



# DECENT WORK CHECK

## **POLAND** 2023

Iftikhar Ahmad

## **WageIndicator Foundation - [www.wageindicator.org](http://www.wageindicator.org)**

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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## **Bibliographical information**

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## **WageIndicator Foundation, 2023**

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# INTRODUCTION

Decent Work is the type of work to which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); the social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working since late 2007 to raise awareness of workplace rights through a unique tool, i.e., Decent Work Check. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face, and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with the national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, or labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 12 more countries, thus taking the number of countries with a Decent Work Check to 125!

# MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Labour code 1974, last amended in 2019
2. Law on the Minimum Wage, Oct 2002
3. Non-working Days Act, 1951
4. Collective Dismissal Act, Journal of Laws No. 90, Item 844 of 2003
5. Social Insurance Benefits in case of Sickness and Maternity Act 1999
6. Act on Cash Benefits from Social Insurance in case of Sickness and Maternity 1999
7. Pensions from Social Insurance Fund Act, 1998
8. The 2010 Act on Equal Treatment
9. Polish Constitution 1997 (revised in 2009)
10. Trade Union Act of 1991 Collective Labour Disputes Settlement Act, 1991

# 01/13 WORK & WAGES

## **ILO Conventions**

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

**Poland has ratified the Convention 95 only.**

### ***Summary of Provisions under ILO Conventions***

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

## Regulations on work and wages:

- Labour code 1974, last amended in 2019
- Law on the Minimum Wage, Oct 2002

## Minimum Wage

An employee is entitled to a fair wage which must cover the living expenses of the employee and his/her family members. It is the State's responsibility to determine the minimum wage for worker. Factors that are considered while determining minimum wage include needs of workers and their families, cost of living, level of wages and incomes in the country, economic development, productivity, level of employment, capacity of the employers to pay, inflation rate and certain other conditions. The amount of minimum pay is set each year by means of negotiations at the forum of the Tripartite Commission for Social and Economic Affairs. The amount of minimum pay for the subsequent year is set by 15 September each year. If consensus is not reached among the social partners, minimum wage is set by Government alone, provided that it should not be less than the level included in the proposal presented to the Tripartite Commission. Minimum wage can also be set through collective bargaining which should not be less than the legal provisions.

The total amount of minimum pay is the monthly pay for a person in full-time employment. In the case of part-time work, the amount is reduced proportionally. Similarly, the minimum wage law allows that a worker may be paid 80% of the minimum wage during the first year of work. The level of minimum wage increases in accordance with the projected global

average annual consumer price index.

Compliance with Labour Code provisions including minimum wages is ensured by the National Labour Inspectorate [Panstwowa Inspekcja Pracy]. Proceedings against an employer who has paid to his employee a salary that is lower than the fixed minimum can be initiated at the request of the injured employee or as a consequence of a routine inspection by Inspectorate. In the event of non-payment or delay of payment of the full wage/salary to the employee, the Inspectorate may impose a fine of PLN 1,000 to 30,000.

**Source:** §2, 5 & 6(2) of the Law on Minimum Wage, Oct 2002; §13, 67, 81, 87 and 282 of Labour Code 1974

For updated minimum wages, kindly refer to the Section on Minimum Wage

## Regular Pay

Wages must be paid at least once a month, on a fixed, pre-determined basis, no later than the 10th day of the following calendar month. Payment of remuneration is made in cash. Part-payment of remuneration in a form other than cash is allowed only where provision to that effect is made in labour law, regulations or a collective work agreement. The employer is obliged to pay remuneration at a place, date and time specified in labour (law) regulations. When the specified date of payment of remuneration for work is a day-off from work, remuneration shall be paid the previous day.

Government has set the minimum wage for civil law contracts and requires employer to pay remuneration in cash at least once a month; specify the manner of reporting the

number of hours worked on performance of mandate or service during the conclusion of a contract; and retain all documentation confirming the number of hours worked for a 3-year period. From 1 January 2019, the workers' wages are paid through a transfer in the workers' bank accounts. However, workers may still request wage payment in cash. Workers should receive their wages directly into their bank accounts except where worker has formally requested to receive the salary in cash.

**Source:** §86 of the Labour Code 1974

# 02/13 COMPENSATION

## ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

**Poland has not ratified any of the above-mentioned Conventions.**

### ***Summary of Provisions under ILO Conventions***

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter time (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

## Regulations on compensation:

- Labour code 1974, last amended in 2019

## Overtime Compensation

Normal working hours may not exceed eight hours per day and an average of 40 hours in a five-day working week in the accepted reference period not exceeding four months. A weekly working time, including overtime, may not exceed 48 hours on average.

Overtime is the work carried out beyond an employee's normal working hours. The number of overtime hours worked in connection with the specific needs of the employer may not exceed 150 hours in a particular calendar year in respect of an individual employee.

Overtime is allowed in rescue operations to protect human life or health, to safeguard property or the environment or to carry out emergency repair work or if the employer has special needs.

Overtime work is compensated by premium pay, in the following manner:

- 200% of the salary is provided for working overtime at night; on Sundays and public holidays that are not usually working days for the employee; and on a day-off from work granted to an employee in return for work on a Sunday or on a holiday.
- 150% of salary is provided for working overtime on any other day.

**Source:** §129 & 151(1) of the Labour Code 1974

## Night Work Compensation

Work performed between 21:00 hours and 07:00 hours is considered night work and may not exceed 8 hours per day. An employee whose work schedule for each day includes at least three hours work during the night or at least 1/4th of working time in a billing period falls at night time is considered a night worker. Night work should not exceed 8 hours in a 24-hour period if the work is dangerous/hazardous in nature or involves great physical or mental effort.

An employee carrying out night work is entitled to 20% additional remuneration for each hour of such work.

**Source:** §151(7-8) of the Labour Code 1974

## Compensatory Holidays / Rest Days

In extraordinary circumstances, workers may perform work on weekly rest days and public holidays. An employer is obliged to provide an additional work-free day to an employee performing work on Sundays and during public holidays. Such an employee should have a work-free Sunday at least once in 4 weeks. In cases where work on weekly holiday or Public Holiday is necessitated due to some rescue activity in order to protect life, property or environment, workers may be given a compensatory day-off within six calendar days preceding or following the work on Sunday. In case of working on Public Holidays, workers must be given a compensatory rest during that period.

**Source:** §132 & 151(11-12) of the Labour Code 1974

## Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In case, it is not possible to provide compensatory rest days against performing work on Sunday or other rest days, then the worker is entitled to 200% of the normal wage rate for each hour of work on Sunday or on Public holidays.

**Source:** §151(1) & 151(11) of the Labour Code 1974

# 03/13 ANNUAL LEAVE & HOLIDAYS

## **ILO Conventions**

Convention 132 (1970) on Holidays with Pay Convention  
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.  
In addition, for several industries, different Conventions apply.

**Poland has ratified the Convention 14 only.**

### ***Summary of Provisions under ILO Conventions***

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

## Regulations on annual leave and holidays:

- Labour code 1974, last amended in 2019
- Non-working Days Act, 1951

## Paid Vacation / Annual Leave

The Polish Labour law provides fully paid annual leave to his/her workers. The employees with less than a year of service may take annual leave at the rate of 1/12 of the allotted leave following each consecutive month of employment. The length of annual leave depends on the length of service. It is:

- 20 working days of annual leave for workers with less than 10 years of service; and
- 26 working days of annual leave for workers with at least 10 years of service.

An employee may not waive his right to leave. If the employment contract expires before a worker could acquire the right to annual leave, the employee can avail the annual leave in proportion to the time he/she has worked for the employer. If the employee has already availed annual leave in excess to the proportional time he/she has worked for the former employer, the worker is entitled to proportionally shorter leave from the new employer. The employer, who has fully availed his/her annual leave at the time of termination, is not allowed to any additional leave from the new employer during the same year. If it is not possible to take leave due to termination of employment, compensation for the leave is proportionally made by the employer. The amount of compensation is based on the employee's regular rate of remuneration.

The Law of 19 June 2020, generally referred as “Anti-crisis Shield 4.0” under its Article 15gc has permitted employers to grant 30 days annual leave to employees in wake of Covid 19. The date of commencement of annual leave is based on employer discretion irrespective of employee consent.

**Source:** §152-154 & 155(1) & 171 of the Labour Code 1974

## Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. Holidays in Poland are regulated by the Non-working Days Act of 18 January 1951.

Public holidays in Poland are 13 in number. These include 1 January, 6 January, Easter Sunday, Easter Monday, 1 May, 3 May, Whit Monday, Corpus Christi, 15 August, 1 November, 11 November, 25 December and 26 December.

**Source:** §151(9) of the Labour Code 1974; §1 of the Non-Working Days Act, 1951

## Weekly Rest Days

Daily and weekly rest period is provided under the Labour Code. Every employee is entitled to uninterrupted rest of 11 hours in every 24-hour period and 35 hours in every week. Weekly rest day, in principle, should be Sunday for all the employees. Sunday includes 24 consecutive hours, starting at 6:00 pm on Saturday, unless the employer indicates some different time. In jobs requiring continuous work, employer and worker may agree on some other day as the weekly rest day.

**Source:** §132-134 of the Labour Code 1974

# 04/13 EMPLOYMENT SECURITY

## ILO Conventions

Convention 158 (1982) on employment termination

**Poland has not ratified the Convention 158.**

### *Summary of Provisions under ILO Convention*

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

## Regulations on employment security:

- Labour code 1974, last amended in 2019
- Collective Dismissal Act, Journal of Laws No. 90, Item 844 of 2003

## Written Employment Particulars

A contract of employment may be executed for a fixed term, indefinite term, specific tasks and for probation/trial period. The parties are free to determine the type of the contract that may govern their relationship. The employment contract must be concluded in writing. Where an employment contract is not concluded in a written form, i.e., the oral contract, the employer must provide the employee with written confirmation of the relevant arrangements regarding the type of contract and the terms of that contract not later than date of commencement. The oral employment contract is also valid and effective.

The employment contract must specify the parties to the contract, type of contract, the date of its conclusion and the work and pay conditions, and in particular the type of work, the place of work, and remuneration for the type of work, setting out the components of that remuneration and legal basis for them, the part-time or full-time nature of the work, and the date of commencement of work. The employer must inform the employee in writing, not later than seven days from the date of conclusion of the contract of employment, about:

- 1) employee daily and weekly normal working hours, rules on overtime work & compensation
- 2) the frequency of payment of wages,
- 3) Workplace breaks

- 4) In the event of shift employment, the transition regulations from one shift to another
- 5) the amount of paid leave to which the employee is entitled, particularly holiday leave, or, if it cannot be determined on the date of delivering this information to the employee, the regulations for determining and awarding it;
- 6) the applicable rules for terminating employment, including formal requirements, the length of notice periods, and the date of appeal to the labour court, or, if the length of notice periods cannot be determined on the date of providing this information to the employee, the method of determining such notice periods;
- 7) the employee's rights to training, if applicable the employee's right to training, if provided by the employer, particularly the broad principles of the firm's training policy;
- 8) collective labour agreement or other collective agreement to which the employee is subject, and, in the event of a collective agreement concluded outside the workplace by joint bodies or institutions, the name of such bodies or institutions.  
if the employer has not established work norms - the date, location, time, and frequency of payment of remuneration for work, night time, and the technique used by the employer to confirm arrival and presence at work and to explain absence from work.
- 9) terms of exercising employee leave,
- 10) validity of current employment contract,
- 11) a collective agreement to which employee is subject to.

In line with the September 2017 reform of the Labour Code, an employer may not

allow a new employee to commence work until they have concluded a written employment contract. Where conclusion of contract is not possible, employer must confirm the basic elements of the agreement in writing, such as the parties to the contract, the type of the contract and working conditions, including the amount of remuneration, working time and workplace. Employers are further required to ensure that a new employee is familiar with the content of the workplace regulations prior to commencement of work.

Earlier, the provision of employment contract was possible up to the end of the first day of work. An employer who fails to comply with these obligations, shall be liable to a fine from 1,000 up to 30,000 PLN.

Earlier, the Labour Code required a work record certificate to be issued each time after 24 months of work with the same enterprise, even if the employment relationship continued with the same employer on the basis of probationary contract or a fixed-term contract.

Under a 2016 Reform in Labour Code, if an employer concludes another fixed term employment contract with the employee within seven days from termination of employment, he is not required to provide the employee with an employment certificate, unless such certificate is requested by the employee. If the employer decides to terminate the employment relationship, he must provide the employee with an employment certificate covering all work periods (not previously certified) within seven days of termination of employment.

**Source:** §25, 29, 97, 104<sup>3</sup> and 281 of the Labour Code 1974

## Fixed Term Contracts

Polish Labour Code does not prohibit fixed term contracts for tasks of permanent nature. The law also does not define the maximum length of a single fixed term contract however the total duration of fixed term contract must not exceed 33 months and the total number of contracts cannot exceed three. If a fixed term contract is concluded between the same employer and employees for more than three times or its duration exceed 33 months, such contract is considered a contract for indefinite period unless the time between consecutive contracts exceeds one month.

The above provisions do not apply where an employee is employed under a fixed-term contract for the purpose of substituting another employee during his/her justified absence; for the purpose of completing occasional or seasonal work; for the purpose of performing work during a period of office; and if the employer indicates objective reasons on its part that justify fixed-term employment due to temporary needs.

On 22 February 2016, new regulations came into force as regards fixed-term employment agreements. According to the new regulations, fixed-term employment agreements have the same termination notices as indefinite-term agreements. The maximum period of employment under fixed-term agreements with one employer is 33 months, and the total number of such agreements may not exceed three agreements. The new regulations provide for very specific circumstances where the foregoing restrictions do not apply. The new regulations also lay down some quite complex transitional provisions.

From June 2017 onward, employers may now not use temporary workers for longer than 18 months within a period of 36 months by merely changing the hiring employment agency. Employers are further required to keep employment records for all temporary workers for a period of 36 months. The records must be kept in paper or electronic form. The employer cannot employ a temporary employee to perform work which was performed by a direct employee (dismissed for reasons not attributed to the temporary employee) for the three preceding months.

Under 2023 amendment, the period of employment under a fixed-term contract, as well as the total period of employment under fixed-term employment contracts concluded between the same parties to the employment relationship, may not exceed 33 months, and the total number of these contracts may not exceed three.

The retention period for storing individual employees' personal files, after contract expiry/termination, has now been shortened from 50 years to 10 years for workers engaged after 31 December 2018.

**Source:** §25 & 25(1) of the Labour Code 1974; The Act of Law of 7 April 2017 amending the Act on the Employment of Temporary Employees and some other acts

## Probation Period

Labour Code specifies maximum probationary period to be three months. Probationary contract may precede any other contract. A probationary contract is concluded to give the employer an opportunity to assess the employee's usefulness. Its duration cannot be extended in any case.

It is permissible to conclude more than one probation contracts with the same employer, provided that the worker has to carry out another type of work. In case, at least three years have elapsed since the termination of an employment contract between the two parties, the probation contract can again be concluded.

Under the 2022 amendment to the Polish Labour Code, an employment contract for a trial period will be concluded for a period not exceeding **3 months** or for a period not exceeding:

- **1 month** - in the case of the intention to conclude an employment contract for a definite period of less than 6 months;
- **2 months** - in the case of the intention to conclude an employment contract for a definite period of at least 6 months and less than 12 months.

Moreover, re-conclusion of an employment contract for a trial period with the same employee is to be allowed only if the employee is to perform a different type of work.

**Source:** §25(2 & 3) of the Labour Code 1974

## Notice Requirement

In accordance with the Labour Code, the employment contract can be terminated with the agreement of the parties; by one of the parties giving notice (employer or employee) with a notice period; and by one of the parties giving notice without a notice period. A fixed term contract or a contract for completion of a specific task is terminated at the end of the term or when the task is completed without any need for notice (although it can be dissolved earlier

in certain circumstances).

Poland, generally, has just-cause termination in labour law system. The employer cannot terminate the employment without just cause or statutory grounds. However, the Labour Code does not provide any list of qualifying reasons.

Either party can terminate a contract by serving a written notice. Minimum notice period provide under Labour Code is at least 2 weeks for a fixed term contract of more than six months.

The termination notice period of employment for a probationary period is:

- (i) 3 business days, if a probationary period not exceeding two weeks;
- (ii) 1 week, if a probationary period is longer than two weeks;
- (iii) 2 weeks, if a probationary period is three months.

With the amendment in Labour Code, the probationary period for fixed term and indefinite term contracts has been fixed the same. Now the notice period of termination of a fixed term and open-ended contract depends on the employment period with the employer and is:

- 1) 2 weeks, if the employee has been employed for less than six months;
- 2) 1 month if the employee has been employed for at least six months (6 months to 3 years);
- 3) 3 months if the employee has been employed for at least three years.

An employer can terminate an employment contract without notice if an employee commits serious violation of his/her basic duties or commits an offence that makes his/her further employment impossible and also if an employee loses by his/her own fault the qualifications required by law to perform a particular job.

**Source:** §32-36 & 52 of the Labour Code 1974

## Severance Pay

According to the Labour code, employers are not required to provide severance pay to employees who are terminated, except when the termination is based on grounds provided under the Collective Dismissals Act or 01-month salary in case of termination due to disability or retirement.

According to Collective Dismissal Act, the amount of the severance payment depends upon the length of employment of the employee with the given employer as follows:

- (i) The equivalent of one month's salary, if the employee has worked for less than two years;
- (ii) The equivalent of two months' salary, if the employee has worked for two to eight years; or
- (iii) The equivalent of three months' salary, if the employee has worked for more than eight years.

Generally, the level of severance pay may not exceed 15 times the minimum monthly salary as published by the government as of the date of the termination of employment, unless the employer decides not to follow this limitation. The Supreme Court in Poland, in a 2018 decision, has confirmed that the amount of compensation for unjustified dismissal cannot be higher than provisions of Labour Code. The maximum compensation which might be awarded for unjustified dismissal is up to 3 months of remuneration however in no case lower than the amount of payment in lieu of notice.

The Law of 19 June 2020 is referred as “Anti-crisis Shield 4.0” and its Article 15gd has stated that if employer has terminated the civil law employment contract due to Covid 19 negative repercussion on business activity, in that case employer is not stipulated to grant severance pay and other benefit higher than ten time of minimum statutory minimum wage.

**Source:** §77(3) & 92(1) of the Labour Code 1974; §8 of the Collective Dismissal Act, Journal of Laws No. 90, Item 844 of 2003

# 05/13

# FAMILY

## RESPONSIBILITIES

### **ILO Conventions**

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

**Poland has not ratified the Convention 156 and 165.**

### ***Summary of Provisions under ILO Convention***

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

## Regulations on family responsibilities:

- Labour code 1974, last amended in 2019

### Paternity Leave

A working father caring for a child is entitled to two weeks paternity leave. The father of the child is entitled to such leave until the child reaches the age of 24 months. However, in the case of an employee adopting a child, this 24-month period is calculated from the date on which the adoption ruling comes into force, but not after the child turns seven, and, in the case of a child in respect of whom a decision delaying compulsory schooling has been taken, not after the child has reached the age of 10. Paternity leave is granted upon written request of the employee.

**Source:** §182(3) of the Labour Code 1974

### Parental Leave

From January 2016 onwards, additional maternity leave has been absorbed by the Parental leave. The length of parental leave is 41 weeks in case of single birth and up to 43 weeks in other cases. Under the 2022 Amendment to the Labour Code, each parent will have the sole right to 9 weeks of parental leave in addition to the above-mentioned amount of leave. The entitlement to 9 weeks of leave cannot be passed to the child's other parent since it is a non-transferable. Furthermore, parental leave shall be awarded once or in no more than five parts, no later than the end of the calendar year in which the kid reaches the age of six years.

Under 2023 amendment, to care for the child, the employee-father is entitled to paternity leave, lasting up to 2 weeks, but not exceeding:

- 1) Until the child reaches 12 months of age, or
- 2) Until 12 months from the finalization of the adoption decision, and not beyond the child's 14th birthday.

During parental leave, the parent receives a benefit equal to 60% of the employee's salary. If the employee makes a request for the full (52/65/67/69/71 weeks) of leave within fourteen days of delivery, she is entitled to 80% of her salary throughout the period. However, if the application is filed later, the employee is entitled to full salary during mandatory maternity leave (20/31/35/37 weeks - depending on the number of children born/adopted) and additional maternity leave (six/eight weeks), and 60% of salary during parental leave. The first fourteen weeks of leave are available only to the mother who has given birth. The remainder of the maternity leave, additional maternity leaves and parental leave, can be shared between the parents.

Parental leave can be used until the end of calendar year in which the child turns 6 years. If parents chose to work during the leave, the parental leave is proportionally extended up to 64 weeks.

The immediate family members are entitled to take maternity leave in the case of mother's death or abandonment of a child or a decision regarding a mother's inability to live independently. Moreover, family members have same employment protection rights as female employee taking care of new born children.

Under 2023 amendment, an employee employed for at least 6 months is entitled to

parental leave in order to provide personal care for the child.

Paternity leave may be taken at one time or in no more than 2 parts, neither of which may be shorter than one week. Paternity leave is granted upon an application in paper or electronic form submitted by the employee - father, no later than 7 days before the commencement of the leave.

**Source:** §186 of the Labour Code 1974

## Flexible Work Option for Parents / Work-Life Balance

There is no provision in the labour code which requires employers to provide flexible work options for workers with minor children and other family responsibilities. However, an employee raising at least one child up to the age of 14 years is entitled to two additional days of paid leave in each calendar year.

Under the 2023 amendment, an employee eligible for parental leave can submit a request, either in paper or electronic form, seeking a reduction in working hours to at least half of the full-time schedule during the eligible leave period. The employer is obligated to review and consider the employee's request.

An employee raising at least one child up to 14 years of age is entitled to leave from work for 16 hours or 2 days during a calendar year, while retaining the right to remuneration. And for an employee raising a child up to the age of 8 may submit an application in paper or electronic form for flexible work organization and the employer must respond within 7 days.

An employee fostering a child is eligible for maternity leave as follows:

- 1) 20 weeks for one child,
- 2) 31 weeks for two children,
- 3) 33 weeks for three children,
- 4) 35 weeks for four children,
- 5) 37 weeks for five or more children.

This entitlement lasts until the child reaches 7 years, or 10 years if the child's compulsory schooling is postponed. For those applying for adoption through the guardianship court, the leave duration extends until the child turns 14.

**Source:** §183 & 188 of the Labour Code 1974

# 06/13 MATERNITY & WORK

## ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

**Poland has ratified the Convention 103 only.**

### ***Summary of Provisions under ILO Convention***

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

## Regulations on maternity and work:

- Labour code 1974, last amended in 2019
- Social Insurance Benefits in case of Sickness and Maternity Act 1999

## Free Medical Care

In the case of pregnancy, social insurance system in Poland provides maternity insurance to women. Medical Benefits are provided under the supervision of Ministry of Health, Poland.

## No Harmful Work

Labour Code prohibits employment of pregnant and breastfeeding women in work that is particularly arduous or harmful to women's health. The Council of Ministers has published Regulations prohibiting employment of pregnant and breastfeeding women in certain works. Also, pregnant workers may not be employed in overtime or at night. Employer is obliged to adjust the working conditions to the required safety level, or to reduce time to eliminate the threat to the health or safety of employees. If the adjustment of working conditions at the current workplace or reduction in working time is impossible or impracticable, the employer shall transfer the employee to another work.

While the old regulation applied to all women, the current Regulation applies to pregnant and breastfeeding women. It has changed many working standards regarding weight classes, thermal comfort (PMV indicators), and admissible decibel volume in the workplace for pregnant and breastfeeding women.

Pregnant employees are allowed to work during the work day (8 hours), with

compulsory work breaks of 10 minutes each hour, in which they can perform other non-screen related tasks.

**Source:** §176-179 of the Labour Code 1974; rozporządzenie rady ministrów z dnia 3 kwietnia 2017 r. w sprawie wykazu prac uciążliwych, niebezpiecznych lub szkodliwych dla zdrowia kobiet w ciąży i kobiet karmiących dziecko piersią (Regulation on list of works prohibited for pregnant and breastfeeding women)

## Maternity Leave

In accordance with the Labour Code, employees are entitled to 20 weeks of maternity leave on the birth of one child at one time, 31 weeks on the birth of twins (two children at one time), 33 weeks on the birth of triplets (three children at one time), 35 weeks on the birth of four children at one time and 37 weeks on the birth of five or more children at one time. Up to a maximum of six weeks maternity leave can be taken before the expected date of delivery.

After availing 14 weeks' maternity leave, a female employee may transfer the remaining entitlement to a working father caring for a child. Both the female employees and working fathers caring for a child are entitled to receive additional maternity leave. The amount of additional maternity leave is up to six (06) weeks on the birth of one child at one time and up to eight (08) weeks on the birth of two or more children at one time.

From January 2016, the additional maternity leave has been abolished and it is entitled to all the employees regardless of insurance.

**Source:** §180-182 of the Labour Code 1974

## Income

The employee is entitled to a maternity benefit during maternity leave. The amount of benefits is 100% of her average earnings in the last 12 months. The maternity benefit is paid for the period of 20 weeks or 31-37 weeks depending upon the number of children born.

**Source:** §29-31, 36 & 47 of the Social Insurance Benefits in case of Sickness and Maternity Act 1999

## Protection from Dismissals

Labour law states that a women worker cannot be dismissed during the period of her pregnancy and maternity leave or at such time that contract termination notice would expire during such absence. Employment of a female worker is protected during pregnancy, delivery and parental leave, except for certain specific reasons determined in the applicable regulations.

**Source:** §177 & 186(1) of the Labour Code 1974

## Right to Return to Same Position

According to the Labour code, workers have the right to return to same position after availing maternity leave and if this is not possible, the position equivalent to the one before the leave, or a similar position.

**Source:** §186(4) of the Labour Code 1974

## Breastfeeding / Nursing Breaks

Female workers are entitled to two paid nursing breaks, each of 30-minute duration, for new mothers to breastfeed their children. Worker who has more than one child is entitled to two breaks of 45 minutes each. Workers employed for less than 4 hours a day are not entitled to breaks. If the working time of employees does not exceed 6 hours a day, then the worker is entitled to one break for feeding.

**Source:** §187 of the Labour Code 1974

# 07/13 HEALTH & SAFETY

## **ILO Conventions**

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

**Poland has ratified the Convention 81 only.**

### ***Summary of Provisions under ILO Conventions***

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

## Regulations on health and safety:

- Labour code 1974, last amended in 2019

## Employer Cares

The employer is responsible for the state of occupational health and safety in the workplace. Employer is obliged to ensure the development of a coherent policy to prevent accidents at work and occupational diseases taking into account organization of work, working conditions, social relationships and the influence of work-environment factors.

Employers are also obligated to make available all necessary medicine and material to provide timely and effective first aid and to plan the quick evacuation of workers in case of fire. Employer and the person in charge of the employees are required to know the rules of labour protection, including laws on health and safety and to ensure its execution/implementation and to remove shortcomings in this area.

Employer obligations also include responsibilities for health and safety of workers and fire protection and to inform employees of the occupational risks associated with their work.

**Source:** §104(1) & 207 of the Labour Code 1974

## Free Protection

Employees should be provided with free protective clothing, footwear and other personal protection against dangerous and harmful factors occurring in the work environment and inform them about the

methods of using these measures.

Washing, maintenance, repair, dust removal and disinfection of these things is also the employer's responsibility. The employer must not allow an employee to work without protective equipment specially when working with materials contaminated with chemicals or radioactive or biologically infectious materials.

**Source:** §237(6)-237(11) of the Labour Code 1974

## Training

The employer provides training for staff in the field of occupational health and safety before allowing them to work and conduct periodic training in this area. The employer is obliged to familiarize employees with the rules about safety and health at work they are performing and not to allow the employee to work for which he does not have the necessary qualifications/skills and sufficient knowledge about health and safety issues.

These trainings are conducted during working hours and at the employer's expense. The costs of actions taken by the employer in the field of occupational health and safety cannot in any way be charged to employees.

**Source:** §237(2-5) of the Labour Code 1974

## Labour Inspection System

Public labour inspector supervises and monitors the compliance with labour law, including the rules and principles of occupational safety and health at work. At the substantiated request of employees or their representatives on issues of health

and life hazards at workplace, labour inspectors of the State Labour Inspectorate carry out inspection and apply legal measures provided in the rules of the State Labour Inspectorate. There exists a separate law on labour inspection in Poland which is quite comprehensive and in line with the provisions of ILO Convention 081.

Labour inspectors have the power to carry out inspection at any time during day or night, without notice; ask for any document and material; and investigate anyone. The labour inspector is also authorised to advise and provide information of technical nature in the area of eliminating hazards to life and health of workers and on the labour law observance.

An employer is obliged to adopt measures and working conditions necessary to conduct an inspection. He/she must ensure timely provision of information; provide access to technical equipments and a separate room with appropriate equipments.

The National Labour Inspectorate has the right to order the employer, in case of any infringement concerning OSH rules and regulations, to eliminate the identified irregularities within a specified time-limit and address an improvement notice asking to eliminate them and take action with regard to the guilty persons. They may also cease the work or impose a fine or imprisonment.

**Source:** §18(4) & 237(11a) of the Labour Code 1974; §11, 21-27 & 95 of the National Labour Inspectorate Act No. 13 of April 2007

# 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

## **ILO Conventions**

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

**Poland has ratified the Convention 102 only.**

### ***Summary of Provisions under ILO Conventions***

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

## Regulations on sick leave & Employment Injury Benefits:

- Labour code 1974, last amended in 2019
- Act on Cash Benefits from Social Insurance in case of Sickness and Maternity 1999

## Income

In accordance with the Labour Code, an employee is entitled to 33 days leave in a given calendar year if an employee is sick and, thus, unable to work, he/she preserves the right to receive up to 80 percent of his or her regular remuneration, provided that the inability to work does not last more than 33 days in a given calendar year.

During sick leave, the employee retains right to receive 100 percent of his/her regular remuneration. If the inability to work lasts longer than 33 days, the employee is entitled to a sickness benefit, payable from the social insurance, for the aggregate period of incapacity, but not longer than 182 days (or 270 days if incapacity takes place during pregnancy or as a result of tuberculosis). Following this period, the employee may be entitled to a rehabilitation benefit, providing his/her further medical treatment or rehabilitation are likely to result in the recovery of work capacity. The sickness benefit is 80% of the insured worker's average earnings (70% for hospitalization unless older than age 50) in the 12 months before the incapacity. The benefit is 100% of earnings if the incapacity began during pregnancy or was due to an accident while commuting to or from work. The sickness benefit during the first 33 days is paid by the employer at full wages.

In a recent court decision, the court held that an employee who abuses sick leave (performs paid work during a period of incapacity, or uses paid sick leave in a way that is contrary to its purpose) will lose sick leave benefit for the entire period of work incapacity.

**Source:** §92 of the Labour Code 1974; §4-17 of the Act on Cash Benefits from Social Insurance in case of Sickness and Maternity 1999; <https://www.zus.pl/swiadczenia/zasilki/zasilek-chorobowy/z-ubezpieczenia-chorobowego/wysokosc>

## Medical Care

Medical benefits are available to the insured workers under social insurance system in Poland. Also, the employee shall be subject to periodic medical examination. In the case of incapacity for work lasting longer than 30 days due to sickness, the employee is subject to further medical check-in order to determine their ability to perform work in their current position. Benefits are provided under the National Health Fund. The benefits include general, specialist and dental care; hospitalization; laboratory services; free transportation and basic prescription drugs. There is no limit to the duration of medical benefits if worker is employed. In case of employment termination, coverage continues for 30 days.

**Source:** §229 of the Labour Code 1974; ISSA Country Profile for Poland 2018

## Job Security

As soon as an employee is absent from work, he has two independent obligations:

- notify the employer of the cause of the absence and its expected duration

(done immediately, no later than on the second day of absence from work).

- justify the absence by presenting a sick leave certificate to the employer (the obligation is currently fulfilled through automatic delivery of an e-ZLA electronic certificate).

During the time the employee is absent from work due to sickness (182 days due to work incapacity as a result of an accident on the way to or from work, 270 days due to work incapacity that results from an illness during pregnancy, and 33 days in other cases), the employer may not terminate his or her employment contract by notice. But in special cases an employer may terminate an employment contract without notice if the employee's inability to work due to illness lasts:

- a) more than three months - when the employee has worked for an employer for less than six months,
- b) longer than the total duration of the remuneration and allowance and rehabilitation benefit for the first 3 months - where the worker has been employed with an employer at least 6 months or if the incapacity for work was due to an accident at work.

**Source:** §41 & 53(1) of the Labour Code 1974

## Disability / Work Injury Benefit

Work injuries may be classified on the basis of their consequences as those resulting in:

(i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

In the case of permanent incapacity/disability, the insured is entitled to a permanent disability pension.

The disability pension is composed of the following:

- i. 24% of the base value, i.e. 100% of the average salary;
- ii. 1.3% of the disability pension base for each contribution year;
- iii. 0.7% of disability pension base for each non-contribution year
- iv. 0.7% of disability pension base for each year (to a maximum of 25 years till the worker reaches the age of 50). In the case of permanent partial incapacity, the disabled worker will receive 75% of the total disability pension.

In the case of temporary disability, workers are entitled to 100% of their average earnings in the last 12 months before the disability began up to 182 days (may be extended to 270 days).

In the case of fatal injury, the survivors' pension depends on the number of dependents (spouse, children, parents). The survivors' pension is:

- i. 85% of the old-age pension or permanent disability pension for 1 dependent
- ii. 90% of the old-age pension or permanent disability pension for 2 dependents
- iii. 95% of the old-age pension or permanent disability pension for 3 dependents

There is also a provision of funeral grant which is paid to the person bearing the funeral expenses.

**Source:** ISSA Country Profile for Poland 2018

# 09/13 SOCIAL SECURITY

## ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

**Poland has ratified the Convention 102 only.**

### *Summary of Provisions under ILO Conventions*

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

## Regulations on social security:

- Labour code 1974, last amended in 2019
- Act on Promotion of Employment and Labour Market Institutions 2004
- Pensions from Social Insurance Fund Act, 1998

## Pension Rights

The insured person is entitled to a pension when the pensionable age of 67 years is reached. Law however gives both the option of early retirement (65 years for men/62 years for women) and late retirement (70 years). Pension system is managed by Social Insurance Institution. Pensionable years of service are split into contribution period (years of employment, maternity leave) and non-contribution period (higher education, childcare leave, period of rehabilitation while drawing benefits). Qualifying conditions for old age pension include contribution and non-contribution periods amount to at least 25 years for Men/20 years for Women. Different pension calculation formulae are used for worker born after 1948.

From 1 October 2017, the retirement age of 60 years for women and 65 years for men has been restored.

**Source:** §24-26 of the Pensions from Social Insurance Fund Act, 1998; ISSA Country Profile for Poland 2018; Act of Law of 16 November 2016 on the amendment of the Law on Pensions from the Social Insurance Fund and some other acts

## Dependents' / Survivors' Benefit

In case of death of an employee during the

period of employment or during the collection of termination benefits as a result of incapacity for work due to illness, the family is entitled to severance pay that is dependent on the employee's period of employment with the employer and is:

- 1) one month's salary if the employee has been employed for less than 10 years,
- 2) three months' salary if the employee has been employed for at least 10 years,
- 3) six months' salary if the employee has been employed for at least 15 years.

The spouse and other members of the family meeting the conditions required to obtain a survivor's pension are eligible for this benefit.

**Source:** §93 of the Pensions from Social Insurance Fund Act, 1998; ISSA Country Profile for Poland 2018

## Unemployment Benefits

Unemployment issues are regulated by Act on Promotion of Employment and Labour Market Institutions 2004. The Act defines unemployed persons and determines the rules governing the calculation and provision of unemployment benefits. The unemployment benefit is a financial allowance for persons temporarily unemployed involuntarily. To qualify, an individual should register with the local labour office and fulfil several other requirements. The current unemployment benefit in Poland is PLN 831.10 in the first three months of entitlement to benefit. This benefit is reduced to PLN 652.60 per months during the next months. 80% of the above base amount is paid for the workers employed for less than 5 years while 120%

of the amount is paid for the workers with more than 20 years' experience. The total duration of benefits is 6-18 months depending upon the unemployment rate in the region.

**Source:** §72-73 of the Act on Promotion of Employment and Labour Market Institutions 2004

## Invalidity Benefits

The employee who fulfils the conditions for entitlement to invalidity pension or retirement pension, whose employment is terminated in connection with the transition to a pension, severance is entitled to an amount equivalent to one month's salary.

**Source:** §92(1) of the Labour Code 1974

# 10/13 FAIR TREATMENT

## **ILO Conventions**

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

**Poland has ratified the Conventions 100 and 111.**

### ***Summary of Provisions under ILO Conventions***

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

## Regulations on fair treatment:

- Labour code 1974, last amended in 2019
- The 2010 Act on Equal Treatment

## Equal Pay

Workers have the right to get equal pay for equal work or for work of equal value. Employees shall have equal rights in respect of the performance of identical responsibilities and concerns in particular, equal treatment of men and women in employment.

**Source:** §11 & 18(3c)(1) of the Labour Code 1974

## Sexual Harassment

Any unwanted conduct of a sexual nature is strictly prohibited whose purpose is to violate the dignity of the worker, in particular to the creation of an intimidating, hostile, degrading, humiliating or offensive atmosphere, this behaviour may include physical, verbal or non-verbal elements. Those convicted of sexual harassment may be sentenced up to three years in prison as well as fine.

**Source:** §3-4 & 18 (3a) (6 & 7) of the 2010 Act on Equal Treatment; §218 of the Criminal Code

## Non-Discrimination

Employees should be treated equally in any aspect of employment including termination of employment, conditions of employment, promotion and access to training for professional development

regardless of gender, age, disability, race, religion, nationality, political opinion, union membership, ethnic origin, religion or sexual orientation. A person whose rights have been violated has the right to compensation from the offender.

**Source:** §6-8, 11, 13 & 18 (3a) (1) of the 2010 Act on Equal Treatment

## Equal Choice of Profession

In accordance with the Polish Constitution, everyone has the freedom to choose and to pursue his occupation and to choose his place of work. Exceptions are specified by statute. Women can work in the same industries as men. However, women should not be given work that is particularly arduous or harmful to health. The list of such works is determined by regulation.

**Source:** §65(1) of the Polish Constitution 1997 (revised in 2009); 104<sup>1</sup>(6) & 176 of the Labour Code 1974

# 11/13 MINORS & YOUTH

## ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

**Poland has ratified the Conventions 138 and 182.**

### *Summary of Provisions under ILO Conventions*

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

## Regulations on minors and youth:

**Source:** §200 & 203-204 of the Labour Code 1974

- Labour code 1974, last amended in 2019

## Minimum Age for Employment

Employment of a worker younger than 16 years of age is prohibited; except for certain specific situations set out in the Lab. Minimum age for employment is 16 years. Minors who are between 16 and 18 years of age may be employed only under specific conditions and for the purpose of occupational training or to perform light work. Minors are favoured by labour law in as much as their employment is subject to special regulations relating to the type of work they can perform, their leave, health protection, working hours, and termination procedures, as well as the contractual obligations of the employer. In addition, a minor who is in school, and who is employed to perform light work, may not be employed for more than 12 hours per week. And minors also have longer vacation leaves. The working time of a young worker during school vacations must not exceed seven hours a day and 35 hours a week. The working time of a 16 years old young person cannot exceed 6 hours.

**Source:** §190-203 of the Labour Code 1974

## Minimum Age for Hazardous Work

Minimum age for hazardous work is 18 years. Minors between age 16-18 may not engage in unhealthy or hazardous work that can cause danger to life, health or physical and mental development of a young person. Also, it is absolutely forbidden to employ minors at night or to have them work overtime.

# 12/13 FORCED LABOUR

## **ILO Conventions**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

**Poland has ratified both Conventions 29 & 105.**

### ***Summary of Provisions under ILO Conventions***

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

## Regulations on forced labour:

- Labour code 1974, last amended in 2019

## Prohibition on Forced and Compulsory Labour

People have the right to freely choose the employment. Anyone, except in the cases referred to by law, shall not be prohibited to exercise their profession. Forced labour has not been explicitly prohibited by any specific legislation although the Constitution states that employment and place of work can't be imposed except in the cases of force majeure. Forced Labour is also prohibited under the Penal Code.

**Source:** §65 of the Polish Constitution; §10 of the Labour Code 1974; §115(22) of the Penal Code

## Freedom to Change Jobs and Right to Quit

The employee is entitled to terminate a contract for an indefinite period by giving notice at any time, without any specific reason, except when he or she terminates the contract as a result of having experienced mobbing in the work place. If mobbing/bullying is the cause for terminating employment, the employee must provide that reason in his or her statement of termination. The employee must satisfy the same notice periods like the employer, depending on the length of his or her service. Also, an employee may dissolve an employment contract in this way where it is proven that the work performed has a detrimental effect on his/her health and the employer fails to transfer him/her to a suitable alternative

work, or seriously breaches fundamental duties towards an employee.

**Source:** §55 & 94(3) of the Labour Code 1974

## Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty hours per week and eight hours a day in a five-day working week in the accepted reference period not exceeding four months. Weekly working hours, inclusive of overtime, may not exceed 48 hours on average. The number of overtime hours worked in connection with the specific needs of the employer may not exceed 150 hours in a particular calendar year in respect of an individual employee. Overtime is allowed in rescue action to protect human life or health, to safeguard property or the environment or to carry out emergency repair work or if the employer has special needs.

For more information on this, please refer to the section on compensation.

**Source:** §129 & 151(1) of the Labour Code 1974

# 13/13 TRADE UNION

## **ILO Conventions**

Freedom of association and protection of the right to organize: Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

**Poland has ratified both Conventions 87 & 98.**

### ***Summary of Provisions under ILO Conventions***

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

## Regulations on trade unions:

- Polish Constitution 1997 (revised in 2009)
- Labour code 1974, last amended in 2019
- Trade Union Act of 1991 Collective Labour Disputes Settlement Act, 1991

## Freedom to Join and Form a Union

Workers and employers have the right to create and join the organizations represent and defend their rights and interests. Policy creation and functioning of these organizations are determined by the law on trade unions, Employers Organizations Act and other provisions of law. A trade union is a voluntary, self-governing organization of working people (employees, agency contractors, cooperative members), which is independent from employers, government agencies, local authorities, and other institutions.

A union must have at least 10 members. A trade union must get registered with the Polish Court Register to gain a legal personality. If the founding committee fails to apply for registration within 30 days of the union formation date, the formation resolution expires. From January 2019 onward, trade unions are required to inform employers about the number of members they have. The information is shared twice a year by 10 January and 10 July of a calendar year.

**Source:** §59 of the Polish Constitution; §18<sup>1</sup> of the Labour Code 1974; §2 of the Trade Union Act of 1991

## Freedom of Collective Bargaining

The collective bargaining process is

guaranteed under the Constitution and regulated by the Collective Labour Disputes Settlement Act, 1991. Matters subject to collective bargaining include working conditions, wages, social benefits, and various other employee rights and freedoms.

The bargaining procedure may not be used to protect the rights of an individual employee; instead, those matters must be resolved by the labour courts. The collective bargaining is a three-step procedure consisting of claim submission and negotiation, mediation, and arbitration.

Earlier, the employer who employed at least 20 employees (at the start of year) was required (certain exceptions were allowed) to establish a company Social Benefit Fund. Under 2016 reforms in Labour Code (applicable from 1 January 2017), this has been raised to 50 employees. The upward change is also applicable to internal work and remuneration Rules, which are now also compulsory for employers employing at least 50 employees. Employers engaging 20-50 workers will still be obliged to create Fund and the internal regulations if these are requested by the enterprise level union.

Earlier, there existed a Tripartite Commission for Social and Economic Affairs, established originally a Ministerial Resolution of 1994 and later 2001 Act, is a tripartite advisory and consultative body. It conducted social dialogue on remunerations and social benefits-related issues and other socio-economic issues; decides on cases of a great socio-economic importance presented for agenda of the Commission; and participates in preparatory works on draft budget Act.

In 2015, the Tripartite Commission for Social and Economic Affairs was replaced by

the Social Dialogue Council which is a forum of tripartite cooperation between workers, employers and the government. The Council is required to hold dialogue in order to ensure social and economic development conditions and to enhance the competitiveness of the Polish economy as well as social cohesion. The responsibilities of the Council include expressing opinions and taking positions, giving opinions on draft guidelines for draft legal acts and on draft legal acts, initiating the legislative process pursuant to the rules laid down in this Act, and carrying out other tasks arising out of other legal acts.

**Source:** §4 & 59(2) of the Polish Constitution; §18-20 of the Collective Labour Disputes Settlement Act, 1991; Act of 24 July 2015 on the Social Dialogue Council and other social dialogue institutions

## Right to Strike

Workers have the right to strike under the Constitution. Trade unions have the right to organize workers' strikes or other forms of protest subject to limitations specified by statute. For protection of the public interest, statutes may limit or forbid the conduct of strikes by specified categories of employees or in specific fields. A strike may be declared only:

- During mediation proceedings, as a warning strike for up to two hours;
- After mediation proves unsuccessful and the union decides not to pursue arbitration; or
- If the unlawful act of the employer made the negotiations or mediation impossible.

Certain groups of public service employees,

e.g., police officers, members of the army or coast guard, intelligence employees, firefighters, judges, and prosecutors, do not have the right to strike.

Employees are not required to go on strike; participation is purely voluntary. A strike is deemed legal if a majority of the employees at a given enterprise agree to it, provided that 50 percent of the employees participated in the strike vote.

During strike, the strikers are entitled to social insurance benefits, but not remuneration. A strike is considered illegal if it does not comply with the statutory provisions. Employees participating in illegal strike are in a breach of their basic duties, this may eventually lead to a fine or the dismissal.

**Source:** §59 of the Polish Constitution; §18-20 & 26 of the Collective Labour Disputes Settlement Act, 1991

# QUESTIONNAIRE

## DECENTWORKCHECK.ORG

## Check

Decent Work Check Poland is a product of WageIndicator.org  
and www.twojezarobki.com



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

## 02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

## 03/13 Annual Leave &amp; Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

## 04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 05/13 Family Responsibilities

15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 06/13 Maternity &amp; Work

18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy<br><i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child   |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 07/13 Health & Safety

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- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 08/13 Sick Leave & Employment Injury Benefits

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- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |    | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury                                       |   | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease     |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 09/13 Social Security

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- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 10/13 Fair Treatment

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- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination                                     |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Sex/Gender   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Race   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Colour   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Religion   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Political Opinion  |  | <input type="checkbox"/> | <input type="checkbox"/> |

\* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
Age		<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
Language		<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>

## 11/13 Minors & Youth

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41. In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>

## 12/13 Forced Labour

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43. I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

## 13/13 Trade Union Rights

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46. I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

## Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Poland scored 46 times "YES" on 49 questions related to International Labour Standards

### If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

### If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

### If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.