



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Poland
<b>Title:</b>	New Government Plenipotentiary for Equal Treatment with different mandate, problems with the budget of the Ombud – Polish Equality Body
<b>Date:</b>	17 February 2016
<b>Expert:</b>	Lukasz Bojarski
<b><u>Context</u></b>	
<b>Issue at stake:</b>	New Government appointed new Plenipotentiary for Equal Treatment changing its mandate; problems with the budget of the Ombud – Polish Equality Body during the parliamentary procedure
<b>Ground of discrimination:</b>	All grounds
<b>Source:</b>	Policy developments
<b>Field:</b>	All fields
<b>Applicable law:</b>	Act of 3rd December, 2010 on the implementation of some regulations of European Union regarding equal treatment (ETA); Art. 20. <sup>1</sup>

### **Content:**

#### **Policy development:**

According to Art. 18 of the 2010 Act on the Implementation of Certain Provisions of the European Union in the Field of Equal Treatment (ETA) "Performance of tasks related to the implementation of the principle of equal treatment shall be entrusted with the Commissioner for Civil Rights Protection (Ombudsman) and the Government Plenipotentiary for Equal Treatment."

While Ombud is an independent body, the Plenipotentiary is a body in charge of non-discrimination policies and the coordination of governmental efforts. It has several important competences. The Plenipotentiary prepares and presents to the Council of Ministers the National Programme of Activities for Equal Treatment (*Krajowy Program Działań na rzecz Równego Traktowania*) and then report on its execution annually. Other competences include preparing draft laws related to equal treatment and preparing opinions about such drafts; a number of analytical and monitoring competences; the promotion of equal treatment; international cooperation; and implementing projects that support equal treatment and counteracting discrimination. The Plenipotentiary may

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<sup>1</sup> Journal of Laws of 2010, No. 254, item 1700.

Art. 20. 1. Government Plenipotentiary for Equal Treatment, hereinafter referred to as the "Plenipotentiary", shall be appointed and dismissed by the Prime Minister.

2. The Plenipotentiary shall report to the Prime Minister.

3. Plenipotentiary shall be the secretary of state in the Chancellery of the Prime Minister.

4. Content-related service, legal, technical and chancellery- and clerical-related services for the Plenipotentiary shall be provided by the Chancellery of the Prime Minister.

establish special research teams, call for specific research or expert analysis and provide reports based on this research. It may also issue recommendations.

After parliamentary elections that took place on October 25, 2015, a new parliamentary majority (the political party Law and Justice that gained the majority seats in both houses of parliament) chose the new Government. The President of the Republic appointed the Council of Ministers on November 16, 2015. Prof. M. Fuszara, previous Plenipotentiary for Equal Treatment, resigned on that day, but her successor was not nominated by the new Prime Minister, in the next 7 weeks (according to Art. 20 of ETA the Plenipotentiary, shall be appointed and dismissed by the Prime Minister).

Finally on January 8th, new plenipotentiary was named – Mr. W. Kaczmarczyk. It was announced that he was appointed to two positions – newly created position of the Government Plenipotentiary for Civil Society together with Plenipotentiary for Equal Treatment. At the same time (regulation from Jan. 5<sup>th</sup>, announced on Jan. 7<sup>th</sup>) the office of the Plenipotentiary for Equal Treatment was annulled. It is unknown at the moment what will happen with 16 employees of this office. The new Plenipotentiary has no record dealing with equal treatment issues and is not known among NGOs dealing with equality issues.

Simultaneously the debate about the Ombud is taking place. Ombud asked the parliament for 18% increase of its budget (as compared to 2015) for inter alia the renovation of two buildings and adaptations for persons with disabilities (renovation was recommended by the National Labour Inspectorate) and the creation of 8 new positions (in departments not related to equal treatment).

On January 5<sup>th</sup> the first discussion on the budget took place at the meeting of the Parliamentary Commission of Justice and Human Rights. On January 14-15<sup>th</sup> the second discussion took place at the Parliamentary Commission of Public Finances. During the meetings of both Commissions MPs from the Law and Justice Party (K.Pawłowicz, A.Mularczyk) expressed their concern regarding the policy of the Ombud. They underlined their dissatisfaction with the fact that Ombud has appointed as its deputy a "gender expert" (the appointed deputy is responsible for equality issues). MP A.Mularczyk for instance put it in the following words directed to Dr Bodnar, the Ombud: "You are appointing yourself deputy for gender issues and the Parliament is supposed to pay for it?"

Finally both Commissions voted on the draft budget with different results. Commission of Justice and Human Rights did not accept the draft budget and recommended its reduction to the level of the budget in 2015, the Commission of Public Finances accepted the draft budget. In between the meetings of the Commissions, the Equal Opportunities Coalition, formed by 60 NGOs formulated an appeal addressed to the Chairman of the Parliament regarding the necessary acceptance of the proposed budget and criticizing "the negative atmosphere of the debate". The final decision on the budget will be made by the Parliament.

### **Key points of analysis:**

The Government was already asked by NGOs about its equality politics but so far there was no answer and reaction.

Law and Justice Party that formed the Government never had equality issues on its agenda. In fact when Law and Justice was in power last time (Coalition of 3 parties – Law and Justice, Self-defence and League of Polish Families) the post of the Plenipotentiary was abolished (on November 3<sup>rd</sup>, 2005). It was re-established (in March 2008) only after new elections and the change of the Government. However the situation of the Plenipotentiary has changed, before 2011 s/he was appointed based on the Ordinance of

the Council of Ministers, since January 2011 it has its legal base in the Act of Parliament (ETA). So any decision regarding the existence of the Plenipotentiary would require the change of this Act.

It is worth noting that the head of the Chancellery of the Prime Minister (where the office of the Plenipotentiary was placed until 5<sup>th</sup> of January), Minister Beata Kępa, was the founder and the leader of the Parliamentary Group "Stop Gender Ideology"; group that protests against so-called "gender ideology" via a vis traditional, conservative values.

**Internet link source:**

Appointment of the New Government by the President:

<http://www.prezydent.pl/aktualnosci/nominacje/art,3,prezydent-powolal-rzad.html>

Resignation letter signed by the previous Plenipotentiary and addressed to the previous Prime Minister on the last day of the Government:

<http://rownetraktowanie.gov.pl/sites/default/files/dymisja.pdf>

Announcement of the press conference of the representatives of the Equal Opportunities Coalition of 60 NGOs, on Nov. 19<sup>th</sup> calling new government for cooperation on equal treatment issues and appointment of the new Plenipotentiary:

<http://ptpa.org.pl/aktualnosci/2015-11-17-nowy-rzad-jaka-polityka-rownego-traktowania-konferencja-prasowa-w-ptpa&nid=521>

Webpage of the Parliamentary Group of MPs "Stop Gender Ideology":

<http://www.sejm.gov.pl/sejm7.nsf/agent.xsp?symbol=SKLADZESP&Zesp=270>

Letter of the Equal Opportunities Coalition of 60 NGOs to the Chairman of the Parliament, January 7<sup>th</sup>, 2016:

<http://www.ptpa.org.pl/public/files/Stnowisko%20Koalicji%20Budzet%20RPO%208%20stycznia%202016.pdf>

All last accessed 20.01.2016.