

Annex no. 1

Review of the legal basis and regulations regarding equal rights and anti-discrimination

The review uses the most important international and national regulations and internal regulations regarding work and service in the Police in the field of equal treatment and the prohibition of discrimination.

1. International regulations

At the beginning, it is necessary to indicate the acts of international law that are the foundation of basic human rights and freedoms, inextricably linked with respect for human dignity.

- 1.1. Universal Declaration of Human Rights (resolution of the UN General Assembly of 10 December 1948) and European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe document of 1950)

These are the basic documents formulating the principle of equal rights of all human beings regardless of differences in race, skin colour, gender, language, religion, political views or other beliefs, nationality, social origin, property, birth or any other differences. At the same time, these acts emphasise the prohibition of discrimination, including due to gender, as well as the fact that everyone is entitled to equal legal protection.

In the context of developing a gender equality plan, in addition to the above general documents, we focused on regulations specifically related to gender equality and gender-based discrimination.

- 1.2. United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted on 18 December 1979. (Journal of Laws of 1982, No. 10, item 71).

The convention sets standards for the protection of women's rights in all areas of life. It emphasises equality between women and men and emphasises the need for States to pursue policies that eliminate discrimination against women.

- 1.3. Resolution No. 1325 of 31 October 2000 of the United Nations Security Council on the UN Women, Peace and Security Agenda. The main demands of the Agenda are: the need to increase women's participation in peace processes, in peacekeeping missions and operations, to strengthen their role in decision-making processes related to ensuring peace, as well as to draw attention to the need to protect and support women and children during armed conflicts and in the post-conflict environment¹. The provisions for the implementation of Resolution No. 1325 were developed in the successively adopted 10 resolutions of the UN Security Council².

¹ National Action Plan for the implementation of the UN Women, Peace and Security Agenda for 2018-2023, p. 4. <https://www.gov.pl/web/kas/krajowy-plan-dzialania-na-rzecz-realizacji-agendy-onz-dotyczacej-kobiet-pokoju-i-bezpieczenstwa>

² UNSC resolutions: 1820 from 2008, 1888 from 2009, 1889 from 2009, 1960 from 2010, 2106 from 2013, 2122 from 2013, 2242 from 2015, 2331 from 2016, 2467 from 2019, 2493 from 2019, 2538 from 2020

1.4. European Parliament resolution of 21 January 2021 on the European strategy for gender equality for 2020-2025. (Official Journal of the European Union C 456 of 10/11/2021, p. 208).

The strategy emphasises that gender equality is a core value of the European Union, a fundamental right and a pillar of social rights. It implies:

- freedom from gender-based violence and stereotypes, in particular eliminating the problem of violence and harassment at work, combating gender stereotypes;
- the possibility of development in an economy based on gender equality, in particular eliminating the gender pay gap and differences in caring responsibilities;
- performing important social roles on equal terms, including: gender balance in management positions.

1.5. Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (hereinafter referred to as the “Work Life Balance Directive”) (Official Journal of the European Union L 188, 12/07/2019, p. 79).

1.6. Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2020 on transparent and predictable working conditions in the EU (hereinafter referred to as the “Job Stability Directive”) (Official Journal of the European Union L 186, 11/07/2019, p. 105).

2. Provisions of the national law

2.1. Constitution of the Republic of Poland of 2 April 1997. (Journal of Laws, item 483, as amended)

The key provisions in the Constitution regarding gender equality can be found in Chapter II of the Constitution of the Republic of Poland. Article 32 states that everyone is equal before the law and has the right to equal treatment by public authorities, which means that everyone should be treated the same, according to the same principles and criteria in political, social and economic life. Article 33 of the Constitution constitutes a supplement to Article 32, emphasising that women and men have equal access not only to rights in family, political, social and economic life, but also to education, employment and promotions, to equal remuneration for work of equal value, to social security and to occupying positions and performing functions and obtaining public honours and awards.

2.2. Act on the implementation of certain European Union provisions on equal treatment of 3 December 2010. (Journal of Laws of 2023, item 970).

This Act implemented EU anti-discrimination directives into the Polish legal order and thus obliged the competent authorities to counteract discrimination, including on the grounds of gender, race, ethnic origin, nationality, religion, denomination, belief, age, disability and sexual orientation. The Act explains basic definitions, including the principle of equal treatment, and specifies legal measures and authorities competent to counteract violations of the principle of equal treatment.

2.3. National Action Programme for Equal Treatment for 2022–2030 of 24 May 2022. (M.P. item 640).

The document defines the goals and priorities of actions for equal treatment in Poland, in particular in the field of raising social awareness in the area of equal treatment, including the causes and effects of violations of the principle of equal treatment, counteracting violations of the principle of equal treatment, cooperation with entities in the field of equal treatment.

The activities of the National Programme focus on cooperation for the policy of equal treatment within the government administration at the central and voivodeship levels, supporting equal opportunities for women and men in the labour market, promoting women in managerial positions, supporting groups exposed to discrimination due to age, disability and race, nationality, ethnicity, religion, denomination and sexual orientation and family status in the labour market, promoting diversity management in the workplace.

- 2.4. Resolution No. 248 of the Council of Ministers of 9 December 2022 on the establishment of the National Programme for Counteracting Domestic Violence for 2023 (M.P. item 1259) and the Act of 29 July 2005 on counteracting domestic violence (Journal of Laws of 2021, item 1249, as amended)

The documents oblige state authorities to take informational, educational, preventive, assistance and support activities for people suffering from domestic violence. The purpose of the documents in question is to increase the effectiveness of actions to prevent and eliminate violence, which results directly from the implementation of family and social policy, taking into account the principle of equal rights of men and women in family, political, social and economic life.

- 2.5. Act of 26 June 1974 – Labour Code (Journal of Laws of 2023, item 1465)

The Labour Code is a key legal act regulating all rights and obligations of the employer and employees related to the employment relationship.

The principle of equal treatment and the prohibition of discrimination are included in Chapter IIa *Equal treatment in employment* (Article 18^{3a}-Article 18^{3e}). The regulations contained in the Labour Code regarding equal treatment in employment, including on grounds of gender, constitute the general basis for the treatment of employees. It is worth emphasising that in accordance with the principle expressed in Article 5 of the Labour Code, if the employment relationship of a specific category of employees is regulated by special provisions, the provisions of the Code apply to the extent not regulated in this provision.

3. National and internal documents regulating service/work in the Police

3.1. Police officers

- Act of 6 April 1990 on the Police (Journal of Laws of 2023, item 171, as amended)
- The Act does not directly address gender equality. Pursuant to Article 14 paragraph 3, in the course of performing their official duties, police officers are obliged to respect human dignity and observe and protect human rights.
- Order No. 805 of the Commander-in-Chief of the Police of 31 December 2003 on the “Principles of professional ethics of police officers” (Journal of Laws of the National Police Headquarters of 2004, item 3).

The principles of police officer's professional ethics are important in strengthening and supplementing the duties and ethical obligations of police officers, emphasising in particular their role of a society's servant. There is no explicit reference to the principle of equal treatment, but § 6 contains a prohibition of discrimination – *a police officer's conduct in contacts with people should be characterised by kindness and impartiality, excluding prejudices based on race, nationality, religion, politics, ideological beliefs or other reasons*. It should be emphasised that in the light of § 4 *in all their activities, a police officer is obliged to respect human dignity and to observe and protect human rights*, which dignity is a guarantee of fundamental human rights and freedoms.

- Order No. 30 of the Commander-in-Chief of the Police on the functioning of the hierarchical organisation in the Police of 16 December 2013. (Journal of Laws of the National Police Headquarters of 2018, item 89, as amended).

This provision defines the principles of functioning of a hierarchical organisation and regulates proper relationships in professional relations – superior/subordinate, making decisions and issuing orders and commands related to the performance of official tasks, maintaining the professional path, as well as the rules of conduct resulting from the seniority of police ranks.

The order does not refer to gender equality, but it is of great importance in the context of equal rights while performing official duties.

- The programme for strengthening integrity and preventing corruption in the Police for 2021-2023.

Under Task II *Systemic building and strengthening of the culture of integrity and compliance with the principles of professional ethics in the Police* includes developing proposals for implementing additional measures aimed at improving gender balance in the Police, and then taking actions to implement adequate solutions in the Police.

- The plan of educational and information activities in the field of protection of human rights and freedoms, implementation of the principle of equal treatment and compliance with the principle of professional ethics in the Police for the years 2021-2023.

The plan includes a number of task areas, including task no. 8 aimed at collecting information on cases of mobbing, discrimination and internal conflicts in the Police, and task no. 15 involving the implementation of the UN Women, Peace and Security Agenda for 2018-2023. As part of the Agenda, actions are taken to increase the participation of women in UN, EU, NATO and OSCE missions, strengthening the position of women in uniformed services and in the foreign service.

3.2. Civil Service Corps employees and Police employees.

- Act of 21 November 2008 on the civil service (Journal of Laws of 2022, item 1691, as amended)

This Act does not address the issue of gender equality, but the duties of the director general of the office (in relation to the Police, the tasks provided for the director general of the office are performed by heads of organisational units of the Police that also meet the definition of an employer) include undertaking activities in the field of labour law towards persons

employed in the office and implementation of personnel policy, in particular by preparing a human resources management programme in the office.

- Order No. 6 of the Head of the Civil Service of 12 March 2020 on human resources management standards in the civil service, amended by Order No. 7 of the Head of the Civil Service of 16 December 2020.

The basis for issuing the order is Article 15 paragraph 9 of the Act on the civil service, which obliges the Head of the Social Service to define standards for human resources management in the civil service.

They include:

- Organisation of people management processes through (Chapter II): developing a human resources management programme, defining an anti-mobbing procedure, managing employees, a culture of integrity (supporting employees in difficult or unclear situations that raise their doubts), HR processes and work organisation, office accessibility (supporting people with special needs) and internships and volunteering.
 - Work-life balance tools (Chapter V) These tools are aimed at promoting solutions that help balance work and other aspects of an employee's life, creating a friendly atmosphere at work, increasing employee motivation and effectiveness, strengthening a good image of the employer among employees and candidates, as well as supporting a healthy lifestyle.
- Order No. 70 of the Prime Minister of 6 October 2011 on guidelines for compliance with the principles of the civil service and on the principles of ethics of the civil service corps. (M.P. item 953).

The basis for issuing the order is Article 15 paragraph 10 of the Act on the civil service, obliging the Head of the Civil Service to define guidelines for compliance with the principles of the civil service and the principles of ethics of the civil service corps.

One of the principles is the principle of decent behaviour. It may correspond to the statutory obligation to behave with dignity in service, according to which a member of the civil service corps is obliged to behave with dignity not only in service but also off duty (Article 76 paragraph 1 point 7).

Chapter 2 of the Order deals with the principles of ethics of the civil service corps, according to which each member of the civil service corps is obliged to observe the principles of ethics of the civil service corps (§ 13), which are: the principle of decent behaviour, the principle of public service, the principle of loyalty, the principle of political neutrality, the principle of impartiality and principle of reliability.

The principle of decent behaviour (§ 14) refers in particular to performing work with respect for the rules of social coexistence and personal culture, respecting the dignity of other people, including subordinates, colleagues and superiors, as well as to preventing conflicts at work and in relations with citizens and colleagues.

- Act of 16 September 1982 on employees of state offices (Journal of Laws of 2023, items 765 and 1195).

Pursuant to Article 46, the Act applies to the extent indicated in Article 46 to employees who are not members of the civil service corps, employed in organisational units of the Police (excluding police schools and the Police Academy in Szczytno). It defines the basic rights and obligations of an employee (Chapter 3) but does not address the issue of gender equality.

- Act of 20 July 2018 – *Law on higher education and science*. (Journal of Laws of 2023, item 742, as amended).

The Act concerns the Police Academy in Szczytno and does not address the issue of gender equality.