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**Industrial relations in Poland before covid-19**

The outbreak of the Covid-19 epidemic in Poland started in March 2020. The first lockdown was announced on 12 March 2020. Information about the first people with the SARS COV-2 virus from other European countries has been reaching us since the end of January 2020. Therefore the authors of the report decided to describe the situation from 2019 because starting from 2020 we have been recording the first changes in industrial relations caused by the Covid-19 pandemic.

1. **The main actors**

There are trade unions, professional associations, and professional self-governments in Poland. The activity of trade unions and professional associations is based on article 12 of Polish Constitution from 1997. Moreover, professional self-governments operate according to art. 17.1 of the Constitution. The activity of the trade unions, to which belong employees performing paid work, is regulated by the Act on Trade Unions of 23 May 1991. Professional associations and nationwide organisations that unite people performing the same profession function according to the Act on Associations from 7 April 1989. The activity of professional self-governments, that is organisations that group people performing the same public activity is carried out according to laws specific to each type of the activity.

The main actors in industrial relations are the trade unions. There are the three national trade union organisations, including two confederations:

1. OPZZ- the All-Poland Alliance of Trade Unions - Ogólnopolskie Porozumienie Związków Zawodowych,
2. NSZZ „Solidarność” – the Independent and Self-Govering Trade Union -Niezależny Samorządny Związek Zawodowy “Solidarność”
3. FZZ – the Trade Unions’ Forum - Forum Związków Zawodowych, which includes 75 trade union organizations.

The activity and legal status of the trade unions have been defined in conventions of the International Labour Organization from 1919.

The three national-level representative organisations encompass 83% of total union membership. It means 1.3 million members. Poland is considered as a state with a low percentage of employees belonging to the trade unions.

1. **Is your system highly regulated by the state? Here, it would be good to know something about the character of your IR regime, i.e. regulated or voluntarist in character.**

A trade union according to the art. 1 of Act on Trade Unions of 23 May 1991 is defined as[[1]](#footnote-1):

- voluntary and self-governing organization of employees established to represent and defend their rights, professional and social interests

- independent in its statutory activity from employers, state administration, and local government and from other organizations.

State officials, local government and employers are obliged to treat all trade unions in the same way.

1. **What kind of employee representation is prevalent in your country?**

There are trade unions as well as works councils in Poland. There are nationwide unions (such as OPZZ, "Solidarity") and regional unions (for example Miners' Trade Union, Fishermen's Trade Union).

Within all trade unions operated[[2]](#footnote-2):

• company, sub-company and branch trade union organizations – 78.1%,

• inter-company trade union organizations –19.5%,

• federations, confederations and unified trade unions – 2.3%,

• trade unions of individual farmers – 0.1%.

There are both trade unions and works councils in Poland. We have national unions (such as OPZZ or "Solidarity") and regional unions (for example Miners' Trade Union).

The number of trade unions depends also on the region of the country. The largest number of organizations is present in the most industrialized areas. The largest number (14.9%) of trade unions was located in the Silesian Voivodeship in 2018, slightly lower (12.5%) in the Mazowieckie Voivodeship, including in the capital area – 7.9%. On the other hand, the lowest number of workers' organizations was in the Lubuskie, Opolskie and Podlaskie provinces (up to 3% of all unions).

Activity in trade unions is a social, that is non-profit, activity.

Poland’s collective bargaining system is extremely decentralised. ”Collective bargaining in Poland played little role in employment relations, although collective agreements, including industry-level ones, did exist. (…) As of 2018 collective bargaining in Poland can only be described as being in its death throes: it plays a marginal role, both in terms of the volume of collective agreements and the number of employees covered. Collective bargaining has very little impact on the autonomous regulation of work and employment relations. The de facto absence of collective bargaining seriously hampers the effi ciency of the industrial relations system, which is extremely fragmented. Poland’s unionisation rate is among the lowest in the EU, at roughly 12 per cent. (…) Employers’ organisation density is also low, at only 20 per cent.”[[3]](#footnote-3)

To understand the nature of collective agreements in the Polish legal system and the reluctance of employers to enter negotiations, the defi nition of ‘employer’ in Polish labour law must be explained. ‘Employer’ is defined in Clause 3 of the Labour Code as ‘an organisational unit, even if it has no legal personality, or an individual, provided it employs employees’.

In Poland, trade unions enjoy a legal monopoly on employee representation in collective bargaining.

Decentralisation of Polish collective bargaining system is illustrated by the supremacy of SECAs in the total volume of agreements in force, in terms of both number and coverage. By the end of 2015, 8,032 SECAs had been registered, covering nearly 1.8 million workers, of whom slightly above 1 million were employed in the public sector, and nearly 800,000 in the private sector. At the same time, there were 86 MECAs covering 390,000 employees. Even this figure is doubtful, however, as it reflects fi gures reported in agreements or additional protocols that in most cases do not refl ect current employment, mainly in the public sector.

1. **How strong are unions, respectively employers’ organisations vis-á-vis the state?**

Trade unions are independent in their statutory activities from employers, state administration and local government, and from other organizations.

The trade union membership in Poland currently amounts to 17 % of those who are employed on the basis of employment contracts, and 11 % of all people in employment.

The number of organizations has been decreasing and the number of union members also decreases.

According to a survey performed by the Central Statistical Office membership in trade unions is still not common in our country, and additionally their popularity is decreasing. In 2018, a total of 1.5 million people belonged to 12,500 employee organizations compared to about 16 million of all employees in the national economy. In 2015 approximately 1.6 million people belong to trade unions in Poland according to GUS[[4]](#footnote-4). At the same time there are 12 900 active trade union organisations. About 66% of active organisations operate in the public sector.

Around 2000 organisations are independent with upper-level structure.

1. **What is the balance between social partners and the state?**

There is no balance between social partners and the state.

1. **How important is legislation vs. collective agreements in regulation of labour market?**

In line with the Constitutional Court ruling of 20 January 1988, collective agreements are not normative acts adopted by state bodies, but rather special sources of labour law. Importantly, the Labour Code distinguishes two types of collective agreement: singleemployer collective labour agreements (zakładowy układ zbiorowy pracy, SECA), to be concluded by employers and representative trade unions, and multi-employer collective labour agreements (ponadzakładowy układ zbiorowy pracy, MECA), to be concluded by the appropriate statutory body of a multi-enterprise trade union, acting for the employees, and the appropriate statutory body of an employers’ association, acting for the employers, on behalf of the employers united in the association. MECAs are sometimes incorrectly referred to as ‘industry-level agreements’.

1. **How is the bargaining primarily organized - sector, industry/branch and/or company level – and what does that mean for the power balance?**

Depending on the problem being solved, negotiations may concern the central level and take place between representatives of trade unions and representatives of the ministry, that is for example ZNP negotiated improvement in working conditions and increase of salaries for all teachers. Negotiations may be related to a local level, for example problems at a certain workplace; then the Works Council of the ZNP at a specific workplace negotiates how to distribute among employees the pool of financial resources that have been transferred by the respective Ministry without indicating the exact amount of the increase of salaries.

Similar rules have been adopted, for example, in the Miners' Union and other industry associations.

1. **Are certain branches leading in negotiations?** (e.g. in Germany and Denmark the metal sectors collective agreements can set the standard for wages and working condition across most sectors, including the public sector)

Some industry sectors carry out negotiations, see for example point 8. However, negotiations at the sector level do not translate into changes at the national level.

1. **What has changed over the 10 years leading up to COVID-19?**

In the last few years in Poland the number of trade unions has experienced a small decrease. The percentage of trade unionists has go down too.

In 1991, every fifth adult declared trade union membership. Over the next few years, this number almost halved, and in the last decade the percentage of people belonging to such organisations did not exceed 9 %. Trade union membership is more often declared by older workers than younger ones – the average age of these unionists is 43, and that of non-associated workers is 40 years. Woman are a little more often unionised than men. In addition, more often than on average, these are people working in public institutions and state-owned enterprises, representing professional groups such as technicians and mid-ranking Staff, as well as administrative and office workers. Also, when it comes to the level of unionisation, sectors such as education, science, and health care, administrations, as well as transport and communications, stand out. At the same time, trade union memberships more often declared by those employed in companies or institutions.

According to data from 2017, views on trade union activities are divided, with a large part of those surveyed (45 %) having no option at all. In comparison to earlier measurements, this phenomenon has significantly deepened since 1994 (an increase of 20 percentage points since 2015). Almost every third respondent (30 %, a 9-point decrease since 2015) perceives trade union activity as beneficial to the country, while every fourth respondent (25 %, an 11-point decrease) perceives it as not beneficial.

On 5 July 2018, the Polish Sejm adopted an amendment to the Trade Unions Act, which significantly changed the status of trade unionists at the company level. Since 1 January 2019, these entitlements are granted not only to trade unionists employed on the basis of a contract of employment, but also to other persons engaged in gainful employment (both those performing work on the basis of civil-law contracts and the self-employed)[[5]](#footnote-5). On the employer side, the main reason is the dominance of small enterprises with fewer than ten employees, which account for 96 per cent of all economic entities and employ about 40 per cent of the workforce in Poland. The ownership factor plays a signifi cant role in explaining the existence of trade unions or the lack thereof: the national survey Working Poles 2007, based on a representative sample of occupationally active adults, indicates that unions are present in 60.9 per cent of all workplaces in the public sector, 8.2 per cent in the domestic private sector and 32.7 per cent in the foreign private sector.

Nowadays workers employed on the basis of civil-law contracts not only have the right to form and join trade unions, but are also entitled to privileges stemming from union membership that have so far been restricted to employees. They have the right to be released from work with remuneration, or to special protection against termination. Where a contract with a contractor who is a trade union official is terminated without the unions’ approval, the employer may have to pay a severance payment amounting to six months’ remuneration. The amount of this payment is a lump sum, unrelated to the loss suffered. However, if the contractor’s loss is higher, it is possible to pursue damages or compensation in excess of the standard severance payment.

From the point of view of the latest important amendments adopted in Polish labour law, it is also crucial to look at the regulation of the minimum wage. On 5 August 2016, the President signed an Act of 22 July 2016 amending the Minimum Wage Act and some other acts. The act revolutionised the performance of services under two types of civil-law contracts – a contract of mandate or contract of services – as it introduced to concept of minimum hourly pay.

As a result of the amendment, as of 1 January 2017 the minimum hourly pay amounted to over PLN 13 (gross), and – like the minimum wage – it was going to be indexed every year (it currently amounts to PLN 17 – gross). The minimum hourly pay applies to contract of mandate (umowa zlecenie) and contracts for services performer by a contractor or the services provider, respectively, as well as to the self-employed who individually perform services for businesses. Before the amendment, The Minimum Wage Act specified the rules on minimum remuneration (currently PLN 2600 – gross) for work only form persons employed on the basis of labour law – under a contract of employment, an appointment, an election, a nomination, or a cooperative employment contract. The aim of the amendment was to curb the abuse of civil-law contracts by employers.

An important feature of the Polish labour market is the growing participation of migrant workers. According to data from Ministry of Family, Labour, and Social Policy, most of the migrants come from the Ukraine. Due to the fact that Polish law regulates the employment of migrant workers as complementary (not subsidiary), those workers usually perform simple jobs.

In 2017 Poland was the EU country with the highest rate of first residence permits issue by reason of employment:

Due to bad working conditions, Ukrainian workers employed in Poland established a union associating Ukrainians. The union was established under the auspices of the All-Poland Alliance of Trade Unions (OPZZ), which coordinated and provided guidance in the process of its establishment. The aim of the Multi-Employer Work Association of Ukrainian Workers in Poland is to undertaken actions to defend the dignity, rights, and interests associated with the performance of paid work, in particular relations to:

- the representation and defence the dignity and material, professional, social, civil, and cultural rights and interests of union members;

- the effort to harmonize the interests of employees with the proper functioning of the workplace;

- the presentation of the union’s standpoint to the employer, employing entity, public administration, local administration, and political, professional, and social organization.

In 2020, publications comparing the changes that took place in Poland in the period from August 2019 to August 2020 appeared[[6]](#footnote-6). All parameters describing industrial relations in Poland substantially worsened.

Before Poland managed to deal with the consequences of the Covid-19 pandemic, it must face a huge wave of migration from the war-torn Ukraine. Ukrainian women, who have to support by themselves even a few children, have appeared on the Polish labour market. This situation will certainly impact the industrial relations in Poland. At the present time, we are not able yet to predict all the consequences.

1. ###  Dz.U.2019.263, version valid from 11 October 2021.

 [↑](#footnote-ref-1)
2. https://www.praca.pl/poradniki/rynek-pracy/ilu-polakow-nalezy-do-zwiazkow-zawodowych\_pr-1327.html [↑](#footnote-ref-2)
3. Czarzasty, J. (2019). Collective bargaining in Poland: a near-death experience. *Collective bargaining in Europe: towards an endgame*, *2*, 465-481, p. 466, http://zbw.eu/econis-archiv/bitstream/11159/4868/1/1738765644.pdf#page=238 [↑](#footnote-ref-3)
4. Central Statistical Office [↑](#footnote-ref-4)
5. Gardawski J. (ed.) (2009) Polacy pracujący a kryzys fordyzmu, Warszawa, Scholar [↑](#footnote-ref-5)
6. Rynek pracy, edukacja, kompetencje. Aktualne trendy i wyniki badań, Raport przygotowany przez Instytut Analiz Rynku Pracy Sp. z o.o., PARP, System Rad ds. Kompetencji, Warszawa 2020, https://www.parp.gov.pl/storage/publications/pdf/Raport\_rynek\_pracy\_2020\_09\_ost.pdf [↑](#footnote-ref-6)