



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

FLASH REPORT

Country:	Poland
Title:	New legal provisions aimed at enforcing civil law protection of victims of family violence
Date:	08 June 2020
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<u>Context</u>	
Issue at stake:	On 30 April 2020, the Polish Parliament passed legislation amending the Code of Civil Procedure and some other acts, providing for the possibility of the police issuing an order for the perpetrator of violence to leave the premises occupied together with the victim, without the need to initiate criminal proceedings.
Grounds of discrimination:	Sex
Field of application:	Violence against women
Source:	National legislation
Applicable law:	The law of 17 November 1964 - Code of Civil Procedure (unified text, Journal of Laws (JoL) of 2019, Item 1460, as amended, hereinafter referred to as the 'Code of Civil Procedure' or 'CCP'); Law on the Police of 6 April 1990 with amendments (unified text, JoL 2010 Item 360); Law on the Military Gendarmerie of 24 August 2001 (unified text, JoL 2019 Item 518); Code of Contraventions of 20 May 1971 (unified text, JoL 2019 Item 618); Law on counteracting family violence of 29 July 2005 (unified text, 2019, Item 1469).

Content

Law development: On 11 March 2020, the Sejm (the lower house of the Polish Parliament) received the Government's bill to amend the Code of Civil Procedure and certain other acts concerning the introduction into the legal order of comprehensive solutions to quickly isolate a person affected by violence from the perpetrator of violence in situations where it poses a threat to the life or health of the household members. The draft was immediately sent for reading to the plenary session of the Sejm and the law was passed on 30 April 2020. The Senate did not make any amendments. The President signed the law on 19 May 2020. The new regulations enter into force six months after the announcement.

Key points of analysis: The aim of the enacted legislation is to introduce into the legal order comprehensive solutions allowing for the immediate isolation of a person affected by violence from the violent person in situations where it poses a threat to life or health of the victim or other household members.

Although the current law already provides for similar civil law measures, also applicable prior to the initiation of criminal proceedings, their implementation in practice required approximately one month and therefore did not provide sufficiently effective protection to victims of domestic violence. As a result, the victims, usually women and children, were forced to leave their living premises in order to protect their life or health.

The new legislation introduces a special free of charge proceeding, in which the court may issue a special security order to ensure the safety of a person affected by family violence (Articles 755²-755⁴ of the CCP) in a shorter timeframe than previously, due to shortened time limits and the introduction of a separate method for delivering of court documents. Moreover, the draft provides for the first time that a respective application to the court may be preceded by an order issued by the police or, in the case of professional soldiers, by the Military Gendarmerie, ordering perpetrators of violence to leave the premises immediately, for a period of up to 14 days and prohibiting them to approach their cohabitants (at a specified distance) for that period. This order may later be extended by the court through a security order for a specified period. The planned new powers of the police are provided for in Articles 15aa-15ak of the Act on the Police and for the Military Gendarmerie in Articles 18a-18k of the Act on the Military Gendarmerie. In addition, these new powers have been supplemented by a formulation in these acts of the criteria for assessing the risk of repeated violence for the victim if the perpetrator were to remain in the common premises.

In order to protect minors, the Law provides that after receiving notice from the police or Military Gendarmerie about an order against a violent person who resides with minors, the guardianship court shall be obliged to initiate proceedings ex officio and to issue, without delay, a ruling on the custody of minor children, pursuant to Article 755(1)(4) of the Code of Civil Procedure (Article 755⁴ of the CCP).

The draft also provides for the possibility to introduce penal-administrative provisions (Article 66b of the Code of Contraventions), which will penalise non-compliance with prohibitions or orders imposed on a violent person, under threat of imprisonment for up to one month, restriction of liberty for up to one month or a fine for up to PLN 5 000 (EUR 1 190). Proceedings in such cases will be conducted under an accelerated procedure.

Internet source: Draft of the law with reasoning. Druk Sejmowy (Sejm print) No 1653 <http://orka.sejm.gov.pl/Druki8ka.nsf/0/B7BBC29AF503D623C125814500365055/%24File/1653.pdf>.

Final legislation: ustawa z dnia 30 kwietnia 2020 r. o zmianie ustawy - Kodeks postępowania cywilnego oraz niektórych innych ustaw [http://orka.sejm.gov.pl/opinie9.nsf/nazwa/279_u/\\$file/279_u.pdf](http://orka.sejm.gov.pl/opinie9.nsf/nazwa/279_u/$file/279_u.pdf).