

Polish Care Workers' Discrimination Map Report¹

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1. Gender

1) Provide a brief overview of your national legislation on gender discrimination in the field of employment.

The Constitution of the Republic of Poland provides a general principle of equality before the law and prohibits discrimination on various grounds, including gender. It serves as a fundamental framework for antidiscrimination legislation. The specific antidiscrimination legislation in the field of employment differentiating by the employment status of a care worker. For care workers who provide their services on the basis of employment contract the protection against discrimination is provided by the labor law, in particular by the Labor Code. In relation to care workers who perform their work under other personal work relations (on the basis of a contract of mandate, a contract for the provision of services, a contract for a specific task, as well as so-called self-employed persons), gender discrimination is regulated by the Act of 3 December 2010 on the implementation of certain provisions of the European Union in the field of equal treatment (referred to as Equality Act).² The provisions of both Equality Act and Labor Code on gender discrimination related to employment imple-

¹ The contents of this report were finalized on June 28, 2024.

² *Journal of Laws* item 970 (2023).

ment the EU Equality Directives. Both Labor Code and the Equality Act prohibit direct and indirect discrimination, harassing and sexual harassing. In case of gender discrimination, victim of discrimination has the right to compensation. Moreover, who alleges a violation of the principle of equal treatment only substantiates the fact of its violation, while the person accused of violating this principle is obliged to prove that he has not violated it. The exercise of rights arising from violation of the principle of equal treatment cannot be the basis for unfavorable treatment and cannot cause any negative consequences for the person who exercised them. The same also apply to the person who provided any form of support to the person exercising the rights resulting from the violation of the principle of equal treatment.

2) *Make a brief social commentary on the presence of women workers in the care sector.*

Since the insufficient supply of institutional care in Poland, the care system in Poland is characterized by strong reliance on family commitment.³ The care sector is highly women dominated. This is confirmed by a statistical data provided by GUS (the Central Statistical Office) with regard to paramedic, nurses and midwives (as indicated in the further paragraph). Caregiving and nurturing that encompasses various roles and professions, were traditionally considered as abilities “inherent” to the worker (women). Domination of women in the care sector in Poland is strongly rooted in society, with a vital role of the views of the Polish Catholic Church, and this trend continues to be prevalent in Poland. This made a vicious circle effect, since the overrepresentation of women in the care sector in Poland reinforce gender stereotypes, limiting both men and women’s career choices and perpetuating the idea that caregiving is primarily a women’s responsibility.

There can be identifies several factors that contribute to the overrepresentation of women in the care sector in Poland.

- 1) Traditional gender roles that are shaped by societal norms and societal expectations that often steer women toward careers that involve caregiving and nurturing. The perception that women are more suited for such roles can influence their career choices.
- 2) Jobs in the care sector may offer more flexible working hours compared to other industries, making them attractive to women who seek to balance work with family responsibilities. At the same time, the informal care sector based on family commitment plays a vital role in supplementing the formal (institutional) care system, but also generates additional challenges for caregivers, usually for women in balancing their care responsibilities with the employment and in the access to high quality employment opportunities on the same basis as workers which are not subject to such a care responsibility (an “equity” aspect of care in a positive and negative correlation).

³ Oliwia Beck, Kornelia Kędziora-Kornatowska, Michał Kornatowski, “Long-term home care in Poland – framework, problems, prospects” *Hygeia Public Health* 49, 2 (2014): 193.

- 3) Wage disparities between gender that are fueled by socially undervaluation of care work and greater openness of women to accept lower wages due to limited opportunities in other fields.

Education and training that are historically patterned by the assumption that care work is something inherent to women, who were then encouraged to pursue career in caregiving and nurturing.

- 3) *Have statistics or databases been published in your country on the care sector or on each of the occupations that are part of this sector, differentiating by gender?*

The available data provided by the Central Statistical Office (GUS) on the persons entitled to practice medical profession focus on a particular occupation within care: nurses, midwives, paramedic. GUS has indicated on the feminization of medical professions, noting that this trend is the most visible for nurses and midwives. This is confirmed by databases on the presence of nurses, midwives and paramedics are differentiated by gender. There are no statistical data on the presence of women in other care professions. Databases produced by GUS are aggregated data at national and regional (voivodeship) level. These data are differentiating by age and education level.

The databases of GUS are public and freely accessible to everyone. These are available under: <<https://stat.gov.pl/en/topics/health/health/health-and-health-care-in-2020,1,13.html>>.

- 4) *Describe or comment on what the statistics or databases you have found show in relation to the participation of male and female workers in the care sector workforce, either taking this sector as a whole, or in relation to each of the occupations that make up this sector.*

Since, as mentioned above, the available GUS databases on the presence of nurses, midwives and paramedics are not differentiated by gender, there not possible to provide any specific comment related to this databases. There can be provided only a general comment on the participation of both genders in the care sector workforce in Poland based on trends that can be observed in that point. Poland has historically seen a gender imbalance in the care sector. Nursing and healthcare professions in Poland have traditionally been female-dominated. Nurses, midwives and caregivers have primarily been women. While there are men in these roles, they have been in the minority.

- 5) *If legislation exists on the care sector in general, or on the occupations that make up the care sector, please describe whether it is gender-neutral in terms of the workers, or whether it makes any reference to the presence of women in this sector or these occupations (e.g. acknowledging the majority presence of women in the sector, or granting them any special attention in terms of rights, etc.). If special reference is made to women, please specify.*

In Poland there is no one specific regulation addressed exclusively to workers in the care sector. Consequently, care work is the subject of the regulations

that are addressed generally to healthcare sector and to employment in general. This observation also applies to domestic work, including domestic care work, that is not a subject to any specific regulation, since Poland does not adopt ILO Domestic Workers Convention 189. Under the Healthcare Institutions Law, a person practicing a medical profession is a person authorized under separate regulations to provide health services and persons who have acquired professional qualifications to provide health services in a specific scope or in a specific field of medicine (article 2(1)(2)). Among the medical professionals who provide a care work, only a part of them is the subject of a specific statutory regulations. These are: nurse and midwife, paramedic. Currently the Parliament is working on the general statutory regulation on medical professions, that will also cover: occupational therapist and medical caregiver. These statutory regulations are designed to cover all relevant issues related to the occupations concerned, including the rules and conditions of performing the professions. However, in the area of employment the regulation of this specific law is limited only to the general issues, therefore for a specific issues related to the employment status and working conditions, the relevant provisions of Labour Code and Civil Code (depending on a form of employment and consequently employment status: employee or nonemployee), will be appropriate, in the same way as to the workers in the care sector that are not the subject of a specific statutory regulations.

Only the definition of a person practicing a medical profession under the Healthcare Institutions Law has been developed as gender-neutral. It refers general to any “person” meaning as a women or men. The other specific statutory regulations are not gender-neutral in terms of the workers in the care sector. Under the Act on the paramedic and under draft of the Act on medical professions, the name of occupations of paramedic, occupational therapist and medical caregiver have been determined by a male form. The name of the Act on the occupations of nurse and midwife has been determined by a female form. Moreover, the name of occupation of nurse and midwife in the provisions of this act have been determined by a female form. Exceptionally, when referring to the name of the professional title of nurse and midwife, the name of these occupations have been determined by both male and female form (article 8(1)). This means that name nurse and midwife is associated by a female form regardless of whether it is used by a women or men, while professional title meaning as a nursery or midwifery is gender neutral. Therefore nurse has a professional title in nursery and midwife in midwifery.

The provisions of specific regulation that provides for the catalogue of occupations and specialties for the job matching and occupational guidance as an instrument for employment promotion, that allows for the identification of a particular occupations in the care sector, is generally based on a rule that occupation has no gender—traditional masculine occupations and feminine occupations used only in occupations clearly dominated by women should not affect the classification of person.

There is no special reference to women is made in above mentioned legislation related to care sector acknowledging the presence of women in the care sector.

6) *Does the legislation or, if applicable, collective agreements provide for occupational classification system in care sector? If so, do you consider any gender bias in this occupational classification (if so, please explain).*

In Poland the occupations in the care sector can be divided into medical professions and non-medical professions. In Poland there is no one statutory catalogue of occupations in the care sector. Particular occupations may be identified based on the provisions of specific regulation that provides for the catalogue of occupations and specialties for the job matching and occupational guidance as an instrument for employment promotion. Based on this catalogue, in Poland care work, including domestic care work (meaning as a work provided at home of patient, since no statutory definition of domestic care work), can be divided into two main categories: basic care work and socialized care work.

Basic care work can be provided by: 1) technicians and associate professionals; 2) service providers; 3) basic workers. The first category includes: associate professionals for social issues, that are: workers for social assistance and support for family (assistant for disabled person; care worker in social home; environmental care worker; care worker for elderly). The second category includes: personal care workers in health services that are: healthcare assistants (medical caregivers); home based personal care workers (domestic caregivers; PCK nurse); other personal care workers (hospital orderly). The third category includes: cleaning staff (hospital ward)

Specialized care work is provided by health professionals that are: (1) specialists for health protection (nurses with specialization; nurse without specialization; midwife with specialization; midwife without specialization); (2) technicians and associate professionals that are associate professionals for health protection (paramedic; occupational therapist); environmental workers for health protection (environmental therapist; environmental nurse).

Most abovementioned occupations in the care sector are determined by a male form. Only occupations in care work related to nursing have been determined by a female form. As indicated in the provisions of regulation that provide for the classification of occupations in care work, it is generally based on a rule that occupation has no gender—traditional masculine occupations and feminine occupations used only in occupations clearly dominated by women should not affect the classification of person.

7) *Have there been any legal disputes or conflicts publicised by the media in your country over “job classification” in the care sector and gender discrimination? If so, please summarise or comment on the case(s).*

We did not identify any specific legal disputes or conflicts publicized by the media in Poland over “job classification” and gender discrimination in the care sector.

8) *Does legislation or, where applicable, collective agreements provide for specific provisions on employment contracts in the care sector, which are different from employment contracts in other productive sectors? If so, do you consider that there is any gender bias in relation to employment contracts? (If so, please explain).*

As mentioned earlier, in Poland there is no one specific regulation addressed exclusively to workers in the care sector. Consequently, care work is the subject of the regulations that are addressed generally to healthcare sector and to employment in general. The Healthcare Institutions Law,⁴ applies to any person practicing a medical profession defining as a person authorized under separate regulations to provide health services and persons who have acquired professional qualifications to provide health services in a specific scope or in a specific field of medicine (article 2(1)(2)). Among the medical professionals who provide a care work, only a part of them is the subject of a specific statutory regulations. These are: nurse and midwife,⁵ paramedic.⁶ Currently the Parliament is working on the general statutory regulation on medical professions, that will also cover: occupational therapist and medical caregiver.⁷ These statutory regulations are designed to cover all relevant issues related to the occupations concerned, including the rules and conditions of performing the professions. However, in the area of employment the regulation of this specific law is limited only to the issues related to wage and benefits, working time (Health Institutions Law), training and competence development (Act on nurses and midwives, Act on paramedic and Draft of the Act on medical professions). For other issues related to the employment status and working conditions, the relevant provisions of Labour Code⁸ and Civil Code⁹ (depending on a form of employment and consequently employment status: employee or nonemployee), will be appropriate, in the same way as to the workers in the care sector that are not the subject of a specific statutory regulations.

The analysis of these specific provisions did not reveal any direct gender bias in relation to employment in the care sector.

Collective agreements in the care sector covering care workers are concluded at the company and workplace level. Collective bargaining concentrated mostly on wages and other benefits. Collective agreements at sectoral (multi-employer) level in Poland are very rare. There is no multi-level collective agreement exclusively for a care sector.¹⁰ The provisions of collective agreements may not be less favorable for workers than statutory regulations, and may not be constructed using discriminatory provisions.

⁴ Act of 15 April 2011, *Journal of Laws* item 991 (2023).

⁵ Act of 15 July 2011 on the occupations of nurse and midwife, *Journal of Laws* item 2702 (2022).

⁶ Act of 1 December 2022 on the paramedic and the professional self-government of paramedic, *Journal of Laws* item 2705 (2022).

⁷ Draft of the Act on medical professions, <<https://www.sejm.gov.pl/sejm9.nsf/PrzebiegProc.xsp?nr=3183>> (Accessed July 10, 2023).

⁸ Act of 26 June 1974, *Journal of Laws* item 1510 (2022).

⁹ Act of 23 April 1964, *Journal of Laws* item 1360 (2022).

¹⁰ The Ministry of Family and Social Policy <https://archiwum.mriips.gov.pl/gfx/mpips/us-erfiles/_public/wykaz_zbiorowe.pdf> (Accessed July 08, 2013).

9) *Have there been any legal disputes or conflicts publicised by the media in your country over “employment contracts” in the care sector and gender discrimination? If so, please summarise or comment on the case(s).*

We did not identify any specific legal disputes or conflicts publicized by the media in Poland over “employment contracts” and gender discrimination in the care sector.

10) *Do the legislation or, if applicable, collective bargaining agreements make any provision for wages in each of the care sector occupations, differentiating them in terms of their structure or amount from workers in the general or other production sectors?*

Wages and benefits for care workers in Poland can vary depending on factors such as the form of employment (whether it is employment contract or other work relation), specific occupation, experience, level of qualifications, location, and type of employer (public or private). Care workers who provide their work through employment contract have the right to the statutory minimum wage and have the access to the widest range of employment benefits on the same basis as to the other employees. The statutory, and considered as mandatory, common benefits, includes, among others, paid annual leave, paid maternity and parental leave, paid sick leave, paid overtime, compensation for night shifts and work on Sunday, old-age pension insurance, disability and survivors’ pension insurance, sickness insurance, and work accident insurance, that include occupational disease insurance, and occupational medicine, that include the pre-employment health examination, periodic health examination and of necessary control health examination, workplace risk assessment, prevention and addressing of occupational diseases, workplace injury management, health and safety training.

Workers who provide their work as self-employed based on civil law contracts are not entitled to such a wide range of benefits as employees. As a service provider, workers are entitled to receive a minimum hourly rate of 23.50 PLN in July 2023 (around 5.20 euros). They are also entitled to certain statutory, mandatory benefits, that include: maternity and parental benefits at the time of inactivity due to childbirth and bringing up children, old-age pension insurance, disability and survivors’ pension insurance, work accident insurance, that include occupational disease insurance. They are not entitled to mandatory occupational medicine that include pre-employment health examination, periodic health examination and of necessary control health examination. However, due to the general duty of employer to provide to health and safety working conditions to every worker, an employer must in every case assess whether such an examination may be necessary. The same apply to health and safety training. A service provider may be—at its request—covered by sickness insurance, and therefore have the right to sickness benefit for the time of inactivity due to disease. However, as a contractor in the contract for a specific task, worker is not entitled to receive a minimum hourly rate, as well as he is not covered by social insurance nor compulsorily neither voluntarily. Therefore, he has not the right to benefits related to sickness, maternity, parental and occupational accidents.

The statutory minimum wage for employees in the health sector in general, is stipulated in the Act on the method of determining the basic remuneration of certain employees employed in healthcare entities.¹¹ For all other care employees not employed in healthcare entities, the minimum wage is regulated in the Act on minimum remuneration, that since July 2023 shall be monthly 3,600 PLN (amount 807 euros).¹²

The minimum wage in care sector in healthcare entities, broken by occupational groups, will be:

- 1) Physiotherapist and other medical professional with the required higher education at the master's level and specialization, a nurse with the professional title of Master of Nursing or a midwife with the title of Master of Midwifery with the required specialization in the field of nursing or in the field applicable in health care—8,186.53 PLN (around 1,839 euros).
- 2) Physiotherapist and other medical professional with the required higher education at the master's level, a nurse or midwife with the required higher education (first degree studies) and specialization or a nurse or midwife with the title of Master of Midwifery with secondary education and specialization—6,473.07 PLN (around 1,454 euros).
- 3) Physiotherapist, nurse, midwife, paramedic, other employee performing a medical profession specified in 1–2 point, with the required higher education (first degree studies), physiotherapist, paramedic with the required secondary education, or a nurse or midwife with the required secondary education, who does not have the title of specialist in nursing or in the filed applicable in health care—5,965.38 PLN (around 1,340 euros).
- 4) Other employee performing a medical profession specified in points 1–3, with required secondary education and medical caregiver—5,457.69 PLN (1,226 euros).
- 5) Employee of basic activity (including hospital orderly and hospital ward) other than an employee performing a medical profession with the required education below secondary—4,125 PLN (around 926 euros).

The average remuneration for work in Poland in April 2023 was 7,430.65 PLN (around 1,669 euros).

The Healthcare Institutions Law contain a provision that provide care workers with a specific benefit. These benefits are given to employees, and only with one exception to persons who provide work under other personal work relations. Under the Health Institutions Law, an employee practicing a medical profession in healthcare entities is entitled to:

- The remuneration for a standby duty outside healthcare facilities that provides a medical activity that require round-the-clock coverage in the amount of 50% of the hourly rate of basic remuneration that is calculated by dividing

¹¹ Act of 8 June 2017, *Journal of Laws* item 2139 (2022).

¹² Act of 10 October 2022, *Journal of Laws* item 2207 (2020).

- the amount of the monthly basic salary resulting from the employee's personal classification by the number of working hours to be worked in a given month.
- The compensation to shift work in the amount of at least 65% of the hourly rate basic remuneration, calculated as indicated above, for each hour of night work and at least 45% of the hourly rate of basic remuneration, calculated as indicated above, for each hour of daytime work on Sundays and public holidays as well as non-working days during an average five-day working week.
 - Compensation for a members of an emergency medical teams, as indicated in the provisions of the Act of 8 September 2006 on the National Medical Emergency Service, for every hour of work in the amount of 30% the hourly rate of basic remuneration, calculated as indicated above. Exceptionally the right to this compensation is also guaranteed to the members of an emergency medical teams who provide their work outside the employment relationship, on other personal work relations, in the amount 30% the hourly rate of salary resulting from the contract under which they work.
 - Compensation for on-call duty work in the amount of 100% of his normal remuneration for work during night, Sunday and holidays and day off for work during those days and 50% of his regular remuneration for work during any other day.
 - Compensation for work exceeding an average of 48 hours per week in the adopted reference period in the amount of 100% of his normal remuneration for work during night, Sunday and holidays and day off for work during those days and 50% of his regular remuneration for work during any other day.
 - Compensation for each hour of being on standby in the amount of 50% of the hourly rate of basic remuneration that is calculated by dividing the amount of the monthly basic remuneration resulting from the employee's personal classification by the number of working hours to be worked in a given month.

11) *Have there been any legal disputes or conflicts publicised by the media in your country over "wages" in the care sector and gender discrimination?*

We did not identify any specific legal disputes or conflicts publicized by the media in Poland over "wages" and gender discrimination in the care sector. However, generally in Poland in 2021 has been reported a wage gap between women and men, that although one of the lowest in EU, has slightly increased. From the report of the European Institute for Equality between Women and Men concerning equality between women and men shows that, Poland is at the forefront of European Union countries in terms of speed closing the wage gap since 2010.¹³ The difference in average salaries awarded to women and men in Poland reaches nearly 4.8% according to the information provided in the "Structure of salaries by occupations in October 2022", published by the Central Statistical Office. In

¹³ European Institute for Equality Between Women and Men, "Gender Equality Index 2020: Digitalization and the future of work, European Institute for Equality between Women and Men" s. 33 (2020).

the public sector, women earned 2.3% less per hour worked than men, whereas in the private sector their remuneration was up to 12.9% lower. In all major groups of occupations, men's hourly wages were higher than those of women.¹⁴ It has to be indicated that in the sector of human health and social work activities the wage gap was nearly 15%.¹⁵

Among the factors that increase the wage gap are indicated above all sectoral (horizontal) segregation, i.e. segregation based on the overrepresentation of women, primarily in professions characterized by low wages, but also on the responsibilities that women face in relation to taking care of children and close family members (resulting, for example, in fewer hours at work than men, and thus lower pay) or vertical segregation, i.e. a small number of women in jobs managerial positions or women occupying positions where they have less promotion opportunities.¹⁶

12) *Do the legislation or, if applicable, collective agreements for the care sector or for each care sector job make specific provision for reconciling work and family life?*

No, in case of reconciliation of work and family life care workers are the subject to the same rules as workers in other sectors.

13) *Have statistics or databases been published in your country on occupational accidents or illnesses arising from the work of personnel in the care sector as a whole or in each of the care sector jobs according to the workers' gender?*

The available data provided by the Central Statistical Office (GUS) on the occupational accidents are given for medical care and social assistance in general. There are no specific data addressed to care workers and particular occupations within this category. According to GUS in 2022 there were registered 6892 cases of occupational accidents among medical care and social assistance in general while 2 were fatal accidents. Out of the overall number of affected, 5564 were women. Databases produced by GUS are aggregated data at national and regional (voivodeship) level.

The databases of GUS are public and freely accessible to everyone. These are available under: <<https://stat.gov.pl/obszary-tematyczne/rynek-pracy/warunki-pracy-wypadki-przy-pracy/wypadki-przy-pracy-w-2022-roku-dane-wstepne,3,50.html>>.

¹⁴ Urząd Statystyczny w Bydgoszczy. *Struktura wynagrodzeń według zawodów w październiku 2020 r. / Structure of Wages and Salaries by Occupations in October 2020*. (Bydgoszcz–Warszawa, 2022), <https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5474/4/10/1/analiza_statystyczna_struktura_wynagrodzen_wedlug_zawodow_w_pazdzierniku_2020_r.pdf> (Accessed July 10, 2023).

¹⁵ Urząd Statystyczny w Bydgoszczy. *Struktura wynagrodzeń według zawodów w październiku 2020 r.*, 37.

¹⁶ Ministry of Family, Labour and Social Policy, "Sytuacja kobiet i mężczyzn na rynku pracy w 2019r." (2019), 9.

The databases on occupational illness are in general addressed to medical care in general. According to data provided by the Professor J. Nofer Occupational Medicine Institute in Lodz in 2022 there were registered 1072 cases of occupational illness. Out of the overall number of affected, 961 were women, while most of cases concerned nurses—696, that was 67.2%. Databases produced by are aggregated data at national and regional (voivodeship) level.

The databases of GUS are public and freely accessible to everyone. These are available under:

<<https://www.imp.lodz.pl/pliki/9ab760430e9bd04e49de1f90cb4d-d25e50624/chorobyzawodowe2022.pdf>>.

14) Describe or comment on any statistics or databases you have found regarding the participation of male and female workers in the care sector workforce, either in general, or in relation to each of the various occupations that make up the care sector.

The presented data on the occupational accidents and occupational illness in care sector that reveal that the majority of affected are women, are the consequence of feminization of care sector in general.

15) Do the legislation or, if applicable, collective agreements, for each of these occupations in the care sector, make specific provision for women in terms of occupational safety and health? If so, please provide details.

No, in case of occupational safety and health there are no specific rules that would apply solely to women specifically in the care sector. In this regard women in the care sector are the subject to the general rules that apply to women in general that protect women health. These general rules include: Labour Code provisions on protection of women health in case of maternity and pregnancy and more specifically Regulation of 3 April 2017 on the list of work that is burdensome, dangerous or harmful to the health of pregnant women and women who are breastfeeding (Journal of Laws from 2017, item 796).

16) Have there been any court rulings on this matter? If there have been court rulings, please summarise or comment on them.

We did not identify any specific legal disputes or conflicts in Poland over occupational safety and health in the care sector.

17) Is there any specific provision for termination of contract that differentiates between men and women in each of these occupations? If so, please provide details.

No, the rules of termination of employment contract are not specific for care sector. Care workers are subject to general rules on termination of employment contract that apply to workers in general. In this regard, Labor Code provides for the protection against termination by notice and termination without notice in case of pregnancy and in the period of maternity leave and parental leave. The termination by notice is forbidden, while termination without notice is conditioned on the consent of company trade union organization. It has to be noticed, however, that the protection in case of maternity leave and parental leave apply also to men.

18) *Have there been any court rulings on this matter? If there have been court rulings, please summarise or comment on them.*

We did not identify any specific legal disputes or conflicts in Poland over termination of employment in the care sector, in particular such rulings that refer specifically to women or men.

19) *Is there any specific provision for social protection that differentiates between men and women in each of these occupations? (The term social protection refers to benefits provided by the State such as unemployment benefits, social security, or social assistance, etc.).*

There are no specific regulations for social protection that would apply specifically in the care sector. Care workers are subject to the same provisions for social protection as workers in general. In terms of pension benefit Act of 17 December 1998 on pensions from the Social Insurance Fund—the so-called Pension Act¹⁷ differentiates between women and men as regards the eligibility age that for women is 60 age, while for men 65 age.

20) *Have there been any legal disputes in your country concerning the granting of social benefits to staff working in the care sector that have led to direct or indirect discrimination on grounds of sector? If so, please summarise or comment on the case(s).*

We did not identify such specific legal disputes or conflicts in Poland.

21) *If there are Equality Bodies in your country, do you know if they have undertaken any action, report, monitoring, or judicial activity in relation to the rights of women workers in care occupations? If so, please summarise or comment.*

Poland had equality bodies and institutions responsible for promoting and protecting equal treatment and non-discrimination, including gender equality. This include: Commissioner for Human Rights (*Rzecznik Praw Obywatelskich*), an independent institution tasked with safeguarding the rights and freedoms of individuals, including addressing issues related to discrimination and gender equality and The Plenipotentiary for Equal Treatment (*Pełnomocnik Rządu ds. Równego Traktowania*), the governmental body in Poland responsible for the implementation of government policy on equal treatment, including gender equality, and is appointed and dismissed by the Prime Minister of the Republic of Poland. The Plenipotentiary for Equal Treatment is responsible to develop and submit to the Council of Ministers the National Action Program for Equal Treatment, specifying the goals and priorities of actions for equal treatment. We do not find any action, report and judicial activity in relation to the rights of women workers specifically in the care sector. In particular, any part of the National Action Program for Equal Treatment has been not devoted to equal treatment in care sector.

¹⁷ *Journal of Laws* 504 (2022).

22) *Comment whether the care sector in your country complies with international and EU obligations regarding non-discrimination on the grounds of sex in the field of employment and social protection. Describe the main regulations in this field and refer to whether equal working conditions (e.g., pay) are expressly provided for specifically in the care sector.*

Firstly, it should be noted that in Polish legislation any regulations that express the principle of equal working conditions under Labor Code or Equality Act, are not provided for specifically in the care sector. Since, lack of specific regulations regarding non-discrimination on the grounds of sex in the care sector, the analysis can only refer to general regulations that apply to all workers in general.

Polish general regulations regarding non-discrimination on the grounds of sex in the field of employment that apply to all workers, including care workers, comply with obligations arising from EU legislation.

Polish regulations comply with ILO Equal Remuneration Convention No 100, ILO Discrimination Convention No 111.

Poland has not yet ratified ILO Workers with Family Responsibilities Convention No 156, ILO Maternity Protection Convention No 183 (breaks for breastfeeding applies only to women who have a status of employee under Polish legislation) and ILO Domestic Workers Convention No 189 (under Polish legislation there are no legal definition of “domestic worker”—for more information see point 30 below.

2. Migrant Status

Authors' note:

- a) General information on migrants in the care sector is requested in this section; broadly speaking, these are non-EU third country nationals (where appropriate, EU nationals will be included). In some questions, nationals of the countries covered by the report will also be included.
- b) Some questions refer to undocumented migrants (or irregular migrants): See notions defined above. In general terms undocumented migrants are those who do not have a residence and work permit in the host country, while documented migrants (or regular migrants) have been granted a residence permit.
- c) Some of the questions refer to legislation on foreigners or immigration: by this we mean the legislation that establishes the framework of rights and duties of foreigners in the country; requirements for gaining entry to and working in the country; requirements for bringing family members into the country, etc.
- d) Some questions may be answered not only by referring to the specific legislation on aliens, but also to other legislation, such as, for example, the legislation established by each country in the field of human rights or labour rights.

1) *Provide a brief overview of your national legislation on anti-discrimination on the grounds of race or ethnic origin, religion, or belief, in the field of employment or occupation.*

The Constitution of the Republic of Poland provides a general principle of equality before the law and prohibits discrimination on various grounds,

including race, ethnic origin, religion and belief. It serves as a fundamental framework for antidiscrimination legislation. The specific antidiscrimination legislation in the field of employment differentiating by the employment status of a care worker. For care workers who provide their services on the basis of employment contract the protection against discrimination is provided by the labor law, in particular by the Labor Code. In relation to care workers who perform their work under other personal work relations (on the basis of a contract of mandate, a contract for the provision of services, a contract for a specific task, as well as so-called self-employed persons), gender discrimination is regulated by the Act of 3 December 2010 on the implementation of certain provisions of the European Union in the field of equal treatment (referred to as Equality Act). The provisions of both Equality Act and Labor Code on discrimination on grounds, such as race, ethnic origin, religion and belief, related to employment implement the EU Equality Directives. Both Labor Code and the Equality Act prohibit direct and indirect discrimination, harassing and sexual harassing. In case of discrimination, victim of discrimination has the right to compensation. Moreover, who alleges a violation of the principle of equal treatment only substantiates the fact of its violation, while the person accused of violating this principle is obliged to prove that he has not violated it. The exercise of rights arising from violation of the principle of equal treatment cannot be the basis for unfavorable treatment and cannot cause any negative consequences for the person who exercised them. The same also apply to the person who provided any form of support to the person exercising the rights resulting from the violation of the principle of equal treatment.

2) Also provide a brief overview of the legislation concerning the rights and duties of "foreigners": EU third country nationals (by this we mean the legislation that establishes the framework of rights and duties of foreigners in the country; requirements for gaining entry to and working in the country; requirements for bringing family members into the country, etc.).

The legal framework governing the rights and duties of foreigners in Poland, requirements for entry and work, and family reunification is primarily defined by several key pieces of legislation. The main laws and regulations related to immigration in Poland include:

- 1) The Act on Foreigners:¹⁸ the primary piece of legislation that governs the legal status of foreigners in Poland. It outlines the procedures for obtaining various types of visas and residence permits, including work permits and residence cards. It also includes provisions related to deportation, humanitarian visas, and family reunification. The main provisions include:
 - Visas and Residence Permits,
 - Entry into Poland,
 - Residence Regulations,

¹⁸ Act of 12 December 2013, *Journal of Laws* item 519 (2023).

- Work and Employment,
 - Asylum and Protection,
 - Deportation and Removal,
 - Detention and Accommodation,
 - Appeals and Legal Procedures,
 - Family Reunification,
 - Rights and Obligations of foreigners in Poland, including their entitlement to education, healthcare, and social benefits,
 - Penalties and Enforcement: provisions related to penalties for non-compliance with immigration regulations and the enforcement of immigration laws.
- 2) The Act on Employment Promotion and Labor Market Institutions¹⁹ (*Ustawa o promocii zatrudnienia i instytucjach rynku pracy*): regulates employment-related matters, including the employment of foreigners. It defines the conditions under which foreigners can work in Poland, such as obtaining work permits and fulfilling labor market tests.
 - 3) The Act on Granting Protection to Foreigners within the territory of the Republic of Poland:²⁰ key piece of legislation in Poland that governs the procedures and legal framework for granting protection to foreign nationals seeking asylum or others forms of international protection within the country. The act outlines the rights and obligations of both asylum seekers and those who are granted protection.

3) *Make a brief social commentary on the presence of migrant populations (both EU and non-EU nationals), in employment in your country.*

The presence of migrant populations, including EU and non-EU nationals, in employment in Poland has been a topic of social commentary and discussion in recent years. Poland has experienced an increase in the number of migrants coming to the country for work and other reasons, and this has brought about various social, economic, and cultural implications. Here is a social commentary on some key aspects of this phenomenon:

- 1) **Economic Contribution:** Many commentators acknowledge that migrant workers, especially from neighboring EU countries like Ukraine, have played a significant role in filling labor gaps in various sectors of the Polish economy. They have contributed to economic growth by working in industries such as construction, agriculture, manufacturing, and services.
- 2) **Labor Market Dynamics:** Some discussions revolve around how the presence of migrant workers impacts the domestic labor market. While migrants often take on jobs that locals may not be willing to do, concerns have been

¹⁹ Act of 20 April 2004, *Journal of Laws* item 735 (2023).

²⁰ Act of 20 June 2003, *Journal of Laws* item 1504 (2023).

raised about potential exploitation, wage suppression, and competition for employment opportunities.

- 3) **Cultural Diversity:** The increasing diversity resulting from the presence of migrants has led to discussions about the enrichment of Polish society through the exchange of cultures, traditions, and languages. This diversity can contribute to a more cosmopolitan and multicultural society.
- 4) **Integration and Social Inclusion:** Social commentators often highlight the importance of integration and social inclusion for migrant populations. Integration efforts, such as language courses and cultural awareness programs, are seen as vital to ensuring that migrants can fully participate in Polish society.
- 5) **Challenges and Discrimination:** Discrimination and xenophobia are concerns raised by some commentators. Reports of discriminatory practices, hate crimes, and prejudice against migrants have sparked discussions about the need for greater tolerance and anti-discrimination measures.
- 6) **Social Services and Infrastructure:** There have been debates about the strain on social services and infrastructure due to the increasing number of migrants. This includes access to healthcare, education, and housing. Balancing the needs of both the local and migrant populations is a challenge.
- 7) **Policy Responses:** Social commentary often revolves around the effectiveness of government policies in managing migration. Discussions may cover issues such as border control, visa policies, work permits, and the overall regulatory framework for migrants.
- 8) **Remittances:** Migrant workers often send remittances to their home countries, which can have significant economic impacts on both Poland and the countries of origin. Remittances are sometimes viewed as a positive aspect of migration, as they contribute to economic development in the migrants' home countries.
- 9) **Future Trends:** Commentators may also speculate on future trends in migration to Poland. Factors such as political developments, economic conditions, and changes in labor demand can shape the future of migrant populations in the country.

In summary, the presence of migrant populations in employment in Poland is a multifaceted issue that generates a wide range of social commentary. It involves economic, cultural, social, and policy-related aspects that continue to evolve as Poland's demographic landscape changes. Public discourse on this topic often centers on striking a balance between the benefits of migrant labor and the challenges associated with integration and social cohesion.

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- 3) **Cultural Diversity:** The increasing diversity resulting from the presence of migrants has led to discussions about the enrichment of Polish society through the exchange of cultures, traditions, and languages. This diversity can contribute to a more cosmopolitan and multicultural society.
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In summary, the presence of migrant populations in employment in Poland is a multifaceted issue that generates a wide range of social commentary. It involves economic, cultural, social, and policy-related aspects that continue to evolve as Poland's demographic landscape changes. Public discourse on this topic often centers on striking a balance between the benefits of migrant labor and the challenges associated with integration and social cohesion.

4) *Finally, make a brief social commentary on the presence of migrant populations (both EU and non-EU nationals), in the care sector in your country.*

The presence of migrant populations, including both EU and non-EU nationals, in the care sector in Poland is a complex and multifaceted issue that warrants social commentary:

- 1) **Workforce Diversity:** The inclusion of migrants in the care sector has diversified the workforce. Migrants often fill critical roles in healthcare, elderly care, and childcare, addressing labor shortages and maintaining essential services.
- 2) **Contributions to Caregiving:** Migrant care workers, particularly those from non-EU countries, play a significant role in caring for Poland's aging population. Their dedication and hard work have been crucial in ensuring the well-being of elderly and vulnerable individuals.
- 3) **Challenges and Integration:** Migrants in the care sector face unique challenges, including language barriers and cultural differences. Integration efforts that promote language proficiency and cultural sensitivity are essential to improving the quality of care and fostering social cohesion.
- 4) **Protection of Rights:** Ensuring the rights and fair treatment of migrant care workers is crucial. Adequate labor protections, fair wages, and safeguards against exploitation must be in place to prevent the mistreatment of vulnerable workers.
- 5) **Family Separation:** Some migrant care workers may experience family separation due to work opportunities in Poland. This separation can be emotionally challenging and highlights the importance of family reunification policies.
- 6) **Cultural Exchange:** The presence of migrant care workers offers an opportunity for cultural exchange and learning. Polish families and care recipients can benefit from exposure to different cultures and perspectives.
- 7) **Policy Considerations:** Policymakers must strike a balance between addressing labor shortages and safeguarding the rights of both migrant workers and local populations. Comprehensive immigration policies that consider the specific needs of the care sector are essential.
- 8) **COVID-19 Pandemic:** The COVID-19 pandemic underscored the vital role of migrant care workers in healthcare and eldercare. It also highlighted the need for better protection and support, including access to vaccines and healthcare services.

5) *Have statistics or databases been published in your country on foreigners or immigrants who are part of the personnel providing services in each of these care sector occupations?*

(This question includes both EU nationals and third-country nationals in the EU as the object of analysis).

We did not find any statistics or databases that focus specifically on the employment of foreigners and immigrants in the care services in Poland. There are available only a general statistics on the employment of foreigners on the labour market in Poland. According to GUS foreigners working in 2022 came from over 150 countries. The most numerous the group were citizens of Ukraine. Both in January and in the following months, i.e. after Russian invasion of Ukraine, their share in the total number of foreigners performing work oscillated around 73%.

The second largest group of foreigners working in Poland were citizens of Belarus. At the end of December 2022, they constituted 10.1% of the analyzed population. Citizens of each of the other countries (Georgians, Hindus, Moldovans, Russians), constituted less than 3% of the total group described foreigners. Among citizens In Ukraine, men dominated in the gender structure, although their share was lower. At the end of January 2022, men constituted 61.0% of working Ukrainian citizens, while among the remaining foreigners were 74.6%. In the following months in the group of foreigners who are not citizens of Ukraine, the gender structure did not change significantly, while in the case of Ukrainian citizens, from the end of March 2022, the participation of men was getting lower and lower. At the end of December 2022, it amounted to 51.4%, i.e. by 9.7 percentage points. less than at the end of January 2022.

Databases produced by GUS are aggregated data at national level. The databases of GUS are public and freely accessible to everyone. These are available under: [file:///Users/agata/r/Downloads/cudzoziemcy_wykonujacy_prace_w_polsce_w_2022_roku%20\(1\).pdf](file:///Users/agata/r/Downloads/cudzoziemcy_wykonujacy_prace_w_polsce_w_2022_roku%20(1).pdf).

6) *Describe any statistics or databases you have encountered:*

The databases produced by GUS made no distinction between general migrants, refugees, or other categories of migrants.

7) *Have statistics or databases been published on people working in the care sector, whether nationals of your country, EU, or non-EU nationals, differentiating them by race or ethnic origin, religion, or language?*

(This question concerns both nationals of the country, EU nationals and EU third country nationals).

We have not found such a statistics or databases.

8) *Describe what statistics or databases you have found, i.e., summarise and comment on the data found on participation in the care sector by workers on the basis of race or ethnicity, religion, and language.*

We have not found such a statistics or databases.

9) *Have there been any legal disputes or conflicts publicised by the media about the race or ethnicity, religion or language of staff providing services in the care sector? If so, please describe the situation and the solutions provided.*

We have not found any information on legal disputes or conflicts.

10) *Have statistics or databases been published in your country on the percentages of formal or informal employment that may affect the care sector?*

(This question refers to third country nationals of the EU).

We have not found such a statistics or databases.

11) *Describe or comment on any statistics or databases you have found regarding the participation of migrant workers in the care sector in either the formal or informal economy. Where statistics show data by gender and by category of migrants within the formal and informal economy, please comment on them or include a description of them.*

In terms of employment structure in the care sector in Poland, care workers are distributed across formal and informal work arrangements. Informal employment is prevalent in the care provided by family members, but also by migrants.²¹ Formal work arrangements in the care sector are allocated to employment contract or other personal work relations, that include different forms of paid and unpaid work relations. This can be bipartite work relations or tripartite work relations through temporary work agencies, where the agency is the employer, and the care worker is temporarily assigned to work at various care settings. Among other than employment contract, personal work relations a prevalent is self-employment where work is provided on a basis of civil law contract, in particular contract of services (*umowa zlecenia*) or contract for specific task (*umowa o dzieło*) concluded directly with the client (or member of his family) or with healthcare facilities. In the health sector the common is the medical service contract, as a type of contract of services, that defines the terms and conditions under which medical (including care) services will be provided and outlines the rights and responsibilities of the parties.

In the first quarter of 2022, economically active persons accounted for 58.0% of the population aged 15–89 years. The dominant among the employed were still men, who constituted 54.6% (i.e. 9127 thousand) of this population. In the first quarter of 2022, 15641 thousand persons performed full-time work, while 1073 thousand worked parttime. Compared with the fourth quarter of 2021, the number of persons employed full-time decreased by 154 thousand, i.e. by 1.0%, while the number of persons employed part-time increased by 88 thousand, i.e. by 8.9%. Over the year, a growth by 293 thousand, i.e. by 1.9% was observed in the number of persons employed full-time, while the number of persons employed part-time stayed at a similar level. Whereas, the share of self-employed persons increased over the quarter as well as over the year: respectively by 0.2 percentage point and 0.3 percentage point and it comprised 18.7% (3,125 thousand persons).

²¹ Alexandra Levitas, “Understanding health-seeking behaviors and barriers to healthcare access among Ukrainian migrant women working in the domestic sector in Warsaw, Poland (a qualitative study),” *CMR Working Papers, Centre of Migration Research* 122/180 (2020): 1; Jan B. Klakla et al., *In the Shadows: Ukrainian Domestic Workers in Poland* (Warsaw: Care International Poland, 2023).

12) *Have any statistics or databases been published in your country on the possible presence of “undocumented” or “irregular” immigrants (without authorisation to reside or work in your country) who may be providing services in care occupations?*

(This question refers to third country nationals of the EU).

We have not found such a statistics or databases.

13) *Have measures been taken in your country to facilitate access to work specifically in the care sector for migrants? If yes, please describe them. Also indicate if this sector is understaffed (Are there staff shortages in the sector?).*

(This question refers to third country nationals of the EU).

The care sector in Poland, particularly the healthcare and elderly care sector, was facing staffing challenges and shortages driven by such a factors: aging population, emigration, insufficient training capacity, workload and challenging working conditions, COVID-19 pandemic.

To facilitate access to work for migrants there were introduced a simplified procedure for employing a foreigner involves a cases where either the work permit is not necessary at all or the issuance of such a permit or a common residence and work permit is possible without the opinion of the district starost (job market test). The opinion of the district starost conforms that on the local labour market there is any unemployed person, who is already registered in a district labour office, that having an adequate qualifications, can exercise a particular kind of work—that will be exercised by a migrant.

The resolution of the Minister of Labor and Social Policy of 21 April 2015 on cases in which entrusting the performance of a job to a foreigner within the territory of the Republic of Poland is permitted without an obligation to obtain a work permit,²² provides a cases in which performing work is possible without holding a work permit. This include, among others citizens of the Republic of Armenia, the Republic of Belarus, the Republic of Georgia, the Republic of Moldova, the Russian Federation or Ukraine, performing work for a period not exceeding 6 months within 12 consecutive months, irrespectively of the number of entities entrusting them with performing work, if before undertaking work by the foreigner, the county labour office adequate for the place of residence or registered office of the entity entrusting performance of work, registered this entity’s written statement on the intent of entrusting this foreigner with the performance of work, specifying the job title, the place of work, the commencement date and the period of performing work, the type of contract as grounds for the performance of work, as well as the amount of gross remuneration. The statement also stated that the employer was informed also about the impossibility of satisfying his staffing needs from the local labour market and that he has become acquainted with regulations concerning foreigners’ residence and work. The work has to be performed on the basis of a written contract on the condi-

²² *Journal of Laws* item 2291 (2021).

tions specified in the declaration (par. 1 section 20). The Act of 20 April 2004 on employment promotion and labour market institutions, provides a further cases when a foreigner is authorised to perform work within the territory of the Republic of Poland without a work permit. These cases does not apply specifically to care sector.

According to the announcement of the Minister of Labour and Social Policy of 30 December 2014 on the publication of a consolidated text of the resolution of the Minister of Labour and Social Policy on determining cases in which a work permit for foreigners is issued regardless of detailed conditions concerning issuance of a work permit for foreigners, the work permit will be issued without the obligation to apply for a district starost's opinion, among others, for a foreigner who is a citizen of the Republic of Armenia, the Republic of Belarus, the Republic of Georgia, the Republic of Moldova, the Russian Federation or Ukraine, performing nursing and care work or working as domestic help in behalf of natural persons in a household (par. 3 section 2) (concerns domestic help, nannies, senior care assistants, etc.). This means that in these cases taking up such kind of work will be easier for migrants.

After Russian invasion to Ukraine, in March 2022, the government, introduced a simplified procedure for Ukrainians to take up work in Poland. Rather than having to seek a work permit, their employer would simply have to notify the authorities of their employment.

14) Describe whether migrants with residence and work authorisation have the same labour rights as other "national" workers in the care sector.

(This question refers to third country nationals of the EU).

In Poland migrants with residence and work authorization generally have the same labor rights as Polish nationals and other "national" workers. This principle is consistent with European Union regulations on the rights of third-country nationals legally residing and working in EU member states.

15) Do the "labour" legislation (i.e., on working conditions) or, if applicable, collective agreements in your country, make any reference to the migrant or foreigner status of the person working in each of these care sector occupations?

(This question refers to third country nationals of the EU).

Any such a reference is made.

16) Have there been any court rulings on this matter? If so, please summarise or comment on them.

We do not find such a court ruling.

17) Does the legislation on foreigners or immigration in your country (e.g., on residence or work permits, family reunification, permit renewal, etc.) specifically mention people working in one of these care sector occupations? Have there been any court rulings on this matter? If so, please summarise or comment on them.

(This question refers to third country nationals of the EU).

Such mention is made only in relation to cases where issuance of a work permit for foreigners, the work permit will be issued without the obligation to apply for a district starost's opinion s indicated in point 13 of this report.

We did not find any court rulings on this matter.

18) *Do migrants with the corresponding residency permit and authorisation to work in the care sector (in each of these occupations) have access to the same rights as other workers in other production sectors?*

(This question refers to third country nationals of the EU).

As indicated in point 14 of this report.

19) *Have there been any court rulings on this matter? If so, please summarise or comment on them.*

We did not find any court rulings on this matter.

20) *Have there been any collective bargaining provisions to favour the integration of migrant workers in the care sector on the basis of their language, religion, particular difficulties in visiting their families in their countries of origin, ethnic origin, etc.?*

(This question refers to third country nationals of the EU).

No there is no such a provisions.

21) *Do you know if there have been any conflicts publicised by media between migrant workers of the care sector and the people they care for in terms of non-discrimination on the basis of ethnicity, religion, or nationality? If so, please explain.*

(This question refers third country nationals of the EU).

We did not find any information on such a conflicts on this matter.

22) *Have any statistics or databases been published in your country on migrant workers' salaries in the care sector?*

(This question refers third country nationals of the EU).

We did not find any statistics or databases that focus specifically on the employment of foreigners and immigrants in the care services in Poland.

23) *If you have found statistics or databases, please describe what they show in relation to the job classification and wages of migrant workers in the care sector.*

No such a statistics.

24) *Are migrants in an undocumented situation (without authorisation to reside or work) entitled to employment rights when working in the care sector in your country? Please outline your views on this issue.*

(This question refers third country nationals of the EU).

Theoretically migrants in an undocumented situation are entitled to the same rights as other workers, since labour law make any difference based on legal position of migrant worker. This means that migrant workers are the subject to the same regulations as other workers. Polish labour law (applying to

employment contract) and civil law (applying to civil law contract of services and contract for specific task) make any difference as regards nationality, provided that work is performed on the territory of Poland. However, since their unclear legal position they are in practice employed illegally, therefore they labour rights are not respected.

25) *Have there been any court rulings on this matter? If so, please summarise or comment on them.*

We did not find any court rulings on this matter.

26) *With the onset of the COVID-19 pandemic, measures were adopted by the State to allow “undocumented” foreign personnel to obtain residence or work permit, both structural and extraordinary?*

(This question refers third country nationals of the EU).

Any measures that were then adopted were applied only to legal migrants and allow them to extend their legal stay at the territory of Poland without the risk to become undocumented (illegal) migrant. This means that these measures do not apply to migrants who were undocumented migrants at the with the onset of the COVID-19 pandemic.

27) *From the onset of the COVID-19 pandemic to the present day, have measures been taken by the State to allow “undocumented” foreign personnel providing services “in the care sector” to obtain residence or work permits?*

As above.

28) *If there are Equality Bodies or Organisations fighting racial, ethnic, or religious discrimination in your country, have they undertaken any action or produced any report in relation to the rights of migrant workers in the care sector? If yes, please describe this report.*

(This question refers third country nationals of the EU).

As above.

29) *If there are Equality Bodies or Organisations fighting racial, ethnic, or religious discrimination in your country, have they undertaken any action or produced any report in relation to the rights of people, whatever their nationality, working in the care sector? If yes, please describe this report.*

(This question concerns both nationals of the country, EU nationals and EU third country nationals).

Poland had equality bodies and institutions responsible for promoting and protecting equal treatment and non-discrimination, including gender equality. This include: Commissioner for Human Rights (*Rzecznik Praw Obywatelskich*), an independent institution tasked with safeguarding the rights and freedoms of individuals, including addressing issues related to discrimination and gender equality and The Plenipotentiary for Equal Treatment (*Pełnomocnik Rządu ds. Równego Traktowania*), the governmental body in Poland responsible for the

implementation of government policy on equal treatment and is appointed and dismissed by the Prime Minister of the Republic of Poland. The Plenipotentiary for Equal Treatment is responsible to develop and submit to the Council of Ministers the National Action Program for Equal Treatment, specifying the goals and priorities of actions for equal treatment. We do not find any action, report and judicial activity in relation to the rights of migrant workers specifically in the care sector. In particular, any part of the National Action Program for Equal Treatment has been not devoted to equal treatment in care sector.

30) Comment whether your State has adequate legislation on harassment (including gender-based harassment and sexual harassment) of women workers in the domestic sector, especially if they are migrant workers. Comment whether the worker's employer (including migrant workers) can be held responsible for such situations.

(This question concerns both nationals of the country, EU nationals and EU third country nationals).

To answer this issue, please consider the Directive 2012/29/EU of 25 October 2012 establishing minimum standards on the rights, support, and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA; or Convention (Council of Europe) on preventing and combating violence against women and domestic violence, adopted on 7 April 2011 (Istanbul Convention)

Polish labor laws on harassment apply to all workers in the country, regardless of their immigration status and sector where they work. However, since there is no provision in the Polish legal system is a regulation addressed directly to domestic workers, taking into account special the nature of domestic work that distinguishes it from a "typical" employment relationship, the existing regulation does not guarantee effective protection of employees' employment relationships homework, regardless of the fact that this employment is currently often gray zones and, at best, domestic workers are employed on the basis of civil law contracts, including as self-employed. Domestic workers when provide their work on the basis of employment contract are subject to labour law on the general conditions (as other workers), but this is rather rare as regards migrant workers, more common to Polish nationals working in public care sector. In addition to Poland's ratification of Convention no. 189, it would be advisable to take into account standards specific to the work of domestic workers, applicable to all cases of provision of this type of work. In the above respect it is necessary, among others: guaranteeing the rights of domestic workers living at home employers to decent living conditions, taking into account respect for their right to privacy by granting the right to a separate room for exclusive use employee and the appropriate quality of meals.

31) Comment on whether there are mechanisms in the legislation against cases of exploitation in the workplace with regard to undocumented or irregular migrant workers (without residence authorisation). Comment on whether in these cases migrants in an irregular situation can denounce or have access to the courts in cases of exploitation and labour exploitation. Also, whether there are cases in the legislation in which they can obtain a residence authorisation.

(This question refers third country nationals of the EU).

To answer this issue, please take into account the Directive 2009/52/ of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

Poland, like other European countries, had mechanisms in place to address cases of exploitation in the workplace, including those involving undocumented or irregular migrant workers. Here are some key mechanisms and considerations related to this issue in Poland:

- 1) **Labor Laws and Rights:** Polish labor laws apply to all workers in the country, regardless of their immigration status. These laws provide basic rights and protections for all employees, such as minimum wage, working hours, rest periods, and safety regulations.
- 2) **Reporting Exploitation:** Workers, including undocumented migrants, can report cases of exploitation, workplace abuse, or unsafe conditions to relevant authorities. This often includes the National Labor Inspectorate (*Państwowa Inspekcja Pracy*) and the police.
- 3) **Non-Discrimination:** Polish labor laws prohibit discrimination on the grounds of nationality, which means that employers cannot discriminate against or exploit migrant workers based on their immigration status.
- 4) **Social Security:** Poland, social security contributions are generally required from both employees and employers. This provides social security coverage to employees, including healthcare and retirement benefits, irrespective of their immigration status.
- 5) **Migrant Workers Support Organizations:** Various organizations and NGOs in Poland work to support the rights and well-being of migrants, including undocumented workers. They can offer legal advice, guidance, and assistance in cases of exploitation.
- 6) **Border Guards and Immigration Authorities:** If an undocumented worker is discovered, the Border Guard (*Straż Graniczna*) or immigration authorities may become involved. They have the authority to detain and deport undocumented migrants.
- 7) **Legal Aid and Assistance:** Migrant workers, even those without proper documentation, have the right to legal representation. Organizations and legal aid providers may assist them in understanding their rights and options.
- 8) **EU Regulations:** Poland is a member of the European Union (EU), and EU laws and directives related to labor rights and the treatment of migrants apply in the country. These regulations aim to ensure fair treatment and equal opportunities for all workers, regardless of their nationality.

It's important to note that while these mechanisms exist, the practical enforcement and protection of undocumented or irregular migrant workers can be challenging. Many undocumented workers may fear reporting exploitation due to their immigration status. Additionally, immigration policies and enforcement practices may change over time.

Undocumented or irregular migrant workers in Poland typically faced significant challenges when seeking to obtain a residence authorization. Poland, like many countries, has immigration policies and regulations that prioritize documented and legal immigration. However, there may be certain exceptional cases where undocumented or irregular migrant workers could potentially apply for a residence authorization in Poland. Such cases often revolve around specific humanitarian or exceptional circumstances. These include:

- 1) Humanitarian and Compassionate Grounds: In some situations, undocumented migrants may be considered for a residence permit on humanitarian grounds, especially if they can demonstrate that returning to their home country would result in severe hardship or danger.
- 2) Family Reunification: If an undocumented migrant has immediate family members with legal residence in Poland, they may be eligible for family reunification, allowing them to regularize their status.
- 3) Victims of Trafficking and Exploitation: Victims of human trafficking or labor exploitation may be eligible for special residence permits designed to protect them from further harm and assist them in their recovery.
- 4) International Protection: If an undocumented migrant qualifies as a refugee or asylum seeker under international law, they may be eligible for residence permits or international protection.

It's important to note that these provisions are typically exceptional and require a thorough assessment by the appropriate immigration authorities. The ability to obtain a residence authorization in such cases will depend on the specific circumstances, documentation, and the discretion of the relevant authorities.

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