practices that fit the traditional image of the roles of women and men in the family and society.

56. While the concept of a “traditional Polish family” seems to be actively promoted through laws, policies and public discourse, advocates for gender equality are increasingly being characterized as “anti-family” and “anti-Polish”. The concept of “gender ideology” is being pitted against family and culture and used as a political tool to intimidate, undermine and stigmatize women human rights defenders, as well as the whole academic field of gender studies. The Working Group echoes the concerns expressed by the Committee on the Elimination of All Forms of Discrimination against Women and the Special Rapporteur in the field of cultural rights about the absence of measures to counter the campaign by the Catholic Church against “gender ideology” and the reported religious and cultural narratives used to justify discrimination against women.<sup>28</sup>

### A. Gender stereotypes

57. The problem of gender stereotypes is widespread and deep-rooted but generally disregarded, according to various interlocutors. Research has demonstrated how the media, the education system and the public discourse contribute to perpetrating stereotypical roles

<sup>25</sup> *R.R. v. Poland* (No. 4047/07) and *P. and S. v. Poland* (No. 57375/08).

<sup>26</sup> World Health Organization, *Safe Abortion: Technical and Policy Guidance for Health Systems*, 2nd ed., Geneva, 2012.

<sup>27</sup> OHCHR, “Poland: UN expert concerned that erosion of cultural freedom threatens the country’s rich cultural life”, October 2018.

<sup>28</sup> Ibid. and CEDAW/C/POL/CO/7-8.

of women and their implied inferiority.<sup>29</sup> International human rights treaty bodies have repeatedly expressed concerns about the persistence of harmful stereotypes and their adverse impact on the enjoyment by women of their human rights, and particularly the negative stereotypes of Roma women, lesbian, bisexual, transgender and intersex women and women with disabilities (see E/C.12/POL/CO/6 and CEDAW/C/POL/CO/7-8).

58. According to some interlocutors, gender stereotypes associated with feminine and masculine qualities persist in the education system. In the media, men seem to dominate public and political discussions as invited experts and politicians, while women are mostly relegated to shows on fashion or beauty, which reflects and reinforces gender stereotypes, as confirmed by the monitoring and analysis conducted by the National Broadcasting Council. The Working Group was pleased to learn that the Council had intervened in cases of programmes with content that was degrading towards Ukrainian women, as well as content promoting sexual violence.<sup>30</sup> The Working Group encourages the National Broadcasting Council to use the powers entrusted to it by the Broadcast Act of 1992 to the fullest extent, especially with regard to monitoring and issuing corrective measures for non-compliance and undertaking awareness-raising activities.

## B. Family life

59. Marriage, family, motherhood and parenthood are protected under the Constitution, which defines marriage as a union between a woman and a man. While different family forms and intimate relationships exist, same-sex partnerships are not legally recognized, and people in such relationships encounter difficulties under family laws that are based on heterosexual relationships, for example with regard to the exercise of parental authority. Transgender persons face difficulties in having their gender identity legally recognized. Additionally, the parental rights of underage unwed mothers are not recognized, and the right to marry is restricted for persons with intellectual disabilities. Moreover, the practice of separating infants from their underage mothers who are staying in correctional institutions is particularly concerning.<sup>31</sup>

60. The Working Group recognizes that the Government has taken social policy measures to support the family as a value protected under the Constitution. In 2016, for example, it introduced a pronatalist and poverty reduction programme called “Family 500 plus”, which provides cash transfers of 500 zlotys to every second and further child, while provision is means tested for the first child. While this was generally viewed by different interlocutors as a positive measure for reducing poverty, particularly for those in precarious situations, concerns were also expressed regarding possible negative effects on the participation of women in the labour force and their long-term economic security and independence. There were already indications of visible decline in the labour force participation of young women in 2017 and 2018.<sup>32</sup> While the Working Group recognizes the immediate positive impact of the measure, its implementation should not create a shift towards confining women solely to the role of mothers and carers in service of the family at the expense of their participation in the formal economy and in other spheres of public life.

61. The Working Group also notes that Poland has generous legal provisions for maternity, paternity and parental leaves under the labour law. Paid maternity leave lasts for 20 weeks and increases when there is a multiple birth. Paid paternity leave lasts for two weeks. Since 2013, parents of young children have been entitled to paid parental leave of up to 32 or 34 weeks, the first 14 weeks of which are reserved for the mother, while the remainder can be shared by the mother and the father. Additionally, parents are also entitled

<sup>29</sup> KARAT Coalition, *Alternative report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women*, February 2014.

<sup>30</sup> Information provided by the National Broadcasting Council.

<sup>31</sup> Report of the Commissioner for Human Rights on the Activities of the National Mechanism for the Prevention of Torture in Poland, 2017.

<sup>32</sup> European Commission, Country Report Poland 2019, available at [https://ec.europa.eu/info/sites/info/files/file\\_import/2019-european-semester-country-report-poland\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/2019-european-semester-country-report-poland_en.pdf).

to 36 months' unpaid parental leave, only one month of which must be used by both parents and is not transferable. Women who are pregnant or on maternity leave and men who are on paternity leave are protected by the Labour Code against dismissal, and their return to the same or an equivalent job is guaranteed.<sup>33</sup>

62. The guarantee of an independent, paid paternity leave is important for the sharing of parenting roles between women and men and their ability to balance their social and professional lives. However, mothers are the predominant users of leave entitlements; less than 3 per cent of fathers take parental leave.<sup>34</sup> The individual entitlement to a greater portion of the parental leave, which cannot be transferred, could be a way of encouraging fathers to take more parental leave and assume more childcare functions.

63. The Working Group has learned that there is mounting pressure on women to prioritize the traditional roles of mother and caregiver, in a context where there is already an unequal division of care and household tasks in the family. This often results in women holding disadvantaged positions in other spheres of life, including the economic, public and political spheres. Women in Poland spend on average almost two and a half hours more per day on unpaid work than men do. More than half of parents have a traditional view of women's role in paid and unpaid work, implying that women should be prepared to reduce their labour force participation for care commitments.<sup>35</sup> Indeed, the study by the Human Rights Commissioner points to the widely held stereotypes in Polish society concerning women's and men's professional and familial responsibilities. The respondents' statements indicate that there is a deep-rooted belief that it is women's duty to be fully engaged in the care of children, while it would be "unmasculine" for men to take a break from employment to assume parental duties.

64. The Working Group welcomes the efforts of the Government to increase the availability of childcare facilities, especially for children below 3 years of age. The adoption of the 2011 Act on Care for Children up to the Age of Three, which provides the legal framework concerning various forms of care for children aged 3 years and under, has raised the number of childcare facilities from 500 to 5,000 according to information received during the visit. However, despite the steady increase over the years of the percentage of children in formal childcare, from 5 per cent in 2013 to 11.6 per cent in 2017,<sup>36</sup> the rate is still much lower than the European Union target of 33 per cent, with important regional disparities. Childcare facilities are particularly inaccessible in rural areas. The situation is classified as "critical" in the European Union Social Scoreboard.<sup>37</sup> Furthermore, childcare is costly, representing more than 20 per cent of net family income for a couple with median earnings. The situation is even worse for low-income families.<sup>38</sup> The increase in funding for the Baby Care Plus programme, which gives financial support to municipalities and individuals to set up childcare facilities, is a positive step.

## VIII. Gender-based violence against women

65. The Working Group recognizes that Poland has been taking measures to prevent and combat violence against women. The ratification by Poland in 2015 of the Istanbul Convention, the first European legally binding instrument providing a comprehensive prevention, protection, prosecution and support framework, signalled the country's strong commitment to combating gender-based violence against women. However, political and public discourse during the process leading to the signing and ratification of the Convention exposed misunderstandings about the phenomenon of gender-based violence, including

<sup>33</sup> European Gender Network, Gender Equality, 2018.

<sup>34</sup> OECD country report.

<sup>35</sup> Ibid.

<sup>36</sup> European Commission, Country Report Poland 2019, available at [https://ec.europa.eu/info/sites/info/files/file\\_import/2019-european-semester-country-report-poland\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/2019-european-semester-country-report-poland_en.pdf).

<sup>37</sup> Ibid.

<sup>38</sup> European Commission, "European Semester Thematic Factsheet: Women in the Labour Market".

about the concept of gender and about the fact that women were regarded as the main victims of domestic violence. Opponents labelled the content of the Convention as the “gender ideology”, and there were attempts to withdraw from the Convention, including institutional preparatory initiatives for the renouncement. The Working Group was pleased to be reassured by the Ministry of Justice during the visit that there was no plan for withdrawal.

66. The Working Group was pleased to learn of the various measures taken since the adoption of the Convention and its application to asylum procedure cases. Indeed, the Working Group recognizes the continuous efforts to establish and improve the legal and programmatic framework for combating violence against women, noting that the Government has so far prioritized family violence. Violence against women in other spheres of life, including sexual harassment in schools, institutions of higher education and other public spaces, as well as cyberviolence, are mostly left out of the current framework.

67. The Working Group was informed of the positive changes in attitudes among law enforcement personnel and judicial actors and of various training courses. Notwithstanding these commendable efforts, more remains to be done to overcome gender stereotypes in the justice system. Furthermore, there is a need to review the content of the training programmes to ensure greater understanding of women’s barriers to accessing justice at the legal, institutional, structural, socioeconomic and cultural levels, including discriminatory or insensitive legal provisions, the persistence of gender stereotypes, women’s economic dependence and responsibility for children, and gender bias in the system.

68. It is also important to systematically collect disaggregated statistical data at regular intervals in order to study the root causes and effects, incidences and conviction rates, and the efficacy of measures taken to combat violence against women. This should include data on women in vulnerable situations, such as older women, women with disabilities, migrant women and minority women (particularly Roma). Such data would serve as the basis for adopting and implementing targeted policies for addressing the problems these women face, including securing effective access to justice and access to specialized support centres and places of safe refuge.

## A. Domestic violence

69. The Working Group observed that the Istanbul Convention’s recognition of women as the main victims of domestic violence is also supported by the Government’s statistics disaggregated by gender, which indicate that the overwhelming majority of the victims of domestic violence in Poland are women and children, 67 per cent and 22 per cent respectively, while men predominate among the perpetrators (92 per cent of all perpetrators).<sup>39</sup>

70. The 2005 Act on the Prevention of Violence in the Family, with further amendments made in 2010, and the Programme to Combat Family Violence 2014–2020, provide a comprehensive framework for the prevention of family violence and protection of and assistance to the victims/survivors, including legal, medical and psychological support, crisis intervention, provision of shelters and assistance in finding accommodation, as well as the possibility of isolating the perpetrator from the common dwelling. They also provide for correctional and educational measures for the perpetrator and professional training for those involved in dealing with domestic violence. Local authorities are also required to assume certain responsibilities to counteract domestic violence and protect victims.

71. The Act, however, does not fully reflect the gendered nature of family violence and is not yet fully compliant with the Istanbul Convention in terms of the scope of the protected persons and the types of violence covered. The Act defines the protected person as a family member, understood as the nearest relative within the understanding of article

<sup>39</sup> Data from 2017 collected by the Ministry of Family, Labour and Social Policy.

115 (11) of the Criminal Code,<sup>40</sup> and those sharing a residence or household, while article 3 of the Convention includes former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. Furthermore, the Act currently does not include protection against economic violence as required under the same article of the Convention.

72. The Act institutes the “Blue Card” procedure, which involves a multidisciplinary approach and actions by various relevant bodies, including the police, education institutions, health-care institutions, social assistance and municipal committees. While the integrated multidisciplinary approach is commendable, the experts learned of problems in its implementation, including long delays in the civil proceedings for removing the perpetrator from the family dwelling. The Working Group is pleased to learn from the Ministry of Justice about the action taken to modify the Code of Civil Procedure in order to introduce comprehensive solutions for the quick isolation of the abuser from the victim.

73. Domestic violence is also proscribed in article 207 (1–3) of the Criminal Code under the chapter on offences against the family and guardianship and can be dealt with under other provisions of the Code. In article 275 (a) of the 2010 Code of Criminal Procedure, a precautionary measure was introduced, which allows for ordering the accused of a violent offence against a person sharing the same residence to vacate the premises for a period of no more than three months, extendable for up to three additional months upon request by the prosecutor, if there are reasonable grounds for believing that a violent offence may occur again. The experts learned that there is a low number of successful prosecutions for domestic violence and a high number of conditional sentences.

74. The Working Group commends the allocation of State budget funds for the establishment and maintenance of specialized support centres for victims of domestic violence, including a centre for migrant women. Currently, there are a total of 36 such centres across the country, which provided services to a total of 8,558 people in 2017.<sup>41</sup> Some interlocutors expressed concerns that the number of centres was not adequate, that there was a lack of adequate support services, and that the duration of the provision of accommodation in shelters was limited. The Commissioner for Human Rights has pointed out the inadequacies in the national regulations, including the absence of gender-sensitive references to victims/survivors and inadequate support to those women who are marginalized due to disabilities, old age and migrant status.

75. The Working Group learned that some key women’s rights organizations with a long-standing record of assisting victims/survivors of domestic violence have seen their funding cut in recent years, which might undermine the whole system of protection. The experts appreciate the additional documentation that the Government has submitted after the visit to demonstrate its position that it runs an open and transparent tender process using objective assessment criteria for its Victims’ Aid and Post-penitentiary Aid Fund (the Justice Fund), which makes increasing and significant financial allocations to assist victims, witnesses and their closest relatives.

## **B. Sexual violence**

76. The experts note that the Government has taken measures to improve legislation in the area of sexual violence. The Code of Criminal Procedure was amended to introduce prosecution ex officio of sexual offences and provide for special hearing procedures for victims of sexual violence, aimed at minimizing their revictimization, ensuring the questioning of victims only once throughout the proceedings in a supporting environment with the presence of a psychologist. However, the rules do not specify the time limit, and, according to some interlocutors, the hearing sometimes takes place more than three months after the crime was committed. The delays have a negative impact on both the rights of

<sup>40</sup> Article 115 (11) of the Criminal Code states: “A next of kin is a spouse, an ascendant, descendant, brother or sister, relative by marriage in the same line or degree, a person being an adopted relation, as well as his spouse, and also a person actually living in co-habitation.”

<sup>41</sup> Information provided by the Ministry of Family, Labour and Social Policy.



victims/survivors and the effectiveness of the investigation. The Working Group is pleased to hear that this has been recognized by the Minister of Justice, in response to the recommendations of the Commissioner for Human Rights, and that work has been initiated to secure timely examinations.

77. The Working Group further notes the concerns about the definition of rape, which is defined by specific types of coercion<sup>42</sup> rather than consent, as this can result in some cases being dismissed. Indeed, the percentage of rape cases dismissed by prosecutors seems to be high. Moreover, even though a penalty of from 2 to 12 years' imprisonment is prescribed for rape, 2 years' imprisonment was the most frequently issued sentence in the period 2010–2014.<sup>43</sup>

78. The dismissal of cases of gender-based violence and the often lenient punishment for perpetrators are not conducive to the pursuit of justice and are one of the reasons for the withdrawal of complaints by victims/survivors. Without building the trust of victims/survivors in the system and providing for their security and economic independence, efforts to combat gender-based violence against women cannot be successful.

## IX. Conclusions and recommendations

### A. Conclusions

79. As one of the first countries in the world to grant women the right to vote and to stand for office, Poland has a proud history of an active and vibrant women's movement and women's invaluable contribution to the country's economic, social, cultural and political development. In recent years, in the context of the country's accession to the European Union, it has built a solid legal framework for anti-discrimination. Poland has also taken measures aimed at greater participation of women in political, social and economic life and has been building a legislative framework to effectively address gender-based violence against women. It has also shown a good record of cooperating with international human rights mechanisms and has been promoting a woman, peace and security agenda in national and international contexts.

80. Notwithstanding the efforts employed, the Working Group observed challenges to women's rights. Gender equality does not seem to be a priority for the Government at the moment, as there is no designated State authority on women's rights issues and no national strategies or plans on gender equality and women's empowerment. The understanding of equality seems to be primarily limited to equal treatment in law, while substantive equality requires addressing women's structural disadvantage by undertaking specific targeted actions, including temporary special measures, and addressing gender-based violence against women. Therefore, excluding women's rights organizations with strong experience in supporting women victims/survivors of domestic violence from State funding on account of a breach of equal treatment is problematic. Furthermore, gender equality cannot be fully achieved without respecting women's reproductive rights. In Poland, access to reproductive health-care services for the prevention and termination of pregnancy is restrictive and under continuous threat of becoming more so.

81. Furthermore, the Working Group observed the persistence of gender stereotypes and the pressure on women to assume traditional roles in family and society. While women's traditional role in the family is being actively promoted through laws and policies, advocates for gender equality are increasingly being

<sup>42</sup> Article 197 of the Criminal Code: "Whoever, by force, illegal threat or deceit subjects another person to sexual intercourse shall be subject to the penalty of the deprivation of liberty for a term of between 2 and 12 years".

<sup>43</sup> Foundation for Equality and Emancipation STER, *Breaking the Taboo: Report on Sexual Violence*.

characterized as “anti-family” and their gender equality efforts labelled as “gender ideology”, subject to increasing attacks by different conservative religious and political actors. Despite the stigmatizing environment and shrinking public space, women human rights defenders have become even more determined and more active in demanding their rights to equality, including at the grass-roots level.

## **B. Recommendations**

82. With regard to legal, policy and institutional frameworks, the Working Group recommends that the Government of Poland:

(a) Ratify remaining key international human rights treaties, including the International Convention on the Protection of All Migrant Workers and Members of Their Families and the ILO Domestic Workers Convention, 2011 (No. 189), and the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights and to the Convention on the Rights of Persons with Disabilities;

(b) Consider broadening the areas where legal protection is guaranteed on the ground of sex under the Act on Equal Treatment;

(c) Establish and implement a comprehensive national strategy and action plan, through broad consultations, including with women’s rights organizations, for gender equality and women’s empowerment, with the appropriate accompanying budget allocations, addressing the specific needs of women facing multiple and intersecting forms of discrimination;

(d) Build a stronger institutional architecture for equality, which should include dedicated entities for women’s rights and gender mainstreaming, with sufficient resources and competent staff. Ensure an enabling environment with sufficient allocation of resources for the Office of the Commissioner for Human Rights and coordination and cooperation among different bodies;

(e) Keep the legal framework under regular and well-informed review, ensuring its compliance with international standards, to ensure a positive impact on women.

83. With regard to political and public life, the Working Group recommends that the Government:

(a) Adopt further effective measures to improve women’s political participation, such as the zipper system, and provide training and support to women candidates;

(b) Increase the representation of women at the highest level of the Government and State institutions with a view to achieving gender parity;

(c) Secure an enabling environment for women human rights defenders, who should receive a fair share of public funding, and protect them from any intimidation.

84. With regard to economic and social life, the Working Group recommends that the Government:

(a) Adopt further measures to increase the participation of women in the labour force, particularly women with disabilities, Roma women and older women, and monitor the impact of social protection measures on women’s labour force participation;

(b) Identify the most significant factors contributing to the gender pay gap through analytical work and consultations with social partners and other stakeholders and develop effective remedies to reduce the gender pay gap;

(c) Consider the adoption of temporary special measures such as gender quotas for publicly listed companies;

(d) **Ensure that non-discrimination and gender equality are an integral part of the values underpinning the core curriculum;**

(e) **Provide comprehensive age-appropriate, scientifically based sexuality education and remove any stereotypical teaching material and content from education;**

(f) **Ensure respect for freedom of expression in all education institutions and the continuous operation of academic programmes on gender equality.**

85. **With regard to health, the Working Group recommends that the Government:**

(a) **Ensure full access to health-care services, including reproductive health care and tailored care to address the needs of adolescent girls, women with disabilities, sex workers, rural women and lesbian, bisexual, transgender and intersex women;**

(b) **Ensure that a full range of modern contraceptives and related information and services, including emergency contraception, are readily accessible to and affordable for all women;**

(c) **Ensure that legal abortion is accessible in practice by removing existing barriers and abortion stigma, including through the proper monitoring and regulation of the practice of conscientious objection and by improving the effectiveness of the complaint mechanism, and consider liberalizing the abortion law;**

(d) **Ensure full access to reproductive health services, including contraceptive information and services, for adolescents;**

(e) **Continue with efforts to improve access to and the quality of maternal health care for all pregnant women in rural and urban areas.**

86. **With regard to family and cultural life, the Working Group recommends that the Government:**

(a) **Recognize diverse family forms and the right of women with disabilities to form families;**

(b) **Increase childcare facilities, especially for children under 3 years of age, and reduce disparities between urban and rural areas;**

(c) **Take further measures to encourage more fathers to make use of the parental leave entitlement;**

(d) **Revise laws concerning the exercise of parental rights of unwed minor girls to ensure compatibility with human rights standards, in particular the principle of non-discrimination;**

(e) **Facilitate the stay of children with young mothers placed in care institutions or correctional centres to ensure compatibility with human rights standards;**

(f) **Make efforts to counteract attacks against “gender ideology”;**

(g) **Undertake educational and awareness-raising campaigns aimed at eliminating harmful gender stereotypes.**

87. **With regard to gender-based violence against women, the Working Group recommends that the Government:**

(a) **Ensure a comprehensive approach to combating gender-based violence against women, in line with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and general recommendation No. 35 (2017) of the Committee on the Elimination of Discrimination against Women on gender-based violence against women, updating general recommendation No. 19, and the full compatibility of laws regulating domestic violence with these standards by broadening the scope of its definition and coverage,**

**including a gender-sensitive focus on the specific concerns of women, and the implementation of effective emergency barring orders;**

**(b) Take measures, including legislative, to prevent and address sexual harassment in education and public institutions and cyberviolence;**

**(c) Ensure the efficiency of the proceedings for issuing restraining orders;**

**(d) Improve services for victims/survivors of gender-based violence and their access to justice, in particular women in vulnerable situations, such as minority women, older women, women and girls with disabilities, migrant women and sex workers, including access to shelter for the period needed, as well as preferential access to municipal housing assistance;**

**(e) Ensure effective prosecution of sexual violence, including all forms of non-consensual sex, and respect for victims'/survivors' rights;**

**(f) Review the content of training and education programmes with a view to ensuring a greater understanding by justice officials of women's barriers to access to justice, including those at the legal, institutional, structural, socioeconomic and cultural levels, and making gender-based violence against women an explicit and integral part of the curriculum, occupying a dedicated space.**

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