



Industrial relations **Poland: Developments in working life 2017**

*[Developments in working life in Europe:
EurWORK annual review 2017](#)*

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Political context affecting working life aspects

The major political factor affecting working life in 2017 was definitely a return to the former retirement age of 60 years for women and 65 years for men, which means overturning the reform of 2013, when uniform retirement age of 67 had been introduced. Although the relevant legal change was adopted in 2016, it would only become effective on 1 October 2017. On 1 September 2017 new school year began, and a divisive to the public opinion reform of compulsory education replacing the three-tier system with a two-tier one by erasing the middle-school (*gimnazjum*) took effect. Since the summer, pay-related tensions in public healthcare started rising until reaching the boiling level near the end of the year with the growing number of physicians revoking opt-out clauses allowing them to work more than 48 hours per week.

Social partners reactions following changes in governments

No elections were held in 2017 but in December the ruling party - Law and Justice (PiS) – opted for a ‘political reset’, and Beata Szydło was replaced in the office of Prime Minister by her deputy, Mateusz Morawiecki, although the cabinet composition stayed almost the same as of the end of 2017. Major reconfiguration of the cabinet was announced to take place in early 2018. Due to this fact, social partners generally refrained from commenting the change (as incomplete) in 2017.

Labour market reforms or major packages of working life regulations

Apart from finalising the retirement age reversal, another crucial change was coming into force of [hourly minimum pay](#) of 13 PLN on 1 January. Approximately 0.5 million people, for whom – according the national statistics (2016) – work on the basis of free-lance contracts (*umowa zlecenia*) is the main form of activity in the labour market benefited from the new law. From 1 January lesser employers are bound by social funds regulations, as the threshold for establishment of such fund (major form of occupational welfare in Poland) was raised [from 20 to 50 employees](#) on the payroll. The ban on Sunday trading was adopted in November. The new [regulation](#) still needs to be proceed by the upper chamber of the parliament and finally signed by the President. The change is set to be incremental: in 2018 on half the Sundays each month there will be no trading, in 2019 – on three (on average), and 2020 – on all. The reform of compulsory education took effect, leaving a lot of room for speculation about its actual impact on sectoral employment (unions objecting the reform maintained some 9 thousand jobs would be lost, which the government denied). The debate on new trade union legislation continued to drag on, and at the end of the year was still underway: in October, the [draft legislation](#) was delivered to the parliament as a governmental initiative, causing wide criticism both by unions and [employers](#) as the text actually deviated a lot from what had been agreed the previous year within the Social Dialogue Council (RDS). The Labour Law Codification Committee kept working on preparing the drafts of two separate labour codes (individual and collective) to replace the ancient 1974 regulation still in place. The Committee is set to close the drafts in March 2018. In December the government sponsored legislation removing the ‘30-times cap’ was voted into law. ‘30-times cap’ stands for the highest limit of income incurred from employment that is subject to mandatory social security dues. Once employee’s gross income reaches in the frame of a year amount equal to 30 monthly average pays, the obligation to deliver social security contributions no longer applies. The parliamentary works proceeded hastily, as the government was determined to have the regulations enacted by the end of the year, so widespread disapproval to the project (exemplified by the joint position of five national social partners’ organisations) was ignored. Yet as the President became concerned with the regulation and hesitant to sign it, the final outcome was still undecided at the end of the year.

Developments in industrial relations 2017

Changes affecting the national-level actors and institutions of industrial relations and social dialogue in 2017

Representativeness

No major changes in the way in which representativeness of social partners is regulated or assessed occurred.

Actors

No major developments affecting the main actors occurred.

Institutions

No major developments were implemented but the [draft amendments](#) to the Act on Social Dialogue Council and other Social Dialogue Institutions were presented by the President in late October with a view of enlarging the body's scope of responsibilities, i.e. by extending the right of social partners to issue bipartite resolutions on drafts of governmental strategies, programmes and other official documents, because at the moment they only have such a prerogative concerning draft legislation; furnishing social partners with a right to request – in a form of a bipartite resolution – from the Minister of Finance a general interpretation of any fiscal regulation which has been interpreted diversely by tax authorities; introducing a legal possibility for social partners to vote electronically on bipartite resolutions; enlarging the circle of persons entitled to participate in the plenary session by the representative of the National Labour Inspectorate, and last but not least, to enhance the powers of regional social dialogue councils, WRDS). Those proposals subsequently became subject of debate with the social partners. As of the end of the year, the issue remained open.

Changes in the social dialogue processes

No major changes in practice of national-level social dialogue processes occurred.

National social dialogue in 2017 – Scope and Contribution

Main social dialogue topics and outcomes in 2017

| Themes | Description of issue | Code(s)-interaction | Type of Interaction | Code(s)-Outcome | Outcome |
|---|--|---------------------|---|-----------------|---|
| General labour market topics | | | | | |
| Job creation, reduction of unemployment, active labour market policies, labour market participation of different groups | National level social partners stepped forward with initiative to enhance the National Training Fund's (KFS) financial and institutional capacity in the bipartite resolution no. 34 . | 7 | Bipartite resolution as a result of bipartite negotiations. | 5, 8 | The initiative was ignored by the government, which subsequently cut down the financial allocation for KFS in 2018 to 1.2 % of the Labour Fund means from 1.8% in 2017. |
| | National level social partners in the bipartite resolution no. 46 criticised not only cutting down KFS but also massive (by 56%) decrease in the part of Labour Fund dedicated to activating measures. | 7 | Bipartite resolution as a result of bipartite negotiations. | 5,8 | The initiative was ignored by the government. |
| Skills, training and employability | National level social partners issued recommendations regarding quality of internships in the open labour market in the bipartite resolution no. 35 ; | 5 | Bipartite resolution as a result of bipartite negotiations. | 8 | 1) No response by the government yet |
| | National level social partners issued recommendations on modifications of the vocational education system in the bipartite resolution no. 48 | 5 | Bipartite resolution as a result of bipartite negotiations. | 8 | No response by the government yet |

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| Themes | Description of issue | Code(s)-interaction | Type of Interaction | Code(s)-Outcome | Outcome |
|--|---|---------------------|--|-----------------|---|
| Pension reforms | National level social partners (initially five, later six of seven) protested against the government's unilateral legislative action aiming at removing the '30-times cap'. | 6 | Joint statement criticising not only the content but also the manner of proceeding the draft (with virtually no public consultation) | 3 | The legislation was passed by both chambers of parliament but the President has not signed, asking the Constitutional Court for opinion. |
| Working life related themes | | | | | |
| Wage setting systems, including the setting of minimum wages (but excluding the 'regular' annual debates about the determination of the level of the new minimum wage) | Alliance of Medical Professions (Porozumienie Zawodów Medycznych, PZM) delivered its draft regulation on the minimum wage in public healthcare to the parliament already in May, demanding that specialist MD should receive at least a triple amount of the average pay, non-specialist MD – twice the amount of the average pay, and nurses, midwives, physiotherapist and technicians at least 1.5 of the average pay. | 8 | | 7 | The draft was blocked in the parliament, as the government pushed forward their own version (less favourable for employees) of the regulation . |
| Working time regulations | Ban on Sunday trading promoted as a civic legislative initiative by NSZZ "Solidarność" union | 8 | The draft regulation was submitted to the parliament already in 2016 but was channelled into Sejm (lower chamber) committees of social policies, and economy and development for joint proceedings, where it | 3 | The draft was voted for by the Sejm (lower chamber) in November, the Senat (upper chamber) introduced number of revisions to the act, subsequently approved the Sejm. The regulation was finally passed into law in early January 2018 and is currently awaiting signature of the |

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| Themes | Description of issue | Code(s)-interaction | Type of Interaction | Code(s)-Outcome | Outcome |
|--|--|---------------------|---|-----------------|---|
| | | | remained in a 'frozen' state for a year. | | President. |
| Terms and conditions of employment, including different forms of contracts | National level social partners in the bipartite resolution no. 33 requested the Prime Minister to issue binding guidelines for state administration on enclosing social clauses in public procurement. | 7 | With apparent failure of most public employers to use 'social clauses' in calls for tender, social partners saw the need for a more authoritative measure than the current guidelines on the subject | 5 | Consensus of the social partners reached (as manifested by the resolution), no further developments |
| Work-life balance related themes, incl. family leaves | Employer side of the RDS in a joint position criticised the draft amendments to the Temporary Agency Work (TAW) legislation devised by the government and supported by trade unions | 3 | Criticism of employers pointed to extension of art. 177 § 3 of the Labour Code (protection of employment of pregnant woman, whose fixed-term or trial contract of employment is extended to the day of birth) to female TAWs, as imposing too much risk and financial burden in the triangular employment relationship on agencies. | 2 | The legislation passed as proposed by the government. |

No major social dialogue debates were held on the following themes: Benefits (unemployment, sickness schemes, minimum income); Taxation and non-wage related labour costs; Health, safety and well-being at work.

Note:

Codes for '*Type of interaction*': **1** - Tripartite debate; **2** - Tripartite negotiation; **3** - Formal consultation of both social partners; **4** - Formal consultation of trade unions; **5** - Formal consultation of employers organisations; **6** - Bipartite debate; **7** - Bipartite formal negotiations; **8** - Lobbying from at least one side; **9** - Type of interaction unknown.

Codes for ‘*Outcome as per 1.1. 2018*’: **1** - Unilateral decision by government; **2** - Legislation passed; **3** - Legislation prepared (in legislative process, not concluded); **4** - Tripartite agreement or joint position reached; **5**- Bipartite agreement reached; **6**- Joint opinion of social partners reached; **7** - Issue not closed, ongoing exchange; **8** - Issue dropped, no concrete outcome, no further exchange; **9** – Outcome unknown, none of these types.

Selected major social dialogue debates

Pay dispute in the public health-care

Short summary

Throughout the whole 2017 the dispute in public health-care, which had begun already in 2016, continued. The pay-related dispute was periodically calming down and tensing up, yet never has been entirely resolved. What had begun as a coordinated action addressing pay demands for all occupational groups in the public healthcare, evolved into a series of spin-off disputes between the government and specific occupations, with the one involving resident doctors being most visible. Tripartite bodies were involved in the process, albeit in a limited way, so social dialogue was taking place mainly outside institutions.

Brief description of the social dialogue process

Following the [protest](#) led by the Alliance of Medical Professions (Porozumienie Zawodów Medycznych, [PZM](#)), a loose coalition representing nine occupational groups in public health-care, the works on preparing a new law regarding the rules of calculating the minimum basic wage for medical personnel in healthcare facilities began. In June 2017 the [regulation](#) was passed and came into force in mid-August. PZM had delivered its own [draft regulation](#) to the parliament already in May but the draft was blocked in the parliament, still PZM would continue the pressure, finding the provisions of the enacted law unsatisfactory. One of the sub-occupational groups (resident MDs) went on to pursue their particular pay demands (the wage for MD with resident status was equal to merely 70% of the average national pay). The conflict escalated to the point of some resident MDs undertaking hunger protest in autumn. Other occupational groups were also becoming active in the protest action (paramedics), or suspended formal talks with the Ministry of Health (nurses). The crisis would become even stronger with number of doctors starting revoking opt-out clauses at the end of the year. In October the Minister of Health called into existence an ad-hoc negotiation body called the Committee for Systemic Financial Solutions in the Public Healthcare, Future of Medical Personnel and Pay Measures. In the [body](#), the numbers of government agencies were assigned seats, while non-governmental actors (including three national-level trade unions, physicians' and nurses' sectoral unions but also professional chambers and civic organisations of patients) were invited by the Ministry. The body was in fact a crisis-management arrangement. Resident MDs also received invitation but declined. So did all social partners organisations [claiming](#) the whole situation should have been brought into the RDS. As a result, after two months the Committee ended its activities with a set of [recommendations](#).

Outcome of the social dialogue

After two months the Committee ended its activities with a set of [recommendations](#) regarding the improvements needed in the entire health-care system. The recommendations are general in their form, and no sources of financial allocation to secure fulfilment of the objectives are identified. The process is expected to be continued within the Thematic Team for Public Services of RDS.

Views of the stakeholders on the social dialogue process and outcomes

The views of stakeholders varied: while social partners were generally displeased with the way all negotiation process had been handled by the government, especially by [circumventing](#) RDS, some civic organisations expressed [satisfaction](#), mainly because of their formal inclusion in the debate but also due to their postulates being incorporated into the recommendations.

Ban on Sunday trading

Short summary

Years of pressure for imposing legal restrictions on retail trading on Sundays are paying off, as the civic initiative promoted by the [NSZZ “Solidarność”](#) is nearly transformed into the latter of law. After a year of the draft being in hiatus, the legislative process took off in the autumn and proceeded swiftly. As a result, the forthcoming regulation (at the end of 2017 the Presidential signature is the only remaining step before it becomes law) stipulates that in 2018 on half the Sundays each month there will be no trading, in 2019 – on three (on average), and 2020 – on all. Apart from “Solidarność” as the agent of change, all social partners remain critical of the new measures, with employers contesting them, and other trade unions trying to propose alternative solutions but ultimately with no effect.

Brief description of the social dialogue process

In 2008 under the auspices of the National Secretariat of Banks, Commerce and Insurance (Sekretariat Krajowy Banków, Handlu i Ubezpieczeń) of NSZZ ‘Solidarność’, a coalition of conservative non-government organisations and sectoral associations representing domestic capital emerged following a signature of the ‘Alliance for Free Sundays’ charter. Following rise to power of Law and Justice (PiS) in 2015, the union addressed the government with demands to change the law in line with their concept, a request the government could not dismiss, as the union had proven to be a reliable ally to the ruling party (by backing Andrzej Duda’s presidential candidacy and having number of their members elected to the parliament with PiS’s endorsement). Still, the government, aware of sensitivity of the issue, would adopt a cunctatory strategy, trying to stretch the debate as long as possible. The union remained persistent, collecting signatures under the civic [initiative](#), and by August 2016 managed to draw support of 500 thousand citizens. As any civic initiative that draws support of at least 100 thousand people must be accepted as a draft law, the ban went on to be discussed in the parliament. Still, the government would remain reluctant, also due to numerous voices criticising the content (e.g. were the draft adopted unchanged, than seaports would have to be closed on Sundays as well). In October 2016, after the first reading in the Sejm (lower chamber), the draft was sent to the Social Policy and Family Committee for further proceedings and became de facto frozen there for next half a year. Under growing pressure of “Solidarność”, in late March 2017 the government [agreed](#) to continue legislative works on the draft law aiming at curbing operation of store (and some service facilities) on Sundays.

In the following months the debate between the government and the union dragged on. As the draft was not a governmental initiative, it would not have to be subject to public consultation. The RDS also never took an official position on the issue, even though all social partner organisations apart from “Solidarność” remained critical of the idea. The issue was, however, discussed at the RDS forum with the President becoming involved in the summer, and counter-proposals to the provisions would be addressed. OPZZ recommended introduction of [extra pay for Sunday work](#) (2.5 times the regular one) in retail instead of arbitrary closure of stores, the idea met with interest on the part of employers. Confederation Lewiatan suggested amending the Labour Code, so that any employee in retail would be entitled to [two free Sundays a month](#). The government caught between the colliding expectations of “Solidarność” and employers, and torn internally by tensions between pro-employee and pro-business factions attempted to mediate between the group interests by putting a ‘fifty-fifty’ type of deal on the table: each month on two Sundays trading would be allowed, on the other two shopping outlets should stay closed. The legislative process continued with most of the provisions being revised or rewritten. As a result, in the final draft the road-map for the incremental change was drawn: in 2018 on half the Sundays each month there will be no trading, in 2019 – on three (on average), and 2020 – on all.

Outcome of the social dialogue

The draft was [passed into legislation](#) on 24 November, although many of its provisions still raised doubts, so subsequently the upper chamber of the parliament (Senat) introduced 10 amendments to the act, all would be approved by the Sejm, so the passed law was sent to the President for signature. All pleas and recommendations of the remaining national social partners were officially ignored, although softening the content slightly (incremental change by 2020) and leaving a broad catalogue of exceptions to the general ban suggest the ‘behind the curtain’ negotiations took place with some effect.

Views of the stakeholders on the social dialogue process and outcomes

No party involved seems to be satisfied with the outcome. The government stepped back under pressure of “Solidarność” not risking aggravation of its key ally. What has emerged from the law-making process looks different from the original project of the union, which has continued to voice its dissatisfaction and dropping hints it would exercise pressure on the lawmaker once the act enters into force to revise it. The remaining social partners feel rebuffed not only by the result but also by the manner the process was conducted in.

Unilateral government actions – without social dialogue

The case of ‘30-times cap’ removal is the most meaningful example of unilateral action by the government. Although RDS had been notified of the planned reform, time left for consultation was so scarce that no sensible discussion could have taken place. Social partners not only expressed their distaste with the course of the action taken (apart from general critique of the content) in a formal [position](#) but some also delivered unilateral negative opinions on the draft to the parliament (see: [Confederation Lewiatan’s](#) and Polish Crafts Association, [ZRP’s](#)) and openly contested the changes as the draft was being [proceeded](#) by the parliamentary Committee for Social Policy and Family. Despite all that the regulation was passed by the parliament on 15 December. However, the President’s reservations towards the new regulation prompted him to ask the Constitutional Court for the [opinion](#), which is yet to arrive, so the case is pending.

Changes affecting the sectoral and company level social dialogue 2017

In 2017 three new tripartite sectoral committees (TZB) were established. These are:

- the [Tripartite Sectoral Committee for Road Transport](#) (by the Ministry of Infrastructure and Construction), as a result of the [RDS bipartite resolution no. 21](#);
- the [Tripartite Sectoral Committee for Food Industry](#) (by the Ministry of Family, Labour and Social Policy), as a result of the [RDS bipartite resolution no. 22](#);
- the [Tripartite Sectoral Committee for Culture and Media](#) (by the Ministry of Culture and National Heritage) as a result of the [RDS bipartite resolution no. 23](#)

Such committees have been in existence since 2003 and to date there are 17 of them operating.

Innovation in collective bargaining

No innovative collective agreements observed.

Collective labour disputes in 2017

No significant changes in the regulation of collective disputes observed.

Two main fields of industrial action in 2017 were education and health care. In the first case, the labour discontent was caused by the abruptly implemented reform of the compulsory education system. In March the Polish Teachers’ Union (Związek Nauczycielstwa Polskiego, ZNP) [called](#) for a general strike in education. The one-day action was scheduled to take place

on 31 March. The strike was a moderate success, as far as mobilisation is concerned, because reportedly only 37% schools and preschool facilities (roughly 6.5 thousand) participated. One of the reasons for a relatively small scale of the action was the refusal of ‘Solidarity’ (NSZZ “Solidarność”), the second-largest sectoral union. Even the fact that ZNP collected nearly 1 million signatures under the petition for a national referendum on the reform until mid-2017 would not lead to putting the reform on hold and the parliament calling the referendum. On 1 September, the reform was eventually put in motion.

The health-care dispute was long and complex. Originally unfolding in 2016, it would continue throughout 2017, with periods of relative silence interrupted by phases of unrest. What began as a coordinated protest (first ever) of all occupational groups in the public health-care, split into series of protests by specific groups (yet not entirely disconnected from actions of other groups), of which the most prominent role was played by resident MDs (‘young doctors’). MDs protest played major part in prompting the government to raise the planned allocation of public expenditure on health-care to 6% of the GDP. The protest is not closed, as the end of the year was a period when massive number of MDs (not only residents) would revoke opt-out clauses, creating a major disruption in the continuity of service by public health-care facilities.

Working time 2017

No major changes in that area.

Health and well-being at work 2017

Physical working environment

In April the amounts of onetime compensations for damages suffered as a result of workplace accidents or occupational disease entered into force.

In May new stricter limits on physical workload (including weight limits in manual transport of goods) for women who are not pregnant/nursing became binding with the amendments to the Ordinance of the Minister of Labour on Workplace Safety in Manual Transport (Journal of Laws, item 854) entering into force.

In May new list of work tasks hazardous to women during pregnancy or nursing became binding with the amendments to the Ordinance of the Council of Ministers regarding the subject matter (Journal of Laws, item 796) entering into force.

Psychosocial working environment

No significant developments.

Employment status 2017

| Type of contracts | Changes made during 2017. |
|---------------------------------|---|
| ‘Standard’ employment contracts | No changes |
| Self-employed | No changes |
| Fixed term contracts | No changes |
| Temporary agency workers | Revision of the Labour Code secured equal treatment of female TAWs with other workers (with standard employment contracts) in terms of employment protection during |

| | |
|---|---|
| | pregnancy. |
| Posted workers | No changes |
| Seasonal workers | No changes |
| Zero hour contracts | Not relevant |
| Other contracts (e.g. individual contracts, 1 day contract, mini-jobs, ...) <please add rows> | From 1 January 2017, the regulation providing for hourly minimum wage for persons working on the basis of civil law contracts entered into force. |

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