

FACT SHEET ON POLAND

Information supplied by Sledzinska & Bodnar, based on their paper for the Workshop on Legal Struggles and Political Mobilization around Gender Quotas in Europe, September 2014, Florence.

CONSTITUTION
Constitutional gender equality clause, including constitutional parity provisions.
Constitution of the Republic of Poland (adopted on April 2, 1997) Article 32 1. All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. 2. No one shall be discriminated against in political, social or economic life for any reason whatsoever. Article 33 1. Men and women shall have equal rights in family, political, social and economic life in the Republic of Poland. 2. Men and women shall have equal rights, in particular, regarding education, employment and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold offices, and to receive public honours and decorations.
Constitutional reform
-
Constitutional/Supreme Court case law on quotas
-
NUMBERS
Number of female MPs in both chambers
[2014] Lower Chamber (Sejm) - 110 (out of 460) Senate - 13 (out of 100)
Number of women in boards of biggest publicly listed companies
[2014] Data based on the report commissioned by the Ministry of Labour and Social Affairs, "Więcej równości – więcej korzyści w gospodarce" ["More equality – more advantages for economy"], 03.09.2014, available at: http://rownoscwbiznesie.mpips.gov.pl/jdownloads/Pliki%20do%20pobrania/wicej_rwnoci_wicej_korzyci_w_gospodarce_skr_t_raportu.pdf The biggest publicly listed companies, including companies with the State Treasury shareholding, have less than 15% of women on their management and supervisory boards, while the number of chairwomen is approx. 7%. The number of women on the management boards grew from 16.4 in 2010 to 18.1% in 2013, and on the supervisory boards from 11.7 to 12.5% in the same period.

[2014] European Commission, Data on women and men in the decision-making, available at: http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/business-finance/index_en.htm

From October 2010 to October 2014, the share of women on the boards of the largest publicly listed companies increased by 3 % in Poland. In April 2014, the average share of women on boards reached 17.8% in Poland. However, in October 2014 this number dropped to 14.6% against the general upward trend in 28 Member States.

[2011] Data based on 1524 observations of 389 companies listed on the Warsaw Stock Exchange in the period between 2005-2009 (Source: L. Bohdanowicz, „Obecność kobiet w organach statutowych polskich spółek publicznych perspektywa teorii instytucjonalnej i zasobowej” [„Presence of women in the governing organs of the Polish public companies. The perspective of institutional and resource theory”], MBA No. 2/2011, p. 79 available at: mbace.eu/fulltxt.php?ICID=1050310)

In the supervisory boards under observation there were more than five female members, while the arithmetic mean of their number was 0.74. A detailed analysis of these data shows that in the recent years we could observe a slight upward trend because more women are appointed to supervisory boards every year, but the growth rate remains low. Even fewer women sit on the management bodies of Polish public companies. The average value for a variable number of women on the board was 0.31, and the maximum value is 4. The average total number of women on the supervisory boards and the management boards was 1.05, and the maximum number of women in the governing bodies of one company was 7.

The average number of members in the supervisory boards analyzed in this sample was 5.79, and the maximum - 14. According to the Code of Commercial Companies, supervisory board should have at least five members, but for shorter periods, this number may be smaller. The minimum number of members of the supervisory boards in the sample was 4. The average number of members in the company management boards was 3.19, and the maximum number was 11. In Poland, there are also one-person management board, and so was the minimum number of members of the management board.

POLITICAL and PARTY QUOTAS

Existence of voluntary party quotas and other schemes

No official information on the voluntary party quotas and schemes is available.
Some parties do adopt internal rules concerning the number of female candidates on electoral lists.

Existence of soft measures in politics

No soft measures enhancing women's participation in politics are officially implemented.

However, the Congress of Women, an important women's movement, currently established as an association, is vitally involved in the promotion of women and women's rights in all spheres of life, including politics. It carries out various activities aimed at strengthening women's political representation through nationwide campaigns and initiatives at the regional level (though regional congresses of women).

Existence of hard legislated electoral quotas

Electoral gender quotas were adopted by the Parliament in 2011 and later introduced in the Electoral Code of 5 January 2011, which entered into force on 1 August 2011.

Excerpts from the Electoral Code:

Article 211 Requirements concerning list of candidates in the election of the Sejm

(...)

§ 3 On the list of candidates:

- 1) the number of candidates who are women cannot be less than 35% of all candidates on the list;
- 2) the number of candidates who are men cannot be less than 35% of all candidates on the list.

Article 215 Verification of lists of candidates by constituency (regional) electoral commissions

§ 1 The constituency (regional) electoral commission records the list of candidates presented pursuant to the provisions of the Code, by making the protocol of registration.

(...)

§ 3 If the application contains no defect, other than lack of the required number of signatures of voters duly submitted, the committee requests the person notifying the list to remove the defects within 3 days. In the case defects are not removed within the specified time the commission refuses registration the list in total or with reference to particular candidates. In the case of refusal in respect of certain candidates on the list, subject to the provision of art. 211 § 2, the list is registered in relation to the remainder of the candidate who were not refused registration.

(...)

§ 5 If the defect lies in failure to fulfill the notification requirement mentioned in art. 211 § 3, the commission shall request the person notifying the list to remove it within 3 days; provision of art. 212 § 6 does not apply. In the case of defects not removed within the specified time, the commission decides to refuse to register the list in its entirety.

Election of members of the European Parliament

Article 338

In matters not regulated in this Section, Section III (Election of the Sejm) shall respectively apply.

Election of local councils (rady gminy)

Article 416 Proportional elections of local councils in cities with county rights

§ 1 In cities with county rights (miasta na prawach powiatu) the distribution of mandates among lists of candidates is proportional to the sum of valid votes cast for candidates on the respective lists.

(...)

Article 425 Requirements concerning list of candidates in the election of local councils

(...)

§ 2 The list of candidates in elections of local councils:

- 1) in a municipality which is not a city with county rights shall contain only one name;
- 2) in city with county rights shall not contain less than 5 names of candidates, whereby the number of candidates shall not be greater than the double number of representatives elected in a given constituency.

§ 3 On the above-mentioned list:

- 1) the number of female candidates shall not be less than 35% of all candidates on the list;
- 2) the number of male candidates shall not be less than 35% of all candidates on the list

Article 431 Verification of lists of candidates by electoral commissions

(...)

§ 3 If the defect lies in failure to fulfill the notification requirement mentioned in art. 425 § 3, the local electoral commission shall request the person notifying the list to remove it within 3 days; provision of art. 428 § 3 does not apply. In the case of defects not removed within the specified time, the commission decides to refuse to register the list in its entirety

The above-listed provisions of the Electoral Code concerning the election of local council in cities with county rights apply to elections of county (rada powiatu) and regional councils (sejmik województwa) with the following exception:

The election of county councils (rady powiatu)

Article 457 Requirements concerning list of candidates in the election of county councils

§ 1 The number of candidates on the list shall not less than 3 and greater than the double number of representatives elected in a given constituency.

§ 2 In case the list of 3 candidates is notified:

- 1) the number of female candidates
- 2) the number of male candidates
- shall not be less than 1.

The compliance with the law is strong due to restrictive sanctions (refusal to register lists of candidates). Although the total number of women candidates increased in all types of elections, the number of women actually elected to the parliament and the regional and county representative bodies did not significantly grow.

The number of women elected to the Sejm increased from 19,78% in 2007 to 23,91% in 2011 after the legislative gender quota law was implemented.

The number of women elected in Poland to the European Parliament increased from 15% in 2004, to 22% in 2009 and 25% in 2011, but remains below the average level of female representation in the European Parliament, which is 37%. (Sources: Maurice Dunaiski, *Udział kobiet w wyborach do Parlamentu Europejskiego w maju 2014*, available at:

<http://rownoscplci.pl/uploads/filemanager/GenderEqualityintheEUElectionsPL.pdf>
and

<http://www.results-elections2014.eu/en/election-results-2014.html>

http://www.ipu.org/parline-e/reports/2255_arc.htm

In the local elections of November 2014, carried out for the first time under the regime of the electoral quota law, 45% women were registered as candidates on the lists. This number shows 7% growth in comparison with elections in 2010, while the growth of female representation in the local elections between 2002 and 2010 was only by 2%. All political parties that registered their lists in local elections exceeded 40% threshold of female candidates.

The main actor involved in favor of electoral gender quotas, campaigning for gender parity, zipper system and other soft measures was the Congress of Women, while the main opponent of any positive measures was the opposition party – Law and Justice, its leaders and members, as well as some women organizations related to the Catholic Church. The opposition to gender quota was a part of a strategy to discredit feminist movement, and so-called „gender ideology”.

Source: <https://www.osv.com/OSVNewsweekly/Article/TabId/535/ArtMID/13567/ArticleID/13990/Polish-Church-declares-war-on-gender-ideology.aspx> .

Existence of Public board quotas

No public board quotas were implemented to date.

CORPORATE BOARD QUOTAS

Existence of soft Corporate Board quotas/measures

In 2013 the Minister of the State Treasury issued “good practices” with regard to equal representation of men and women in the supervisory boards of the State Treasury owned companies. According to these “good practices,” until 2015 the Ministry of State Treasury will aim to achieve 30% representation of women in publicly listed (where the State has shares) or in other key companies. (Source: “Good practices” of 8 March 2013, available at <http://www.msp.gov.pl/pl/media/aktualnosci/25131,Dobre-praktyki-w-zakresie-zapewnienia-zrownowazonego-udzialu-kobiet-i-mezczyzn-w.html>)

According to the Code of Good Practices (as amended in 2011), the Warsaw Stock Exchange recommends public companies and their shareholders that they ensure a balanced participation of women and men on their management and supervisory boards, thus strengthening the creativity and innovation in the company’s business. (Source: http://www.gpw.pl/pub/files/PDF/foldery/dobre_praktyki_GPW.pdf)

It is explained that the term „ensure balanced participation” does not require that the company is obliged to introduce rules to ensure the balanced participation of women and men in performing management. Thus, the absence of such internal rules does not imply that the company will have to state in its annual report that it does not comply with these rules. Consequently, the recommendation means that the company’s approach to this issue may be reflected in the practice, as expressed in the actual composition of the company governing bodies. Thus, in the absence of such regulations, the company is not obliged to include in the annual statement on corporate governance information about non-compliance with the Recommendation No. 9, because the lack of relevant regulations in is not synonymous with the non-application of this principle.

(Source: <http://www.corp-gov.gpw.pl/questions.asp?kategoria=8>)

In November 2014 the President of the Warsaw Stock Exchange, Paul Tamborski, promised to introduce a new principle to the Code of Good Practices for publicly listed companies. The principle “comply or explain” means that companies that do not comply with the recommendations on the number of women in the corporate boards will have to - as part of their reporting obligations - explain to the public why this is happening (Source: http://wyborcza.biz/biznes/1,100896,17033776,Malo_kobiet_w_zarzadach_Gielda_ma_pomysl).

Existence of hard Corporate Board quotas

No corporate board quotas with sanctions were adopted to date.

Notably, both Chambers of the Polish Parliament – the Sejm and the Senate - declared that the proposal for a directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures is contrary to the principle of proportionality.

Main actors who oppose these changes seem to be the corporate boards.

QUOTAS IN OTHER DOMAINS

Legislated or voluntary measures in other domains as executive, judiciary, universities, sports federations, trade union, professions, political party structure, etc.

There are a few examples of legislative gender quota in the field of education.

The Law on Higher Education includes a statutory requirement of gender quotas with respect to the membership in the Polish Accreditation Committee (Państwowa Komisja Akredytacyjna - PAC).

Moreover, there is also a statutory requirement to respect the principle of gender parity in the appointment of members of the General Council of Science and Higher Education (Rada Główna Nauki i Szkolnictwa Wyższego – the Council).

CONTAGION and CONNECTIONS

Contagion between different domains within the country

The success of legislative electoral gender quota was not followed by a success of corporate gender quota legislation. Moreover, the draft law aimed to introduce gender parity on electoral lists and the zipper system sparked a backlash among political parties.

Connections with other countries/ international dynamics

The expertise and organization of the Congress of Women is strengthened by personal and social contacts of its leaders and members with the European women organizations and experts.

COUNTRY SPECIFICS

Best practice

The activation of prominent women in the Congress of Women seems to be the most effective mechanism of gradual improvement in women's political representation. Their strategy is to make soft pressure on political and economic leaders in exchange for support or building advantages through social corporate responsibility.

Failures

The electoral gender quota law is duly implemented, however, it does not prevent political leaders from marginalizing the role of women in the party politics. This attitude is evident in decisions concerning the composition of electoral lists that relegate women to non-electable places.

The most difficult barrier to any positive measures is psychological. Additionally, current decision-makers – both in the political and corporate domain, seem reluctant to adopt meaningful changes in the composition of various types of governing bodies.