



Respecting the rights of breastfeeding women in Poland. Survey results¹

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Abstract: Poland has a fairly well-constructed law which supports and protects breastfeeding women. It appears, however, that it is not adequately respected, with the exception of break time for nursing mothers at work. The goal of the conducted research was to evaluate whether Polish women are aware of their rights during breastfeeding and how well respected their rights are in reality.

The research was correlated with an educational campaign entitled “Karmie! Mam prawo!” („I breastfeed! I have the right!”) conducted in April and May 2023. As many as 3183 mothers participated in the research, of whom 97% (3089) were breastfeeding. It turned out that 1/3 of women knew, but also 1/3 of women didn't know, that they have rights as breastfeeding mothers. As many as 47.2% (1502) of surveyed women were refused certain medical services due to breastfeeding their child. 22.2% (708) of mothers felt discriminated because of breastfeeding, 53% (1702) were recommended an elimination diet, while 46.7% (1488) were suggested to stop breastfeeding without important reasons. Medical care in hospitals was insufficient for 39.4% (1155) of women. 69.5% (2211) of children were additionally fed with breast milk substitutes in hospitals and 25.1% (799) of their mothers were not asked for consent for this intervention. 69.7% (2219) of mothers have seen advertisements of formula, mostly in hospitals and healthcare centres. Although many women's rights are not respected, almost 67.5% (2150) of mothers declare that they would not know what to do or would decline to act in order to assert their rights or claim compensation for the harms suffered. The educational campaign led by the Centre for Lactation Science (polish Centrum Nauki o Laktacji) aims to raise awareness among women about their rights, leading to more assertiveness in claiming them. By empowering women with this knowledge, we can effectively put pressure on medical institutions to abide by the law. Ultimately, this will lead to improved public health in general.

Keywords: breastfeeding, women's rights, education of women

Introduction

Poland has a well-constructed law which supports and protects breastfeeding women. However, it does not seem to be adequately respected, with the exception of the right to take breaks from work to breastfeed a child. The latter is guaranteed in the Labour Code,

and other rights related to breastfeeding are mainly enshrined in regulations and professional codes. Different legal frameworks may explain such difference in respecting the law. It happens quite often that breastfeeding women are not treated equally

1 Article in polish language: Przestrzeganie praw kobiet karmiących piersią w Polsce. Wyniki badania ankietowego <https://www.stowarzyszeniefidesetratio.pl/fer/2023-3Nago.pdf>

with other mothers: they are denied certain benefits because of breastfeeding; they are subjected to outdated, non-evidence-based medical practices e.g., elimination diets or forceful breast massages. Perinatal care is not fully implemented according to the provisions of the law either, hospital and primary care is often inadequate, and specialized lactation care is not reimbursed or readily available. Mothers are sometimes encouraged to feed their children with breastmilk substitutes without specific indications, and those who feed their children for more than a year are often subject to critical remarks from family and medical staff. Considering the value of breastfeeding for public health, the Centre for Lactation Science (polish: Centrum Nauki o Laktacji – CNoL) attempted to assess the situation of Polish mothers in the context of awareness and respect for their rights, and at the same time conducted an educational campaign among mothers.

1. Aims, materials, and methods

The survey aimed to assess whether women in Poland know what their rights are during breastfeeding and what the reality is in respecting those rights. The survey was conducted in April and May 2023 by anonymous questionnaire shared online on the Internet – including the Centre for Lactation Science website and in groups for breastfeeding mothers on social media. A total of 3183 women living in Poland responded, of whom 97% (3089) had breastfed any of their children, and 2.9% (91) had attempted to do so after giving birth. Most of the respondents were aged 32-40 (48.5% – 1,544), 39.5% (1,258) were aged 27-31, 7.3% (231) of the respondents were under 26, and the least numerous were women over 42 (4.7% – 150).

The study was dominated by female residents of rural areas (27.1% – 862) and urban agglomerations with a population of at least 500 thousand (26% – 826). The remaining women resided in small cities (less than 50 thousand residents) – 17.3% (550),

medium-sized cities (50-100 thousand residents) – 11.7% (373), and large cities (100-500 thousand residents) – 18% (572). This distribution of place of residence gives grounds for considering the survey group as representative of the country.

All the questions in the survey were based on the legal acts in force in Poland, which cover women in the perinatal period as well as all patients and citizens. Among other things, women were asked about the observance of their rights under the Regulation of the Minister of Health, on the Organizational Standard of Perinatal Care, Act of Food and Nutrition Safety, Act on Patient's Rights and the Patient's Rights Ombudsman, so called Act on Equal Treatment², Act on the Profession of medical doctor and dentist, the Constitution of the Republic of Poland, the Medical Code of Ethics, the Code of Ethics for Professional Nurses and Midwives of the Republic of Poland, and the Labour Code.

2. Results

Among the 3183 mothers surveyed, 26% (828) do not know that they have any specific rights when breastfeeding their child. 29.2% (931) of women declare that they know their rights well and 44.7% (1424) know only some of their rights. 67.5% (2150) of mothers declare that they do not know what they would do or that they would not take action to claim their right or compensation for harm suffered. Some laws are well respected, but there are areas where the laws are being notoriously broken.

2.1. The right to medical treatment

“Either we treat you and you wean your baby or we don't treat you”. – This is a phrase that breastfeeding women have heard for decades. It was putting the patient in front of a difficult choice, and in some conditions, such as breast inflammation or depression, acting to worsen the course of the disease. Although knowledge is now readily available and recommendations

² We are referring to the Act of December 3, 2010 on the implementation of certain provisions of the European Union on equal treatment (Journal of Laws 2010 No. 254 item 1700).

from scientific societies have changed, old practices unfortunately persist. As many as 47.2 percent (1,502) of the mothers surveyed had heard a denial of some service because they were breastfeeding their child. This was mainly concerning prescribing a medicine or undertaking a treatment, performing a cosmetic or dental procedure, and in a small percentage, but performing a surgical procedure or a protective vaccination. Surprisingly, 192 women (6%) were not allowed to have an imaging examination, which is also necessary in breast conditions during lactation.

We know that the vast majority of medicines and medical procedures are safe for breastfed babies and do not require breastfeeding to be interrupted. Sometimes the disease affects the mammary gland and the problem needs to be diagnosed quickly to undertake appropriate treatment. Also, preventive examinations should be carried out as normal, without delay. A doctor who has any doubts about the treatment of a breastfeeding woman has the opportunity, indeed the duty, to seek up-to-date knowledge on the subject.

Many times, the ease of the proposal to ‘wean the baby’ is due to a lack of awareness of the risks associated with such a process. The cessation of lactation can be

a difficult process to rebuild. In addition, it is detrimental to the baby’s health – the sudden introduction of other foods based on antigenically foreign proteins is not optimal for infant nutrition. For the mother, on the other hand, it is a major stress and risk, including stasis, breast inflammation, or weakened lactation. If it is necessary to temporarily stop breastfeeding (although the vast majority of pharmacological measures do not require this), it is necessary to maintain lactation by expressing milk and feeding the baby with milk that has been stored previously, e.g. from a period of excessive milk production (home milk bank).

Breastfeeding women have the same rights to diagnosis, treatment, and prevention as any other citizen of the Republic of Poland. This is stated in the Medical Code of Ethics [Resolution of the Extraordinary Second National Congress of Physicians of 14 December 1991 on the Code of Medical Ethics Art.3. – Lekarz.1991.12.14]: “A doctor, both in time of peace and in time of war, should perform their duties with respect for human beings regardless of age, sex, race, genetic endowment, nationality, religion, social affiliation, material situation, political views or other conditions.”

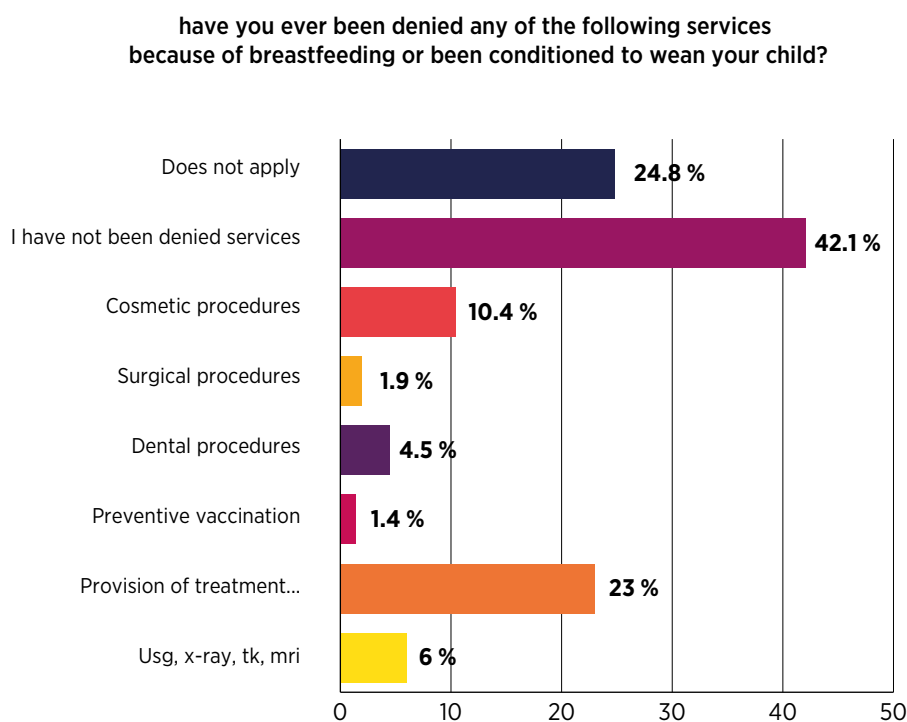


Figure 1. Breastfeeding and denial of benefits.

In addition, according to Article 6 of the Act on Patient's Rights and the Patient's Rights Ombudsman (Act of 6 November 2008 on Patient's Rights and the Patient's Rights Ombudsman – Art.6 – Journal of Laws 2022.0.1876), the patient has the right to health services corresponding to the requirements of current medical knowledge. If a doctor or any member of the medical staff refuses to perform an examination, medical procedure, or treatment on a woman, they should give a justification for their decision supported by scientific research and propose an alternative procedure that is safe for both mother and child. If, on the other hand, “the scope of these [professional] activities exceeds the skills of the doctor, then they should turn to a more competent colleague” (Resolution of the extraordinary Second National Congress of Physicians of 14 December 1991 on the Medical Code of Ethics – Art.11 – *Lekarz*.1991.12.14).

“A doctor must not use methods considered by science to be harmful” – reads the KEL (Resolution of the Extraordinary Second National Congress of Physicians of 14 December 1991 on the Medical Code of Ethics – Art.59). Unfortunately, the practice of forcible massage of inflamed breasts, taken from veterinary medicine, was present in Polish gynecology and obstetrics textbooks for years. However, worldwide data did not confirm its effectiveness, and Polish studies proved its high harmfulness (almost 50% increase in the risk of breast abscess) (Żukowska-Rubik, Raczek-Pakuła, 2015). Despite the absence of such recommendations for decades, this erroneous management of lactation disorders still occurs. The use of forceful breast massage is a violent procedure, not used in Western medicine and leads to serious complications, (Mitchell, Johnson, Rodríguez, Eglash, Scherzinger, Zakarija-Grkovic, Cash, Berens, Mill-

er, 2022). Unfortunately, Polish breastfeeding mothers subjected to this procedure, which is incompatible with current medical knowledge, still end up in the offices of physicians and lactation consultants – the performance of painful breast massage was reported by 130 women (4.1%) in a survey of the Centre for Lactation Science.

2.2. The right to equal treatment

Polish mothers experience discrimination in many areas of their lives. Based on the results of the CNoL survey, it is known that 22.2% (708) of mothers felt discriminated against because of breastfeeding and 14.5% (463) experienced verbal abuse or unpleasant comments on the Internet. For long-feeding mums, data show that criticism and unpleasant comments are experienced by more than 60% of women – mainly from family, friends, and health professionals.³

Article 32 of the Constitution of the Republic of Poland (Constitution of the Republic of Poland of 2 April 1997 Art.32 – Journal of Laws 1997 R. NR78, POZ. 483) states clearly: “All are equal before the law. Everyone has the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason”. There is no direct reference to breastfeeding women in Polish law⁴, however, according to the article mentioned above, the mother should also be treated equally and fairly by public authorities.

Breastfeeding is a natural process, beneficial both for the health of the mother and the child and, in the long term, from a public health perspective, for society as a whole. Current Polish legislation does not place sufficient emphasis on the legal protection of breastfeeding women, in contrast to the UK's The Equality Act (The Equality Act 2010, Section 13.6a), the provisions of which prohibit discrimination against

3 Nehring-Gugulska, M., Bębenek, D. *Długie karmienie piersią. Zanim coś powiesz, spójrz spokojnie na wyniki badań.* (From: <https://cnol.kobiety.med.pl/pl/karmie-dlugo/> (access: 09.07.2023).

4 It is noteworthy at this point that Article 68(3) of the Polish Constitution proclaims that it is among the special duties of the state to take care of the health of pregnant women and children. Although, as noted, Polish statutory provisions do not directly point to the “right to breastfeed,” it is nevertheless necessary to emphasize that the Polish legislator explicitly refers to a woman's special rights both during the period of awaiting a child and after its birth. In addition to the constitutional norm cited here, it is necessary to draw attention to Article 34(2) of the Law on Patients' Rights and the Ombudsman for Patients' Rights, which stipulates that “The additional nursing care referred to in paragraph 1 is understood to be care that does not consist in the provision of health care services, including care provided to a minor patient or a patient with a certificate of significant disability, and to a patient in the conditions of pregnancy, childbirth and postpartum.”

women on the grounds of breastfeeding without time limitation and specify in detail that breastfeeding women must not be humiliated, criticized, denied services or treated less favourably, and indicate where to claim their rights and what body is responsible for it. Importantly, private entities are also covered by the prohibition of discrimination against breastfeeding mothers regardless of the age of the child and are liable in case of violations. The Ombudsman receives cases of discriminated mothers and expresses a clear position condemning such actions (the case of the breastfeeding policewoman in 2016, the case of the breastfeeding mother in a restaurant in 2017).

2.3. The right to breastfeed in public spaces

According to the CNoL survey, 7.6% (241) of breastfeeding women have experienced rude comments in a public place, 7.3% (231) have been offered to feed their baby in the toilet and 2.4% (76) have heard a suggestion to leave the place or have been prohibited from feeding in public. Separating the long-feeding mothers from this group, it can be seen that 60% of them declared that they feed their children wherever they want, with no restrictions of place.⁵

Women in Poland have the right to breastfeed in public places. This is the position of the Government Plenipotentiary for Equal Treatment: “A woman has the right to breastfeed freely in public places. The provisions of Polish law do not prohibit breastfeeding in a public place (restaurant, shopping centre, or public transport). A trader who puts pressure on a breastfeeding woman to change her place of breastfeeding is acting unlawfully. A breastfeeding mother who is asked out has the right to claim compensation from the owner of the establishment under the provisions of the Act of 3 December 2010 on the implementation of certain provisions of the European Union on equal treatment, as such behaviour may be considered a manifestation of gender discrimination. The provi-

sion of Articles 12 and 13 of the same Act stipulates that in the case of violations of the principle of equal treatment (...), there is a claim for compensation.”⁶

Furthermore, in the Ombudsman’s assessment: “shaming a mother who feeds her child in a public place is an unlawful form of unequal treatment on grounds of sex. Breastfeeding in a place and at a time convenient for mother and child is not only lawful but advisable for the health of the child. According to the recommendations of the World Health Organisation, it is advisable to breastfeed a child for up to 6 months and continue until the child is 2 years old and beyond. The Ministry of Health makes it clear that breastfeeding in public is part of social life. Making women believe that breastfeeding is something to be ashamed of, that they cannot breastfeed at a place and time convenient for themselves and their child, can lead to women’s participation in society being restricted or to their feeding time being reduced.”⁷

2.4. The right to high-quality perinatal care

The right to perinatal care is guaranteed by the Regulations of the Minister of Health on the organizational standard of perinatal care (SOOO) (Regulation of the Minister of Health of 16 August 2018 on the organizational standard of perinatal care Journal of Laws. 2018 item 1756). The results of the CNoL survey show that, on the one hand, these rights are not fully respected in Poland and, on the other hand, only 1/3 of women declare that they would take action if their right to breastfeed was being violated.

The SOOO guarantees the following rights concerning lactation care:

2.4.1. Before labour

Every pregnant woman has the right to free antenatal education organized in the form of individual or group classes. Its program should include in-

5 Nehring-Gugulska, M., Bębenek, D. *Długie karmienie piersią. Zanim coś powiesz, spójrz spokojnie na wyniki badań.* (From:) <https://cno1.kobiety.med.pl/pl/karmie-dlugo/> (access: 09.07.2023).

6 *Oświadczenie pełnomocnika rządu do spraw równego traktowania w sprawie karmienia piersią w miejscach publicznych.* (From:) <https://topfreedom.pl/karmienie-piersia/> (access: 9.07.2023).

7 *Zawstydzanie matki karmiącej dziecko w miejscu publicznym jest niezgodną z prawem formą nierównego traktowania - wyrok w sprawie do której przyłączył się RPO.* (From:) <https://bip.brpo.gov.pl/pl/content/zawstydzanie-matki-karmi%C4%85cej-dziecko-w-miejscu-publicznym-jest-niezgodn%C4%85-z-prawem-form%C4%85-nier%C3%B3wnego> (access: 09.07.2023).

formation on breastfeeding and lactation support, including solutions to lactation problems (SOOO IV.5.2). The questionnaire asked, “Did you receive information on breastfeeding in the birthing school or antenatal education from the midwife?” 79.5% (2,531) of the women had attended antenatal classes, of whom half felt well prepared for breastfeeding. 202 women (7.9%) testified that the topic of natural breastfeeding was not addressed there at all. Despite attending the antenatal classes, half of the mothers therefore did not feel prepared for breastfeeding. Antenatal care is funded by healthcare contributions – it is reasonable to require key issues to be addressed.

2.4.2. At the hospital

After childbirth, mothers should be provided with skin-to-skin contact with their baby within the first 2 hours and, during this time, with the help of the staff, breastfeed the baby (SOOO XIII.1.8). The mother should also be instructed in the correct position and method of breastfeeding the baby (SOOO XIII.3.2). In the CNoL study, breastfeeding mothers were asked the question: “In the hospital after delivery, did the staff show you how to properly breastfeed your baby?” The majority of women received such instruction (70.6% – 2220), but despite this, 52% (1155) of the mothers in this group still had problems with accessioning. 22.8% (718) of mothers were not shown how to properly breastfeed their baby, despite the reported need.

2.4.3. After leaving the hospital

After leaving the hospital, the woman should be under the care of a midwife who “shall make no fewer than 4 visits (the first visit taking place no later than 48 hours after the midwife receives notification of the birth of the child) (SOOO XIV.8)”. During this visit, the midwife, among other things, “encourages the mother to breastfeed naturally, provides lactation advice including assessment of the anatomy and physiology of the mother’s breast and the baby’s mouth, assessment of feeding technique, suckling skills and effectiveness of feeding and risk factors for lactation failure, and assists in solving lactation

problems” (SOOO XIV.4.10.7). 79.8% (2540) of the mothers surveyed had lactation difficulties and needed help. As many as 74.9% (1,903) of them obtained it. Of those who received help from a midwife for their lactation problems, 61.2% (1165) testified that it was effective. In 38.8% (738) it was insufficient.

The main purpose of the SOOO is to provide every pregnant woman with the highest level of safety and health care. It is advisable to know its objectives in order to be aware of one’s rights and to ask for them to be fulfilled.

2.5. The right to refuse formula feeding

Available research shows that at least half of Polish newborns are fed infant formula in the hospital (Nehring-Gugulska, Szyber, Żukowska-Rubik et al., 2015). In turn, according to a CNoL study, this applies to up to 69.5% (2211) of newborns – while a maximum of some dozen percent of newborns require it for medical reasons (Walker, 2014).

Even if supplemental feeding is necessary, infant formula should not be the food of first choice. The Organisational Standard of Perinatal Care (SOOO) indicates appropriate practice: “If ineffective breastfeeding is identified, the problem should be diagnosed based on an assessment of suckling skills and procedures should be implemented following current knowledge of lactation to enable the newborn to be successfully fed with breast milk from the mother’s breast and, if this is not possible, with pumped breast milk.” (SOOO XIII 3.4)

If a newborn needs to receive additional feedings, hospital staff is required to provide lactation assistance, including pumping and administering breast milk (including colostrum). The assistance guaranteed to mothers by SOOO concerns:

- Education on proper breastfeeding practices,
- instruction on manual colostrum pumping in the first few days (especially in the first day of life, a newborn needs only a few millilitres of food per serving, and in a situation where the baby does not attach to the breast or is separated from the mother, this need can usually be met by pumping colostrum),

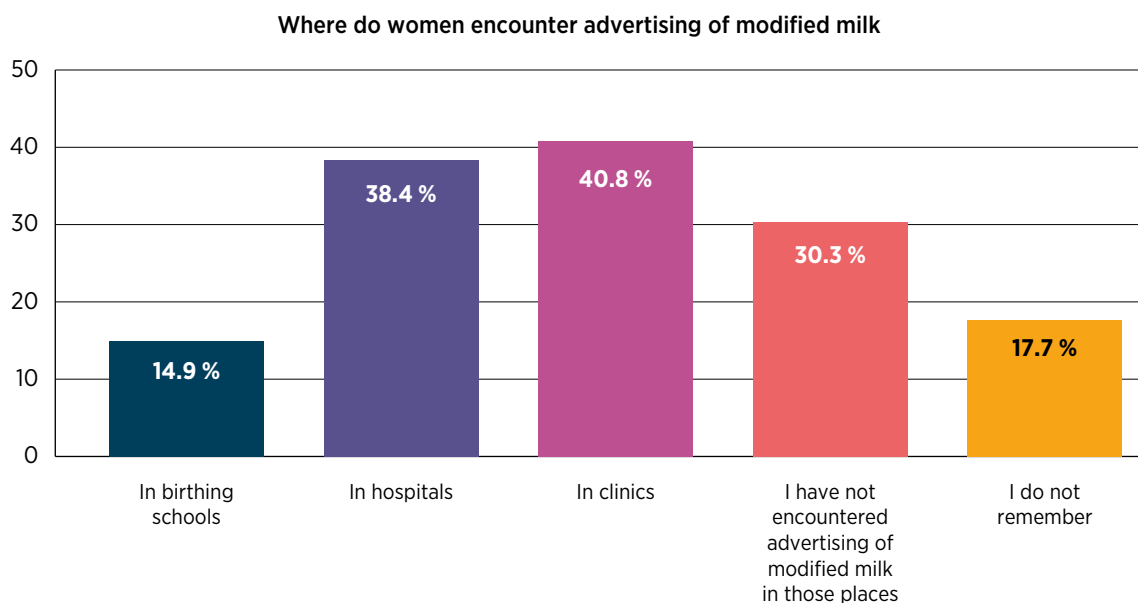


Figure 2. Advertisements for modified milk in medical facilities.

- provision of appropriate equipment for expressing milk and assistance in its use,
- provision of milk from a human milk bank for newborns born prematurely.

When, despite taking proper measures to initiate and stimulate lactation, feeding is ineffective and there is a shortage of expressed breast milk, a premature and sick baby should receive milk from a milk bank. If a healthy and term newborn, based on a doctor's decision, needs to be fed with modified milk, the staff is obliged to provide the mother with information about this and record this fact in the medical record. (SOOO XIII 3.5)

Medical personnel must not give formula without providing information to the child's caregiver and without medical justification. The CNoL survey found that 36.1% (799) of mothers were not asked permission to give formula to their baby, 37% (1177) felt encouraged to give formula, and 20.3% (645) of mothers were told that they do not have enough milk.

The obligation to provide information also stems from general norms, namely the Act on Patient's Rights and the Patient's Rights Ombudsman (Act of November 6, 2008 on Patients' Rights and the Patient's Rights Ombudsman – Art.9(2) – Journal of Laws 2022.0.1876): “a patient, including a minor who is 16 years of age or older, or his/

her legal representative, has the right to obtain from a physician accessible information about the patient's health condition, diagnosis, proposed and possible diagnostic and therapeutic methods, foreseeable consequences of their application [...]”. What does this mean in the context of lactation? The mother of a newborn who needs additional feeding should be told by the staff for what reason this is happening, what measures are proposed, and what the consequences will be. Once the caregiver is informed – she can decide under Article 16: “The patient has the right to consent to the provision of certain health services or to refuse such consent, having been informed to the extent specified in Article 9.” In the case of a newborn, of course, the reference is to parental consent.

Polish mothers see advertisements of infant formula in clinics (40.8% – 1299), in hospitals (38.4% – 1223), and in antenatal classes (14.9% – 473). Following the European Commission Directive 2006/141/EC implemented into Polish law in 2006 (Act of August 25, 2006 on food and nutrition safety Art. 25.2 Dz.U.2022.2132) and with the Regulation of the Ministry of Health on special-purpose foodstuffs (Regulation of the Minister of Health of September 16, 2010 on special-purpose foodstuffs Chapter 2 §15-20- Dz.U. 2010 No. 180 item 1214), advertising of infant

formula products is severely restricted. In addition, the SOOO prohibits such practices on the premises of facilities providing prenatal education and care for women during pregnancy, after childbirth, and for newborns. Parents, therefore, should not be given infant formula milk-related leaflets, samples, or paraphernalia at antenatal classes, clinic, or hospital. Unfortunately, 28.8% (917) of mothers get them in the hospital.

Why should it be necessary to fight for the right to feed newborns and infants with mother's milk and to limit supplementation with breast milk substitutes as much as possible?

- If you do not stimulate lactation with a breast pump during formula feeding, the chance of successful lactation decreases
- For the mother, there is an increased risk of lactation disruption and failure with all the consequences: among others, a lack of health benefits of breastfeeding for mother and child, an increased risk of postpartum depression (Pope, Mazmanian, 2016) an economic burden due to the cost of modified milk (Eidelman, Schanler, et al., 2012)
- According to recent reports, feeding modified milk in the first week of a baby's life increases the risk of developing IgE-mediated allergies in breastfed infants. According to the recommendations of the European Academy of Allergy and Clinical Immunology, this practice should be avoided and efforts should be made to feed infants only breast milk (Meyer, Chebar Lozinsky, Fleischer, Vieira, Du Toit, Vandenplas, Dupont, Knibb, Uysal, Cavkaytar, Nowak-Węgrzyn, Shah, Venter, 2020).

2.6. The right to a diverse and balanced diet

It would seem that the right to eat what you like is a basic human right. Unfortunately, it is denied to breastfeeding mothers, and all too often. Eliminating products from the diet of a breastfeeding mother is a very popular recommendation, and not based on any scientific rationale. According to a survey conducted by the Centre for Lactation Science

(Żukowska-Rubik, Nehring-Gugulska, 2016-2018), half of nursing mothers heard the recommendation to avoid certain products already in the hospital after delivery. Diets are also readily recommended by midwives (50%), paediatricians (43%) and family doctors (21%). As a result, according to a study by Karcz and Lehman (Karcz, Lehman, Królak-Olejniak, 2020), as many as 29% of women follow an elimination diet while breastfeeding. Mothers often eliminate up to a dozen products. What are the reasons for introducing such a diet?

- Concern about lactose from dairy products
- Baby's colic
- Food allergy prevention
- Unsubstantiated suspicion of food allergy (often based on harmless phenomena related to the child's development, such as skin changes with a hormonal basis, physiological food volatilization, stool colouring and mucus admixture without clinical significance, and child anxiety).

It is important to be aware that breast milk is formed in the breasts *de novo* and is the best possible food for the infant. Lactose consumed by the woman (this milk sugar is formed in the mammary gland regardless of how much cow's milk and its products are consumed by the breastfeeding woman) does not penetrate the breast milk, nor does it contain the gases produced by the mother's intestines after eating so-called bloating products. There is also no indication for the use of diet or food allergy prevention, on the contrary, it is harmful (Halken, Muraro, de Silva, Khaleva, Angier, Arasi, Arshad, Bahnson, Beyer, Boyle, du Toit, Ebisawa, Eigenmann, Grimshaw, Hoest, Jones, Lack, Nadeau, O'Mahony, Szajewska, Venter, Verhasselt, Wong, 2021). Minimal amounts of digested foreign proteins, such as cow's milk or egg proteins, can be found in breast milk (Kosmeri, Rallis, Kostara, Siomou, Tsabouri, 2022). Their presence is likely to be beneficial for the child, as through contact with them (under the cover of breast milk, which has a beneficial effect on the child's gut and immune system), the child's body has a chance to develop immune tolerance (Chinthrajah, Hernandez, Boyd et al., 2016). Mean-

while, according to a recent survey conducted by the Centre for Lactation Science, 39.1% (1,143) of women were advised to avoid allergenic products, and just under 35.9% (1,143) were told to avoid bloating foods and lactose.

The latest Global Allergy and Asthma European Network guidelines (Muraro, de Silva, Halcken, Worm, Khaleva, Arasi, Dunn-Galvin, Nwaru, De Jong, Rodriguez Del Rio, Turner, Smith, Begin, Angier, Arshad, Ballmer-Weber, Beyer, Bindslev-Jensen, Cianferoni, Demoulin, Deschildre, Ebisawa, Fernandez-Rivas, Fiocchi, Flokstra-de Blok, Gerdtz, Gradman, Grimshaw, Jones, Lau, Loh, Alvaro Lozano, Makela, Marchisotto, Meyer, Mills, Nilsson, Nowak-Wegrzyn, Nurmatov, Pajno, Podest`a, Poulsen, Sampson, Sanchez, Schnadt, Szajewska, Van Ree, Venter, Vlieg-Boerstra, Warner, Wong, Wood, Zuberbier, Roberts, 2020) emphasize that elimination diets should only be introduced for breastfeeding mothers in exceptional, very severe cases. Even mothers of allergy sufferers usually should not avoid allergenic foods, and “infants with IgE-dependent allergies are rarely so sensitive as to respond to very low levels of allergens in breast milk. The harms of avoiding foods during breastfeeding may outweigh the benefits of controlling the infant’s allergies.”

According to the Medical Code of Ethics, a physician is obligated to act following contemporary medical knowledge (Resolution of the Extraordinary Second National Congress of Physicians of December 14, 1991 on the Medical Code of Ethics Art.4. – Lekarz.1991.12.14). The patient, in turn, has the right to “health care services corresponding to the requirements of current medical knowledge” (Act of November 6, 2008 on Patient’s Rights and Patient’s Rights Ombudsman Art.6.1. Journal of Laws.2022.0.1876). Importantly, a patient has every right to expect a medical professional to perform actions toward him in a manner that correlates with the ethical principles of the profession. One cannot forget at this point the content of Article 4 of the Act on the Profession of medical doctor and dentist, according to which “A physician is obliged to practice his profession following the indications of current medical knowledge, the methods and means available to him for the prevention, diagnosis, and treatment

of diseases, following the principles of professional ethics and with due diligence.” This provision, as it were, describes the axiological foundation of the activities to which a doctor is obliged, combining the principles of ethics and law (Act of December 5, 1996 on the professions of medical doctor and dentist Journal of Laws 2023.1516, i.e.). Thus, summing up this part of the consideration and analysis, a breastfeeding mother has the right to up-to-date and reliable information about her health and the health of her child. Moreover, the guidelines of scientific societies are unequivocal on the issue of elimination diets.

2.7. The right to breastfeeding breaks

Breastfeeding mothers are entitled to a break for feeding their child according to Art. 187 of the Labour Code (Act of June 26, 1974 Labour Code Art.187 OJ.2022.1510). An employee who breastfeeds a child is entitled to two 30-minute breaks included in working time. A female employee breastfeeding more than one child is entitled to two breaks of 45 minutes each. If the employee works less than 4 hours – she is not entitled to the break, if works 4 – 6 hours – only one break is possible.

The CNoL survey found that 60% (901) of mothers who returned to work used such a break. Unfortunately, 6.7% (101) did not know that they could request it from their employer.

Some employers ask mothers for a breastfeeding certificate from a doctor. Others only need an application with a statement from the employee that she is breastfeeding her child. The need to provide a certificate concerns 19.8% (297) of mothers, although there is no such requirement under the employment law, it is the employers’ initiative without a legal basis. The survey also shows that the employer did not approve (and therefore violated employment law) a break for breastfeeding in 6.1% (92) cases of respondents.

Breastfeeding break is the so-called lactation break, that is, it is related to lactation occurring in the woman. And while breastfeeding a one-year-old

child is unlikely to raise objections, an older one usually does. Therefore, the older the child, the more difficult it is for employees to exercise their rights.

A breastfeeding break according to Article 87 of the Labour Code is granted to an employee in the legal sense and not in the colloquial sense (Act of June 26, 1974 Labour Code Art.87 OJ.2022.1510). Article 2 of the Labour Code defines the concept of an employee as a person employed under a contract of employment, nomination, election, appointment, or cooperative employment contract (Act of June 26, 1974 Labour Code Art.2 OJ.2022.1510). Thus, a person who is employed under another contract, such as an apprenticeship or a civil law contract (for work or commission), is not an employee within the meaning of the Labour Code and cannot exercise the right to feeding specified in Article 187 of the Labour Code (ACT of June 26, 1974 Labour Code Art.187 Dz.U.2022.1510). In this case, granting feeding breaks would only be an expression of the employer's very goodwill.

Sometimes the employee herself gives up the entitlement for economic reasons, if, for example, she is overlooked for rewards, despite the fulfilment of her job duties.

A breastfeeding break can be used in a variety of ways, depending on the individual needs of oneself, the child, and the nature and system of work that the employee performs. You can use two breaks together, you can come to work later, leave earlier, use breaks on the premises of the workplace, feed the baby at the workplace or in a nearby area (as long as the baby's caregiver can carry them out for the feeding time), you can also express milk in a restroom (or other) located on the premises of the workplace, or you can arrange with the employer to use breaks still in another system when lactation requires it, such as for expressing milk during work time.

Naturally breastfeeding employees are entitled to a breastfeeding break, but this does not mean that they have to use it. If they don't need such a break, and their children are doing just fine without them (despite being breastfed) – they can safely work full time, take overtime, or go on business trips, as long as they agree to it (Act of June 26, 1974 Labour Code Art.178(2) Journal of Laws 2022.1510).

However, it should be emphasized here that the employer may not employ women in work that is particularly arduous or harmful to health (a detailed list of work is specified in the Ordinance). On the other hand, in the case of a breastfeeding employee, regardless of the degree of exposure to harmful health or dangerous factors, the employer is obliged to transfer the employee to other work, and if this is not possible, release her for the time necessary from the obligation to provide work. In certain circumstances, the employer is obliged to adapt the working conditions to the requirements of the regulations (Act of June 26, 1974 Labour Code Art.179 §2. Journal of Laws 2022.1510). Such a situation may arise, for example, in the case of female health care workers.

2.8. The right to decide on the duration of breastfeeding

The World Health Organization (WHO) recommends exclusive breastfeeding until the child is six months old and continued breastfeeding until the child is two years old or more (WHO. Global Strategy for infant and young child feeding. 2002). What does "more" mean? As long as the needs of mother and child dictate, according to a statement by the European Society for Paediatric Gastroenterology, Hepatology and Nutrition (ESPGHAN Committee on Nutrition; Agostoni, Braegger, Decsi, Kolacek, Koletzko, Michaelsen, Mihatsch, Moreno, Puntis, Shamir, Szajewska, Turck, van Goudoever, 2009).

Unfortunately, daily practice falls short of the recommendations. About 50,000 women in Poland breastfeed for more than a year, i.e. they meet the definition of long-term breastfeeding (DKP) (Zagórecka, Motkowski, Stolarczyk, Socha, Piotrowska-Jastrzębska, Socha, 2007). Mothers who have chosen this method of feeding often face incomprehension and critical comments, both from those around them and from medical personnel. According to the CNoL survey, as many as 46.7% (1,488) of women have been suggested to stop breastfeeding earlier than planned without valid reasons. As many as 39.8% (1,266) of women were told that their milk no longer

Has anyone suggested that you stop breastfeeding sooner than you had planned?

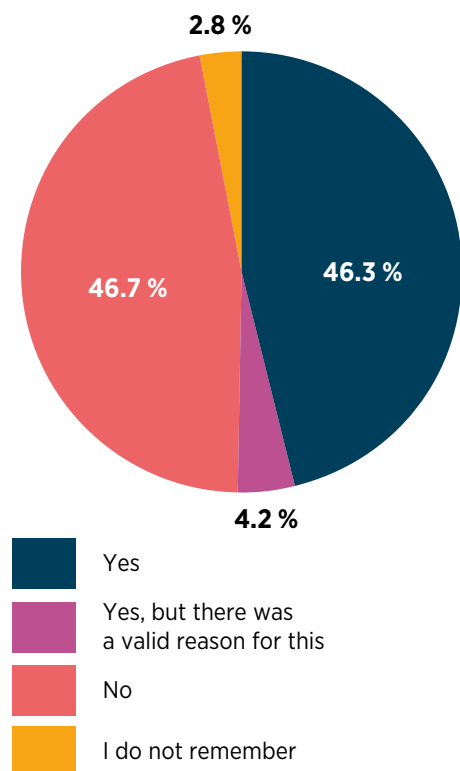


Figure 3. Suggestion to end breastfeeding.

had any value. 22.6% (720) of women – that they were already feeding only for their pleasure. 20% (636) – that she is “disturbing the baby’s psyche” by feeding for a long time.

What are the facts? Long breastfeeding is completely normal for our species – globally, children are breastfed for 3.8 years (Lawrence, Lawrence, 2005). It is also very beneficial in terms of health – for the baby, but also the mother. There is evidence of the effect of long breastfeeding on reduced risk of, among other things:

- Obesity, type 2 diabetes, malocclusion, infections in children.

- Breast cancer, ovarian cancer, cardiovascular disease, osteoporosis in moms.⁸

In addition, the food of nursing mothers of children over 1 year of age changes composition to adapt to the needs of the growing child – it contains more protein and fat and has a higher energy value (Mandel, Lubetzky, Dollberg, Barak, Mimouni, 2005).

“Breastfeeding is inextricably linked to human rights, both in the context of the mother and the child. Children have a right to life [...], to development, and the highest attainable standards of health – and breastfeeding is an integral part of this, as are safe and nutritious foods. Women have the right to the accurate and unbiased information needed to make informed choices about breastfeeding. [...] They also have the right to adequate maternal protection in the workplace and to a welcoming environment and appropriate conditions for breastfeeding in public places – essential elements to ensure breastfeeding success.” – This is the position of the United Nations, which also very pertinently applies to prolonged breastfeeding.⁹

The decision to breastfeed for a long time is an element of child custody (Act of February 25, 1964. -the Family and Guardianship Code Articles 95 and 96 – Journal of Laws 2020.1359, i.e.) as part of the exercise of parental authority. Questioning the custody exercised over a child is possible only in exceptional situations, especially for the sake of the child’s welfare. Therefore, it is worth educating the public, and informing them of the WHO’s recommended length of feeding and its health benefits.

3. Who to approach in situations of rights violations

It seems that if women are aware of their rights, it is easier for them to fight for them to be respected. The CNoL survey found that as many as 26% (828) of respondents do not know that they have any rights

8 Nehring-Gugulska, M., Bębenek, D. *Długie karmienie piersią. Zanim coś powiesz, spójrz spokojnie na wyniki badań.* (From: <https://cnol.kobiety.med.pl/pl/karmie-dlugo/> (access: 09.07.2023).

9 *Joint statement by the UN Special Rapporteurs on the Right to Food, Right to Health, the Working Group on Discrimination against Women in law and in practice, and the Committee on the Rights of the Child in support of increased efforts to promote, support and protect breast-feeding.* (From: <https://www.ohchr.org/en/statements/2016/11/joint-statement-un-special-rapporteurs-right-food-right-health-working-group> (access: 09.06.2023).

related to breastfeeding, and if they were violated, more than half do not know if they would take any action. This fact was not influenced by the mother's place of residence. How to increase this awareness and how to influence the behaviour of Polish women to demand more for themselves and their children? What influences such a passive attitude of mothers? The campaign entitled "I feed! I have the right!", which was organized by the Centre for Lactation Science with social partners under the auspices of the Patient's Rights Ombudsman, was a response to these diagnosed problems and aimed to educate in two areas: what rights are women entitled to and how to demand them. Women who participated in the campaign received detailed information on how to report violations.

First of all, women should calmly inform the person who violates their rights. If they are ineffective, they can file a complaint – for example, to the management of the institution or the manager of the restaurant or other facility where the situation occurred. In the case of violations on the part of medical personnel, the situation can be described in the reviews of medical care in a given institution in the Internet Patient Account (IKP), a complaint can be written to the management of the medical institution, a report can be made to the ombudsman for professional responsibility of doctors at the district medical chamber to which the doctor belongs – if the response of the director of the institution where the doctor works is not accepted; to the ombudsman for professional responsibility of nurses and midwives at the district chambers of nurses and midwives – if the response of the director of the institution where the nurse or midwife works is not accepted. In the case of serious violations related to the provision of medical services, a notice can be filed with the prosecutor's office or a lawsuit for damages or compensation can be filed in civil court. In certain cases, an application may

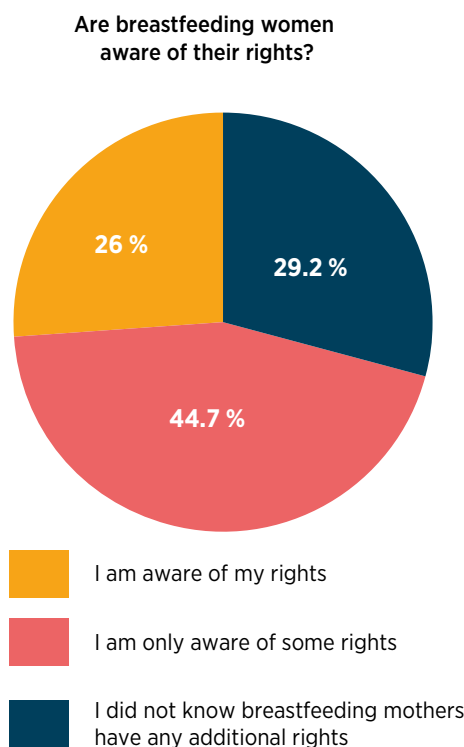


Figure 4. Awareness of breastfeeding women's rights.

also be filed with the Provincial Commission for Adjudication of Medical Events. Taking advantage of these paths requires individual analysis.

Moreover, some non-governmental organizations provide support, information, and legal advice – including the Rodzić Po Ludzku Foundation¹⁰, the Mlekiem Mamy Foundation¹¹ and the Centre for Lactation Science¹². You can also seek assistance from the Patient's Rights Ombudsman, the Commissioner for Civil Rights Protection¹³, or the Ombudsman for Children. In extreme cases, a lawsuit can be filed in court for compensation for harm suffered. If the violation relates to breastfeeding breaks (or other aspects of employment law), you can file a complaint against the employer addressed to the relevant District Labour Inspectorate.

10 www.rodzicpoludzku.pl

11 www.mlekiemmamy.pl

12 www.cnol.kobiety.med.pl

13 Referring to itself as the Commissioner for Humans Rights.

Summary

The promotion of knowledge about the rights of breastfeeding women is needed to raise awareness of both mothers and society as a whole.

Women should first learn about their rights so that they can inform others about them and thus help others respect these rights. The CNoL survey shows that the following rights are most often violated in Poland: 69.5% (2211) of children are artificially fed in the hospital, 69.7% (2219) of women have encountered

advertising of modified milk in a medical facility or by medical personnel, 53% (1702) of mothers have been recommended an elimination diet while breastfeeding, 46.3% (1474) of women have been suggested to stop breastfeeding without valid reasons, and 47.2% (1502) of mothers have been denied services or benefits because of breastfeeding their child.

The greater the public awareness, the greater the acceptance of breastfeeding and protection from discrimination.

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