

**ST. BROTHER ALBERT'S AID SOCIETY**

**PESSIS 2**

**PROMOTING EMPLOYERS' SOCIAL  
SERVICES ORGANIZATIONS  
IN SOCIAL DIALOGUE**

**COUNTRY-CASE STUDY:  
POLAND**

Author: Aneta Wiącek

Cooperation: Jakub Wilczek





# CONTENT

1.	<b>The social services sector</b>	5
1.1.	The social assistance system in Poland	5
1.2.	Social assistance tasks at the particular levels of government	5
1.3.	Statistical overview of the social assistance	7
2.	<b>Collective bargaining agreements and other arrangements</b>	13
2.1.	The kinds of collective bargaining agreements	13
2.2.	Sectorial level collective bargaining agreements	13
2.3.	Social assistance sectorial collective bargaining agreements	14
3.	<b>Social dialogue in the social services sector</b>	17
3.1.	Definition	17
3.2.	Parties of the dialogue	17
3.3.	Principles and forms of social dialogue	17
3.4.	Forums of social dialogue	18
3.4.1.	The Tripartite Commission for Social and Economic Affairs	18
3.4.2.	Tripartite Sectorial Groups	18
3.4.3.	Provincial Social Dialogue Commissions	18
3.4.4.	Employees' councils	19
3.5.	Social agreements	19
4.	<b>Future prospects of social dialogue in the social services sector</b>	21
5.	<b>The case for EU level Social dialogue in the social services sector - recommendations</b>	23
5.1.	Recommendations concerning the public (social) services sector	23
5.2.	Recommendations concerning employment	23
5.3.	Recommendations concerning labour relations	24
5.4.	Recommendations concerning the quality of service	24
6.	<b>References</b>	25



# 1. THE SOCIAL SERVICES SECTOR

The description of social services in Poland is neither regulated nor standardized. No clear definitions are given what creates a space for multiple interpretations and subjective perception of this field. Nevertheless, much can be inferred from the description of the tasks and activities assigned by the law regulations to the specific central and local government bodies. R. Szarfenberg has reviewed the basic definitions in the area of social services noticing that: “the area of social services is heterogeneous, both conceptually and institutionally. Certainly, in the terms of social expenses on non-monetary welfare systems and services, the most important are health care and education. The latter is notably considered in the framework of international statistics as a separate division. Adding the services of social support and inclusion, employment services, rehabilitation services, socialisation services, cultural services etc., and considering that each of these services is rather a stream of many programs, projects, detailed services and various institutions produces a very large, complex and difficult to comprehend collection of an eclectic nature. Even in the case of the social assistance alone, the situation appears to be similar”. (Szarfenberg, 1.18)

## 1.1. THE SOCIAL ASSISTANCE SYSTEM IN POLAND

The functioning of the social assistance system in Poland is formed by the division of tasks between the central and local government. The social assistance is organised by the central government bodies (the minister responsible for the social security, provincial (regional) governors) and the local ones (provincial marshals, county prefects and municipal mayors – province, county and municipality are the three levels of the administrative division of Poland). The authorities mentioned above execute the social assistance tasks in cooperation, based on the principle of partnership with non-governmental organisations, the Catholic Church, other churches and religious organisations, other legal entities and natural persons.

Social assistance consists in particular of:

- granting and payment of social benefits,
- social work,
- managing and developing the necessary social infrastructure,
- analysing and evaluating the phenomena causing demand for social services,
- the implementation of tasks responding to the identified social needs,
- the development of new forms of social assistance and self-help within the framework of the identified needs.

The main objectives of social assistance include:

- supporting individuals and families in overcoming difficult life situations, ensuring - if possible - their life independence and enabling them to live in conditions corresponding to human dignity,
- ensuring income at the level of social intervention to those who have no income or low-income, or who are elderly or disabled,
- ensuring income at the level of social intervention to individuals and families with low incomes in need of temporary support,
- providing professional assistance to families affected by the consequences of social pathology, including domestic violence,
- integration of the socially excluded,
- providing a network of social services adequate to the identified needs.

## 1.2. SOCIAL ASSISTANCE TASKS AT THE PARTICULAR LEVELS OF GOVERNMENT

The majority of tasks are implemented on the local level - the legislature has assigned most compulsory tasks to the municipal level. The higher the level of local government the more tasks in the area of planning and supervision.

**Table 1. The scope of activities in the area of social assistance in relation to the different levels of government**

Municipalities	Counties (districts)	Provinces (local government) and provincial governors (representatives of the central administration in the provinces)	Central government (Ministry of Labour and Social Policy)
Compulsory own tasks	-	-	-
Own tasks	Own tasks	Province local government's tasks Province governors' tasks	- Minister responsible for the social security tasks
Central government commissioned tasks	Central government commissioned tasks	-	-

Source: Own elaboration based on the Social Assistance Act of 12.03.2004

**Table 2. The division of social assistance tasks on different level of administrative division**

Administrative level	Tasks
Municipality	<ul style="list-style-type: none"> <li>• development and implementation of a municipal strategy for solving social problems with a particular emphasis on preventing and solving alcohol abuse problems as well as the integration of people and families from the high risk groups</li> <li>• creation and implementation of protective programs</li> <li>• evaluation of social assistance resources</li> <li>• accounting and reporting</li> <li>• supporting the homeless and those in a difficult life situation (especially children leaving foster care, individuals leaving penitentiary institutions and people with mental disorders)</li> <li>• granting and payment of social benefits, and in special cases covering the social security contributions</li> <li>• social work</li> <li>• organisation and provision of care services</li> <li>• issuance of referrals to nursing homes</li> <li>• establishing and managing a social welfare centre and community self-help centres</li> <li>• cooperation with a relevant county employment centre within a range specified by the law</li> <li>• implementation of tasks resulting from government social assistance programmes in a range specified by the law</li> </ul>
County	<ul style="list-style-type: none"> <li>• development and implementation of a county strategy for solving social problems with particular emphasis on supporting people with disabilities and integration of people and families from the high risk groups</li> <li>• conducting specialised counselling</li> <li>• specialist support for people with disabilities and individuals leaving specialist care institutions (including homes for mothers with minor children, correctional institutions for minors, special educational institutions, etc.) as well as supporting the integration of these individuals</li> <li>• support for foreigners</li> <li>• managing nursing homes of an inter-municipal range and crisis intervention institutions</li> <li>• training and methodological consultancy for social assistance staff</li> <li>• accounting and reporting</li> <li>• evaluation of social assistance resources</li> <li>• establishing and managing a county family assistance centre</li> <li>• implementation of tasks resulting from government social assistance programmes in a range specified by the law</li> </ul>
Provincial government	<ul style="list-style-type: none"> <li>• development, updating and implementation of a regional strategy (in consultation with counties)</li> <li>• organisation of education of the social assistance staff, including managing public colleges for social workers</li> <li>• identifying the causes of poverty and development of regional social assistance programs supporting local governments</li> <li>• organising and managing regional organisational units of social assistance</li> <li>• accounting and reporting</li> <li>• evaluation of social assistance resources</li> <li>• establishing and managing a regional social policy centre</li> </ul>
Provincial governor	<ul style="list-style-type: none"> <li>• determining the means of executing central government tasks implemented by the local government bodies</li> <li>• control activities and issuance/revocation of permits for managing certain social assistance institutions and keeping a registry of these institutions</li> <li>• supervision, coordination, control, analysis of conditions, reporting and funding programs in specific areas</li> </ul>
Minister responsible for the social security	<ul style="list-style-type: none"> <li>• creating conceptions and defining directions of development in the area of social assistance</li> <li>• monitoring, supporting, supervision, identifying and commissioning tasks in specific areas of social policy</li> </ul>

Source: Social Assistance Act of 12.03.2004

### 1.3. STATISTICAL OVERVIEW OF THE SOCIAL ASSISTANCE

The available statistics (drawn from reports published by the Central Statistic Office of Poland) are mostly not narrowed down to the social assistance sector (e.g. the data on the gender of employees are available only for the social assistance sector combined with the whole health care sector – this means the data may be unrepresentative for the area of social assistance only). The data on ethnicity of employees are not available at all (ethnic issues are rarely monitored in Poland in cases other than issues directly related to the general population, ethnic minorities and discrimination). There is also no available data on the age of social assistance sector employees. Furthermore, in many cases the available data lack the breakdown to different kinds of social services – some are described on a satisfying level (e.g. government managed social assistance centres) some are not surveyed at all (e.g. foster care and children day support centres). Nevertheless, the summary of the available data presented below shows the scale and scope of the operation of elements of the social assistance system in Poland.

The public social assistance is implemented by the organisational units of social assistance managed by local governments of different levels:

- 2479 social welfare centres (in each municipality)
- 314 county family assistance centres (in each county, except for municipalities with county rights)
- 16 regional social policy centres.

The obtained statistical information showing the scale of activity in the area of social services is only available in an already aggregated form, therefore it is difficult to determine the scale of the activities carried out by the public, private and non-governmental sectors. Whenever such information is available – it is clearly mentioned in the below table.

**Table 3. Basic statistical data on social assistance in Poland**

Statistical area	Figures
1. The number and types of foster care institutions (CSO, 2012a)	<p>At the end of 2012 843 foster care institutions were in operation, including:</p> <ul style="list-style-type: none"> <li>• 1 regional care and therapy centres</li> <li>• 1 pre-adoptive centre</li> <li>• 841 care and educational centres including <ul style="list-style-type: none"> <li>• 414 socialisation centres (49.2%) (orphanages)</li> <li>• 270 family centres (32.1%) (an intermediate form between an orphanage and a foster family)</li> <li>• 31 crisis intervention centres (3.7%) (temporary stay only)</li> <li>• 4 specialist therapy centres (0.5%)</li> <li>• 122 centres with mixed services (14.5%)</li> </ul> </li> </ul> <p>Total number of beds – ca. 19,700, usage in 2012 – 19,200 (97.5%) Also in 2012 51,600 children remained in 39,700 foster families.</p>
2. The number and types of children day-support institutions (supporting family in upbringing children)	<p>2863 children day-support centres (2012), including:</p> <ul style="list-style-type: none"> <li>• 2370 general care institutions (82.8%)</li> <li>• 365 specialised care institutions (12.7%)</li> <li>• 7 streetwork “institutions” (programmes) (0.2%)</li> <li>• 121 institutions with mixed services (4.2%)</li> </ul> <p>118,600 children benefited from the children day care services in 2012. 57.7% of the above institutions are managed by local governments, the remaining 42.3% by private business and non-governmental organisations (incl. churches and religious organisations).</p>
3. Institutional care for children up to the age of 3 (nurseries and babies’ clubs)	<p>1150 care institutions in 2012, altogether 50,000 places; usage in 2012 – 47,700 (95.4%) 54% of institutions are managed by non-public entities, however the public institutions offer 73% of places. 63% of nurseries are public, while among the other forms of care for children up to the age of 3, only 3% are public. Institutional care for children up to the age of 3 altogether employed 9,100 employees in 2012. 10% of them were nurses.</p>

4. The number and types of residential social assistance institutions	<p>1,564 residential social assistance institutions (2012), including:</p> <ul style="list-style-type: none"> <li>• 833 nursing homes (53.3%)</li> <li>• 346 homeless institutions (hostels, shelters, overnight-shelters) (22.1%)</li> <li>• 73 homes for mothers with minor children and pregnant women (4.7%)</li> <li>• 312 institutions providing 24h care for people with disabilities, the chronically ill or elderly persons, community self-help centres (with limited residential places), family nursing homes and other unclassified (19.9%)</li> </ul> <p>Also, 62 subsidiaries to the above institutions.          Altogether 108,300 beds, usage in 2012 – 104,500 (96.5%)</p> <p>Of the mentioned 1,564 institutions:</p> <ul style="list-style-type: none"> <li>• 753 are managed by local governments (48.1%)</li> <li>• 620 are managed by non-governmental organisations (incl. churches and religious organisations) (39.6%)</li> <li>• 191 are managed by private business and natural persons (12.2%)</li> </ul> <p>602 out of 833 nursing homes (72.3%) and only 151 out of 731 other residential social assistance institutions (20.6%) are managed by local governments.</p>
5. Employment in residential social assistance institutions	<p>59,100 employees of residential social assistance institutions include (2012):</p> <ul style="list-style-type: none"> <li>• 49,900 non-medical staff (84.4%)</li> <li>• 7,700 nurses (13.0%)</li> </ul>

Source: Social Assistance, Child and Family Services in 2012 (Pomoc społeczna i opieka nad dzieckiem i rodziną w 2012 roku - [http://stat.gov.pl/cps/rde/xbcr/gus/ZOS\\_Pomoc\\_spoleczna\\_i\\_opieka\\_nad\\_dzieckiem\\_i\\_rodzina\\_w\\_2012\\_r.pdf](http://stat.gov.pl/cps/rde/xbcr/gus/ZOS_Pomoc_spoleczna_i_opieka_nad_dzieckiem_i_rodzina_w_2012_r.pdf))

**Table 4. Total public expenditure on social assistance in and child care 2012**

Administrative division level	social assistance*	other tasks**
Central budget	14,157,365,000 PLN	2,936,233,000 PLN
Provinces	121,970,000 PLN	599,669,000 PLN
Counties (incl. municipalities with county rights)	9,923,524,000 PLN	1,928,287,000 PLN
Municipalities	12,711,799,000 PLN	552,683,000 PLN
Total	36,914,658,000 PLN	6,016,872,000 PLN
		42,931,530,000 PLN

Source: Social Assistance, Child and Family Services in 2012 (Pomoc społeczna i opieka nad dzieckiem i rodziną w 2012 roku - [http://stat.gov.pl/cps/rde/xbcr/gus/ZOS\\_Pomoc\\_spoleczna\\_i\\_opieka\\_nad\\_dzieckiem\\_i\\_rodzina\\_w\\_2012\\_r.pdf](http://stat.gov.pl/cps/rde/xbcr/gus/ZOS_Pomoc_spoleczna_i_opieka_nad_dzieckiem_i_rodzina_w_2012_r.pdf))

\*) Direct spending on social assistance, i.e. residential institutions for children, nursing homes, support centres (other residential social assistance institutions), foster families, family benefits, the provision of alimony fund and pension insurance contributions, health insurance contributions paid by people receiving certain social welfare benefits, benefits (monetary and material), housing benefits, permanent benefits, functioning of social assistance organisational units, specialised counselling, sheltered housing and crisis intervention centres, adoption and care centres, care services and specialised care services, assistance for foreigners, removing the effects of natural disasters.

\*\*) Expenditures on other tasks in the field of social assistance, i.e. disability evaluation boards, National Veteran Fund, National Disabled Persons Rehabilitation Fund, public employment services, Voluntary Labour Corps, social pensions (for individuals unable to work due to a disability formed before attaining majority), nurseries, vocational and social rehabilitation of disabled people, specialised centres for training and rehabilitation, aid to repatriates.

Local governments' expenditures on chosen services:

- nursing homes: 3,031,293,000 PLN
- foster care institutions: 1,176,161,000 PLN
- benefits (monetary and material) and pension insurance contributions: 1,340,850,000 PLN
- nurseries: 504,810,000 PLN



## Employment in health CARE<sup>1</sup> and social assistance (CSO, 2012b)

**Table 5. Detailed data on employment in the sector of health care and social assistance**

Category	2010	2011	Commentary
<b>1. Number of people working in the sector:</b> of which working in the non-public part of the sector:	<b>764,400</b> 222,000 (29.0%)	<b>775,400</b> 239,400 (30.9%)	<b>The non-public part consists of private business and non-governmental organisations (incl. churches and religious organisations)</b>  The percentage of people employed in the sector in relation to total employment: 5.4% (2011)
<b>2. Number of employees in the sector employed on a basis of a civil-law contract:</b>	<b>18,700</b>	<b>28,100</b>	<b>Noticeable is a significant increase, which probably stems from the spread of the so-called "junk contracts", i.e. Civil Code based contracts aiming at avoiding the restrictions of the Labour Code</b>
<b>3. Number of employees (employed on a Labour Code based contract)</b> of which women:	<b>678,100</b> 562,000 (82.9%)	<b>677,600</b> 564,700 (83.3%)	<b>It is worth noting that the decrease in the number of employment contracts is significantly smaller than the increase in the number of civil law contracts.</b>  The feminisation factor in the sector is overwhelming and progressing  Position 2 & 3 do not sum up to position 1, due to self-employment forms of work.
<b>4. Full-time employees:</b> of which employed on temporary contracts:	<b>591,800</b> 88,400 (14.9%)	<b>589,600</b> 84,200 (14.3%)	-
<b>5. Part-time employees:</b> of which employed on temporary contracts:	<b>44,500</b> 12,400 (27.9%)	<b>44,500</b> 12,100 (27.2%)	-
<b>6. Average employment:</b> of which:	<b>667,800</b>	<b>667,900</b>	<b>Counted in number of full-time equivalents</b>
a) health care:	507,900 (76.0%)	506,800 (75.9%)	Since ca. 75% of the surveyed employees belong to the health care sector and only 25% to the social assistance sector, the data may not be fully representative on the latter one
b) residential social assistance services:	84,800 (12.7%)	84,800 (12.7%)	
c) non-residential social assistance services:	75,100 (11.2%)	76,300 (11.4%)	
<b>7a. Hire rate:</b>	<b>10.0</b> (49.3% of the total rate)	<b>10.9</b> (48.0% of the total rate)	The sector is characterised by very low staff turnover rate (which means that employment is very stable) - within half of the general rates (for the whole Polish labour market).
<b>7b. Termination rate:</b>	<b>10.1</b> (51.8% of the total rate)	<b>11.2</b> (50.9% of the total rate)	
<b>8. Strikes:</b> a) number of strikes b) number of strikers	<b>12</b> (15.2% of all strikes) 1856	<b>5</b> (9.4% of all strikes) 286	-
<b>9. Labour disputes reported to the National Labour Inspectorate</b>	<b>69</b> (20.2% of total labour disputes)	<b>68</b> (18,6% of total labour disputes)	<b>2012 data is also available - 64</b> (21.3% of total labour disputes)
<b>10. Global remuneration before taxation (in PLN):</b>	<b>26,298,700,000</b> (6,6% of total remuneration in national economy)	<b>27,020,100,000</b> (6,4% of total remuneration in national economy)	-
<b>11. Average monthly salary before taxation (in PLN):</b> a) in the public part of the sector: b) in the non-public part of the sector: c) in the human health activities d) in the residential care activities e) in the social work activities without accommodation	<b>3137.43 (97.3% of national average)</b> 3249.44 (103.6% of average in the sector) 2659.85 (84.8% of average in the sector) 3268.63 (104.2% of average in the sector) 2556.15 (81.5% of average in the sector) 2906.32 (92.6% of average in the sector)	<b>3226.07 (94.8% of national average)</b> 3338.22 (103.5% of average in the sector) 2772.69 (85.9% of average in the sector) 3351.54 (103.9% of average in the sector) 2672.50 (82.8% of average in the sector) 3008.38 (93.2% of average in the sector)	<b>Lower staff turnover rates are only being reported in the mining industry and education.</b>

Source: Yearbook of Labour Statistics 2012 (Rocznik Statystyczny Pracy 2012) - [http://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5515/7/3/3/rs\\_rocznik\\_statystyczny\\_pracy\\_2012.pdf](http://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5515/7/3/3/rs_rocznik_statystyczny_pracy_2012.pdf)

1 Unfortunately, the statistics below present health care understood as a whole (general health care) and merge it with social assistance - there is no source of data on health care employees providing social services defined by PESSIS 2 and data on social assistance alone are available only in few cases.

## Ministry's of Labour and Social Policy social assistance statistics (MPiPS, 2012):

### 1. Employment in social assistance (MPiPS-03)

Total: 118,500 employees (112,800 full-time equivalents), including:

- provincial governors' staff responsible for social assistance and social assistance organisational units managed by local governments (regional social policy centres, county family assistance centres, municipal social welfare centres): 57,500 employees (48.5%), including 21,000 social workers,
- social inclusion day-centres: 200 employees (0.2%)
- nursing homes: 50,800 (42.9%)
- specialised counselling institutions: 300 employees (0.2%)
- crisis intervention centres: 900 employees (0.8%)
- other support institutions: 8,900 (7.5%)

### 2. Employment in nursing homes (MPiPS-05)

Total: 54,700 employees

including:

- 44,700 in public nursing homes (81.7%)
- 10,000 in non-public nursing homes (18.3%)

Reading the Ministry's data on the scale of employment, certain doubts on the quality and reliability of statistical data on social assistance published by the Ministry should be considered. The detailed breakdown of the last position in the list above may serve as an example of discrepancy - it includes (only) 604 people employed in institutions for the homeless. It is a surprisingly low value considering that the St. Brother Albert's Aid Society (the largest Polish NGO working with the homeless) alone employs a comparable number of employees and the organisation has only ca. 10% share in the number of beds for homeless in Poland. Since it is impossible for other organisations and institutions to operate basing solely on volunteer work (especially the municipal institutions), this leads to the conclusion that the data include only municipal (public) institutions for homeless and omit non-governmental and private ones. However there are far more doubts - e.g. the detailed data broken down by province shows a significant disparity in the number of homeless institutions employees per region: from 5-9 people in the Podlaskie Province and Małopolskie Province, through 30+ in several provinces, including Mazowieckie (with Warsaw) and 57 in the Zachodniopomorskie Province, 70 in Wielkopolskie Province, up to 193 (!) in Śląskie Province. Also there is a significant divergence between the MPiPS-03 and the MPiPS-05 statistics - the number of nursing homes employees (50,800) in MPiPS-03 does not correspond neither with the total given in MPiPS-05 (54,700) nor (per analogy with the homeless institutions case) with the MPiPS-05 number of employees employed in public nursing homes (44,700).

## Basic data on the non-governmental sector in Poland (Klon/Jawor, 2012):

### 1. Number of organisations in 2012:

There were 11,000 foundations and 72,000 associations registered in Poland (due to the legislative issues, these numbers do not include ca. 2,000 organisational units of Catholic Church and other churches which carry out social activities - e.g. Caritas). It is estimated that ca. 60,000 of them are active.

### 2. Scope of activities

16% (approximately 13,300) of NGOs work in the field of social services and social assistance. For 6% (5,000) of them it is a primary area of activity.

15% (approximately 12,400) of NGOs work in the field of health care. For 6% (5,000) of them it is a primary area of activity (no information on how many NGOs carry out activities in the area of vocational and social rehabilitation of disabled people while not considering it social service is available).

55% of NGOs employed at least one employee (permanently or incidentally), 39% employ permanent staff, though only 19% employ at least one employee on a basis of a Labour Code based contract (it has to be assumed that due to the nature of social assistance, and especially the residential services, these ratios must be higher in the social assistance sector).

The sector of social services, social assistance, humanitarian and paramedic aid was divided into the following types of activities:

- support and care for children and adolescents - 54% of NGOs of the sector, which constitutes 8% of all registered NGOs,
- support for family suffering from dysfunctional upbringing or in difficult financial situation - 49% (8%)
- support for the disabled - 45% (7%)
- support for the extremely impoverished - 42% (7%)
- support for the elderly - 29% (5%)
- distribution of food, clothes and other goods - 27% (4%)
- support for the addicted and their relatives - 23% (4%)
- operating or supporting foster care institutions and foster families - 21% (3%)

## **Nationwide associations of employees and employers in the sector**

### **Trade unions:**

- NSZZ Solidarność (“Solidarity”) - the National Section of Social Assistance Workers (a branch of a major trade union)
- Health and Social Assistance Workers’ Federation of Trade Unions (related to OPZZ – Polish Nationwide Trade Unions Alliance, another major trade union central)
- Polish Federation of Trade Unions of Social Workers and Social Assistance Workers (was founded recently).

There is also a plethora of local trade unions usually associating the employees of a single social assistance institutions. Their activities however have no reflection in the general social dialogue in Poland.

### **Employers’ associations:**

There are three associations gathering the social assistance organisational units, though their activity in the area of employment issues is insignificant:

- Local Government Association of Social Welfare Centres “FORUM”
- National Association of County and Municipal Family Assistance Centres “CENTRUM”
- National Association of Municipal Social Welfare Centres “Razem”



## 2. COLLECTIVE BARGAINING AGREEMENTS AND OTHER ARRANGEMENTS

### 2.1. THE KINDS OF COLLECTIVE BARGAINING AGREEMENTS

In the hierarchy of sources of labour law - defined in the Article 9 of the Labour Code - a collective agreement is mentioned as next in order of importance to the provisions of the Code itself and the regulations of other acts and regulations. Such a location of a collective agreement in the hierarchy of the law sources determines its role as a basis for determining the rights of employees to their wages and work-related benefits in their individual contracts, and allows them claims vindication in this sphere.

**Table 6. The kinds of collective bargaining agreements**

The kinds of collective bargaining agreements	employees' side	employers' side
company (institution) level collective agreement	company (institution) trade union organisations	- employer
sectorial level collective agreement	statutorily appropriate body of a sectorial trade union organisation	suitably to the situation: - statutorily appropriate body of a employers association (on the behalf of the associated employers) - the responsible minister or other central government body (on the behalf of state budgetary units employers, not associated in any employers association) - municipality mayor, county prefect, province marshal or a chairperson of a union of municipalities or a union of counties (on the behalf of local government budgetary units employers, not associated in any employers association)

Source: Own elaboration

The conclusion of a collective agreement takes place through negotiations - the provisions of the Labour Code (articles 2412 & 2413) specify only the basic conditions that must be taken into account when determining the content of an agreement giving the social partners freedom of negotiations on the collective agreements which possess a status of autonomous sources of law in Poland. An entity initiating the procedure of conclusion of a collective agreement is obliged to notify each trade union representing employees affected by the agreement and a party entitled to conclude a collective agreement cannot refuse the other party's request of opening negotiations. Furthermore, the negotiations on the contents of a collective agreement are to be conducted by each of the parties in good faith and with respect for the legitimate interests of the other side.

The general framework of the contents of a collective bargaining agreements should obey the following regulations imposed by the labour law:

- provisions of a level collective agreement cannot be less favourable to employees than the provisions of the Labour Code and the provisions of other general laws and regulations;
- provisions of a collective agreement may not infringe the rights of third parties or contradict the mandatory provisions of the labour law;
- conclusion of a sectorial collective agreement covering employees of budgetary units, budgetary enterprises and auxiliary facilities of these units and enterprises may only take place within financial resources available to the employer;
- a collective agreement is concluded in writing for a specified or indefinite period of time (an agreement concluded for a specified period of time may be prolonged or agreed to be considered as concluded for an indefinite period of time);
- collective agreements are subject to registration - sectorial collective agreements are registered by the minister responsible for labour issues, and company level collective agreements by the relevant provincial labour inspectors;
- a collective agreement is dissolved by a joint statement of the parties or due to the expiry of the period for which it has concluded or expiry of the period of notice.

Regional Labour Inspectorates (provincial level of government) register all company (institution) level collective agreements concluded in a given province. We gathered data from sixteen regional labour inspectorates and in three from sixteen regions there were registered collective agreements in social assistance area (3 in Silesia province, 13 in Dolnoslaskie province and one in Lubuskie province).

## 2.2. SECTORIAL LEVEL COLLECTIVE BARGAINING AGREEMENTS

Up to **15 April 2014**, the minister responsible for labour has registered a total of:

- **174<sup>2</sup>** sectorial collective agreements,
- **328** additional protocols to these agreements,
- **46** agreements on application of an existing sectorial collective agreement in whole or in part,
- **9** additional protocols to these agreements.

The sectorial collective agreements cover the following employees:

1. local government educational institutions employees who are not teachers,
2. local government municipal services employees,
3. local government social assistance employees,
4. employees of state budgetary units employed in:
  - units of water management,
  - military organisational units of the public sector,
  - national forest holding,
5. employees:
  - of the energy industry,
  - of energy facilities,
  - of lignite mining plants,
  - of enterprises of the defence and aviation industry,
  - employed by employers associated in the Section of Construction Industry Development of the Polish Employers Chamber and the National Holiday Fund,
  - of the state telecom company (Telekomunikacja Polska SA)

## 2.3. SOCIAL ASSISTANCE SECTORIAL COLLECTIVE BARGAINING AGREEMENTS

Only a few sectorial collective agreements have been concluded so far in the area of social assistance. If a sectorial collective agreement is concluded in this sector, the employees' side is always represented by a trade union organisation which is a sectorial section or other branch functioning in a framework of a larger trade union structure (e.g. "Solidarity" trade union in case of municipality of Częstochowa). In most cases, a collective agreement contains a normative part, which determines the legal norms binding the employees, the working conditions, terms of employment and concluding contracts. Another part consists of provisions of obligatory nature – e.g. defining the forms of publication of the agreement and determining social order (for example, that the parties will refrain from initiating litigation).

The sectorial collective agreements registered by the minister responsible for the labour issues are dominated by documents covering the employees of local government educational

institutions who are not teachers and, to a lesser extent, of foster care institutions (i.e. orphanages, boarding schools for children with special needs).

After analysing the list of entities covered by all sectorial collective bargaining agreements included in the registry kept by the minister responsible for the labour issues, four sectorial collective agreements that cover employees of the organisational units of social assistance were identified. Three of them are dedicated to the social assistance units already in their titles. In one case, the party concluding the agreement on the behalf of the employers, regulated the issues of remuneration of employees of all organisational units operated by the municipality and one of the mentioned units is a nursing home.

The sectorial collective agreements covering the employees of social assistance units are listed in the table below.

<sup>2</sup> 74 of these collective agreements were registered as terminated or renounced. 12 following agreements and 45 agreements on application of an existing collective agreement, despite the fact of being registered, may be described as "dead" since no changes of their provisions are possible due to the fact that the authorities concluding them on the behalf of employers have been deprived of the relevant competences.

**Table 7. List of institutions of social assistance covered by sectorial collective bargaining agreements**

No.	Employees covered by the agreement	Party representing employees	Party representing employers	Institutions covered by the agreement
1.	Employees of the municipal organisational units	Board of Silesian and Dąbrowa Region of "Solidarity" trade union	Mayor of municipality of Jastrzębie-Zdrój	A nursing home and a Social Welfare Centre
2.	Employees of social assistance institutions managed by the municipality	Board of Częstochowa Region of "Solidarity" trade union	Mayor of municipality of Częstochowa	A nursing home and a Social Welfare Centre
3.	Employees of nursing homes managed by the county	Regional Nursing Homes Council of "Solidarity" trade union	Międzyrzecze County Prefect	5 nursing homes
4.	Employees of nursing homes managed by the county	Board of Częstochowa Region of "Solidarity" trade union	Lubliniec County Prefect	2 nursing homes

Source: own elaboration based on the data gathered from Department of Social Dialogue and Partnership of the Ministry of Labour and Social Policy<sup>3</sup>

The analysed collective agreements generally particularise issues covered by the Labour Code. Key concepts appearing in the agreements can be distinguished by thematic grouping of covered issues surpassing the provisions of the Labour Code (the list below does not include e.g. workplace safety rules or functioning of trade unions, because they do not surpass the framework specified by the Code).

List of issues resolved in a manner more favourable for the employees (comparing to the Labour Code provisions) in the contents of the analysed collective agreements:

1. Remuneration issues:

- an additional severance pay in case of reaching the retirement age or qualifying for disability pension,
- a change in the amount of salary for the duration of a sick leave (100% of the salary in certain cases specified in the agreement),
- a procedure of negotiating the average annual salary growth rate in units covered by the agreement,
- establishing the bonus fund (bonus on the social worker day),
- special allowance due to a temporary increase of employee's duties or assignment of additional duties consistent with employee's qualifications (for all

<sup>3</sup> Polish law does not allow publishing collective agreements without the consent of the parties who concluded the agreement; data were obtained from the authority responsible for registration of sectorial collective agreements, in accordance with the Article 241 (11) of the Labour Code. It is possible to inspect the contents of agreements within the premises of the relevant authority – according to the provisions of the Regulation of the Minister of Labour and Social Policy of 4 April 2001 on the procedure of the registration of collective labor agreements, maintaining the register of the agreements and the registration files, registry clauses and registration cards (Journal of Laws of 20 April 2001) which in § 12 indicates that "registration cards, the collection of collective agreements and registration files are not to be taken out of the site of their storage and viewed without the supervision of an authorised employee".

employees, not only for the managing staff as it is guaranteed in the labour law),

- allowance for working on the second shift,
- guaranteed right to an extra ("thirteenth") monthly salary (provisions guaranteeing the "thirteenth" salary were planned to be removed from the Labour Code).

2. Regulations concerning the employment:

- conversion of contracts (an indefinite period contract shall be the default form a contract),
- terms and conditions of employment (detailed working hours in nursing homes),
- increased protection for trade unionists.

3. Off work time / leaves / terminating a contract:

- pre-retirement protection period (increased from 4 to 5 years),
- periods of notice (longer if the employee agrees; number of days off for job search increased),
- 3 days of additional leave for an employee with minimum 3 years of work experience, who works with a disabled person or a person with a mental disorder,
- entitlement to additional unpaid leave.

4. Organisational issues:

- an expert supervision of meetings of trade unions with the employer,
- regulation of a trade union organization functioning in the employer's premises (providing employer's rooms and equipment of the employer for the purposes of the union's operation).

It is distinctive for the collective agreements concluded in the social assistance organisational units, that the employees' side is represented by trade unions working in the framework of the nationwide "Solidarity" trade union central. Besides, the registry of the sectorial collective agreements shows one agreement concluded in social assistance organisational unit terminated by the employer. It can be assumed that in the context of the small number of collective agreements, financial issues play the key role, due to the mutual obligations of the parties resulting from the agreements. Negotiations of terms of remuneration and other work benefits may only take place within the limits of financial resources available to the employer. These negotiations determine the ability of the parties to undertake additional obligations. Another important factor is the fact that the provisions of labour law concerning the principles of remuneration of the employees are quite detailed, hence a conclusion may be drawn that the employers see no significant need of implementing additional provisions in this area.

It seems therefore more important to strengthen the position of trade unions for they are able to negotiate the employment related issues representing the point of view of the employees at the legislative level (lack of agreement on this field was indeed the cause of the conflict, which resulted in breaking off the Tripartite Commission - see below). Raising employers' awareness, so they become more open to the needs of employees and more likely to provide a comfortable working environment, seems equally important.





## 3. SOCIAL DIALOGUE IN THE SOCIAL SERVICES SECTOR

### 3.1. DEFINITION

Social dialogue can be considered in two aspects. Firstly, it can be concluded that the dialogue is a certain value, the purpose of which is - on one hand - social peace, and on the other - the reconciliation of interests. In more frequently used approach, the dialogue is used as an employment relationship shaping mechanism. In this context, the key feature of the social dialogue is the representation of interests, and the mechanisms which define the means of this representation in the legislation. From the point of view of representing the interests, the trade unions have the key role on the employees' side (the other available form - workers' councils - do not exist in the public sphere).

There is no official national definition of social dialogue in Poland. The government's website devoted to issues of social dialogue ([www.dialog.gov.pl](http://www.dialog.gov.pl)) indicates that the social dialogue "is a concept covering the entirety of the mutual relations between trade unions and employers' organisations. It also includes their relations (bilateral or trilateral) with state authorities such as the government and its agencies, local governments and other state institutions. It is a process of permanent interaction between the participants of the dialogue aiming at reaching an agreement on the issues of controlling mutable socio-economic factors at the macro and micro level. Social dialogue may assume an institutionalised (formal) nature. In the institutionalised dialogue the collective bargaining is conducted by institutions, councils or committees specially designated for that purpose, acting on the basis of legislation or adopted agreements. Participation in the works of such bodies is limited to a few of the most representative trade unions and employers' associations, which may actually influence the behaviour of its members and encourage them to comply with the arrangements of a tripartite body. Non-institutional dialogue can be achieved by concluding collective bargaining agreements or by consultations and opinions embodying the powers of organisations associating social partners derived from the legislation pertaining to them. The non-institutional forms of dialogue give the possibility to create civil dialogue with the participation of non-governmental organisations. Ad hoc contacts, called incidental dialogue, are an often practiced form of informal dialogue - especially in case of threat of a social conflict. The incidental dialogue takes place outside the institutionalised contacts".

The status of the social dialogue was clearly indicated by including it as a political value in the Constitution of the Republic of Poland and acknowledging dialogue - next to a free market economy, the rule of law, solidarity and social justice - as a fundamental feature of Polish political system. This

act did not cause a broader public debate, but it was one of the conditions to strengthen dialogue with legislative regulations (Męcina, 2010).

### 3.2. PARTIES OF THE DIALOGUE

Usually, the following three parties are involved in the social dialogue:

- the trade unions, representing the interests of employees associated in organisations operating at all levels of social dialogue;
- the employers (or employers' associations), representing the interests of employers associated in organisations operating at all levels of social dialogue;
- the government, representing the interests of the state, consisting of representatives of the executive authority.

The unions and employers together are referred to as the social party, and therefore the trade unions and employers' organisations are called social partners.

### 3.3. PRINCIPLES AND FORMS OF SOCIAL DIALOGUE

#### Dialogue principles:

1. independence and equality of the parties: organisations should be fully independent, and neither party may dominate;
2. trust and compromise: the parties should engage in dialogue in good faith and aim at a compromise, at least in fundamental issues;
3. accordance with law: the dialogue should address issues open for discussion and be conducted upon the principles understandable to both parties.

#### Dialogue forms:

Social dialogue can take many forms, amongst which the most popular are :

- Negotiations - usually with participation of social partners, though at the national level the third - governmental - party joins in. The aim of the negotiations is usually a compromise that will guarantee social peace. Negotiations may also concern the substantial issues and the mutual relations between the parties. They should result in a contract binding all parties of the negotiations.
- Consultations - involve the same participants as the negotiations, but do not necessarily lead to an

agreement, though the parties usually honour their outcome.

- Giving opinion – representatives of the state administration seek views of trade unions and employers' organisations on government policy. The stances of the social partners are not binding for the government. The principles of giving opinion however are mostly regulated by law, which also determine in which cases the government is obliged to seek the opinion.
- Informing - representatives of the state administration shall, on their own initiative or at the request of interested parties, provide information to the social partners. Providing the information is not associated with the obligation to hear the position of the parties, but the common practice is ensuring the opportunity to ask additional questions and to conduct a short discussion. At the level of a single company (institution), the unions, employees' councils and other forms of employees' representation possess the right to inform.

### 3.4. FORUMS OF SOCIAL DIALOGUE

#### 3.4.1. The Tripartite Commission for Social and Economic Affairs

Economic and Social Councils function in other EU countries, in Poland this role is fulfilled by the Tripartite Commission, which is the most important institution of social dialogue in Poland, established in 1994. According to the Tripartite Commission for Social and Economic Affairs and the Provincial Social Dialogue Commissions Act, it provides a social dialogue forum to reconcile the interests of employees, the interests of employers and the public welfare, and its aim is to strive for achieving and maintaining the social peace. The members of the Tripartite Commission are representatives of:

- the Government,
- the representative trade union organisations (currently: "Solidarity", Polish Nationwide Trade Unions Alliance and Trade Union Forum),
- the representative organisations of employers (currently: Lewiatan Confederation, Employers of Republic of Poland, the Polish Craft Association and the Business Centre Club).

There are 9 task groups and 1 temporary group operating in the framework of the Tripartite Commission, devoted to the following areas:

- economic policy and labour market,
- labour law and collective bargaining agreements,
- development of social dialogue,
- social insurance
- public services,
- the budget, salaries and work benefits,
- cooperation with the International Labour Organisation,
- European Union structural funds,
- the Revised European Social Charter,
- the European Union,
- temporary group on local government employees and civil servants.

In the context of social assistance sector, there are two resolutions adopted by the Commission worth mentioning (out of the 43 adopted since 1994):

- resolution appointing an ad hoc temporary group for local government employees and civil servants for the period 2009-2011;
- resolution giving an opinion on the 2004 amendment of the Social Welfare Act.

On 26 June 2013, all three representative trade unions suspended their participation in the Tripartite Commission, its task groups, sectorial groups (see below) and the provincial commissions (see below). It was a sign of protest against the (over)flexibility of the Labour Code and insufficient - according to the trade unions - negotiations over this issue on the Commission's forum. Since that time, the Commission's activity is suspended.

#### 3.4.2. Tripartite Sectorial Groups

The sectorial groups are sectorial dialogue institutions dedicated to different branches (industries) of national economy. Currently 14 groups operate – they complement the works of the Tripartite Commission, dealing with the problems including restructuring, ongoing privatisation and reorganisation of different economy sectors.

Each group includes:

- the representatives of the social partners representing a given industry (sector),
- the representatives of the state administration responsible for the problems of the given industry (sector),
- the representatives of the Government (each group works at a ministry appropriate for the represented industry).

#### 3.4.3. Provincial Social Dialogue Commissions

The provincial commissions are regional dialogue institutions, active since 2002 in all 16 provinces of Poland. They cooperate with the Tripartite Commission, however they are independent. The dialogue conducted under a supervision of the provincial governors (who represent the central government) allows relieving the national social dialogue institutions and adapting the objectives of government policy to the specific local conditions.

The provincial commissions consist of representatives of:

- the provincial governor (representation of the central government),
- the provincial marshal (representative of the local government),
- representative trade union organisations (representation of the employees),
- representative employers' associations (representation of the employers),

#### 3.4.4. Employees' councils

---

Employees' councils are a form of representation of employees which is compulsory in each enterprise employing at least 50 employees (except for public institutions). In 2014 there were 3411 councils registered.

### 3.5. SOCIAL AGREEMENTS

---

Among the major activities undertaken during the development of the social dialogue in Poland, worth noticing is the conclusion of the "Pact on a state enterprise in the process of converting" of 1993. It included a set of propositions of legal acts concerning the process and the instruments of privatisation and financial restructuring of state-owned enterprises and banks as well as social issues. Conclusion of the pact in the first years of political transformation was supposed to increase the social acceptance of the scope and manner of the implemented transformation, which was particularly important due to the negative social consequences of political changes: industrial recession, unemployment, decrease of the real wages and salaries and the living standards. Since the law did not specify the criteria for the representativeness of trade unions at the time, 15 largest national trade unions were invited to the negotiations. Unions did not set up a common representation, so the negotiations were conducted with each union separately

Other significant social agreements include:

- the agreement between the Council of Ministers and the "Solidarity" on the principles of procedure for resolving disputes between the state administration and the "Solidarity" of 1992 establishing the rules of procedure in the event of a conflict between the state administration and the "Solidarity";
- the package of social guarantees for citizens of 1995, containing generally agreed directions and basic measures of social policy of the state;
- pact for agriculture and rural areas of 1999, specifying the desired model of Polish agriculture and the strategy of its development.

In addition, regional social agreements were concluded:

- regional contract for the Katowice province;
- the principles of negotiations and dispute resolution (bilateral agreement of 1996, concluded between the "Solidarity" Mazovia Region, the Warsaw Alliance of Trade Unions and the Association of Employers of Industry in Warsaw);
- the tripartite agreement concluded between the governor of Zielona Gora province, Zielona Gora Regional Organisation of Employers, the Regional Board of "Solidarity" and the Provincial Council of the Polish Nationwide Trade Unions Alliance).



## 4. FUTURE PROSPECTS OF SOCIAL DIALOGUE IN THE SOCIAL SERVICES SECTOR

Poland currently suffers from a social dialogue crisis, since about a year ago (June 2013) the union side has broken off from Tripartite Commission as a result of the fact that the Commission has not discussed the amendments to the Labour Code introducing the so called flexible working hours.

Summary of the condition of social dialogue in Poland should take into account the structure of social assistance and the law-based assumption that the majority of the tasks are implemented at the municipal level (in accordance with the subsidiarity principle saying that the lower the level of the organisation, the more visible both problems and solutions are). The Minister of Labour and Social Policy coordinates the activities of social services, provides a (rather small) share of the financial means for the implementation of its tasks, but the responsibility for issues related to the employment in the social assistance belongs solely to the local governments – mostly on the municipal level. The Minister cannot act as a party in sectorial collective agreements and has no influence on funds allocated to remuneration of the employees.

Problems and courses of action in the field of social dialogue in the social assistance sector are analogous to the ones concerning general social dialogue in Poland. Most visible problems of dialogue in the area of social assistance include:

- generally poor condition of the dialogue in Poland
- low interest in social policy,
- legislative overregulation,
- the issues of financing social welfare institutions,
- low unionisation.

J. Męcina gives a similar diagnosis of the problems, indicating that:

- the trade unions are highly focused on several industries and the public sector, while showing little interest in small companies or even generally in the private sector, which results in a significant part of the workforce being devoid of access to the dialogue,
- the employees' councils were supposed to become an alternative for the trade unions in representing the interests of employees, yet they were not established in majority of companies (an ambiguous attitude to the councils is visible both among the employers and employees),
- individual relations are more important for intervention and representation of interests between the employer and the employees than collective representation.

Employers are reluctant to accept additional obligations and regulations not indicated directly in the Labour Code. It is clearly visible in the surveyed agreements – any additional privilege must always be justified by special circumstances (e.g. additional remuneration only on the occasion of the Social

Worker Day, additional leave days only for employees working with particularly difficult group of people or for the purpose of searching new employment during the period of notice), whereas privileges granted unconditionally to all employees are extremely rare.

J. Męcina emphasizes that the significance of dialogue should increase, and points out that:

- the dialogue should both respond to the contemporary challenges and problems, as well as deal with new issues, which are already visible in the analysis of the labour market and labour relations;
- it is important to broaden the inclusion of the social partners in the European mainstream dialogue which increases its impact on the shape of the national legislation, on the new standards in labour relations; it is also important to encourage them to inspire new dimensions of development of the social dialogue in order to improve the standards and the condition of labour relations in Poland;
- the role of the state is still important for the development of social dialogue, since not only it shapes the legal, organisational and expert infrastructure, but also is more likely to engage social partners in the development and implementation of public policy.

At the same time he also indicates the directions for a further development of social dialogue and its impact on relationships:

1. the state's political and economic activity seems to be an obstacle in the development of social dialogue - on the one hand caused by the fact that the space for dialogue is organised by the ruling coalitions with a minor (or without any) contribution of the opposition, on the other by a significant share of the state in the economy – both of these factors result in barriers in the development of bilateral relations between employers and employees;
2. the employment security system should not rely solely on guarantees provided by the labour law, but rather strive for the formula of “workfare state”, and the dialogue should play a key role in the adoption of specific solutions;
3. there is a need for changes in public policy (in the economic and social aspects) that will ensure the effectiveness of the proposed solutions, as well as the development of social partnership stepping beyond labour relations at a single enterprise level and engaging local government and NGOs;
4. objectives of social dialogue merge more and more with the objectives of social policy, since in the field of social policy the importance of new methods of preventing social problems is growing and the proposed solutions can be sustainable through dialogue; there is

however a need for treating the dialogue as an instrument of influence on the socio-economic situation of the state;

5. 5. it is necessary to define a target vision of the labour relations and to determine the role of social dialogue;
6. 6. expert support should be expanded and a new formula of dialogue should be developed, engaging a wider group of economic and social environment stakeholders, surpassing the sphere of labour and labour relations, but affecting the labour market and labour relations.

In conclusion, the condition of social dialogue in Poland was suitably described by J. Męcina in the following words: "The role of social dialogue in Poland is visible in shaping labour relations primarily at the national level - through its impact on labour system and regulations, development of mutual agreements in collective labour relations, and on the level of a single enterprise - through concretisation of labour standards in the form of collective agreements and enterprise level sources of labour law, and building employer's relationships with the representatives of employees and employees themselves".

## 5. THE CASE FOR EU LEVEL SOCIAL DIALOGUE IN THE SOCIAL SERVICES SECTOR - RECOMMENDATIONS

The government announced the reform of municipal social welfare system with two main goals: to separate benefit administration from social work and to outsource social services to private sector<sup>4</sup>. It seems to be very similar to previous reforms in public services which privatized and outsourced them.

Recommendations formulated in that context are very useful also to social welfare area. But there are some important qualifications. Social dialogue in social services sector is underdeveloped. Employers' and employees' organisations was very weak and not ready to collective bargaining. Outsourcing of social services delivery to non-governmental organizations is a rather new challenge for trade unions.

Recommendations listed below were conclusions from the research that was conducted on the condition of social dialogue in the general public services under the liberalization reforms by the team lead by prof. W. Kozek (Kozek, 2011):

### 5.1 RECOMMENDATIONS CONCERNING THE PUBLIC (SOCIAL) SERVICES SECTOR

1. The European Commission and the Member States should intensify the monitoring of the impact of market liberalisation on the functioning of public (social) services. The results of the monitoring should support the policy of liberalisation and regulation.
2. The European Commission should consider the adoption of a universal service obligation as a kind of superior principle of policy of liberalisation and should not leave this issue to the Member States. The purpose of the universal service obligation should be to ensure the citizens the access to sufficiently high quality services. For this reason, certainly a directive explaining the specificity and the role of public (social) services in Europe and expanding their availability would be helpful.
3. Due to the fact that the process of liberalisation was only moderately successful in the way of strengthening the competitiveness of the business operation, leaving the regulation of the availability of these services only to the market forces would be afflicted by a high risk factor. Regulation policy, rather than focusing on particular aspects of the supply chain, should include various aspects of service delivery in order to ensure their availability, high quality and sufficient quantity. Ensuring the availability of delivery of public

<sup>4</sup> The Polish Federation of Trade Unions of Social Workers and Social Assistance Workers opposed to that reform during consultation process.

(social) services in the future should be emphasised, which means the need to make at least the minimum investment. Regulation policy should guarantee equal conditions for all in the area of availability, quality and when applicable also price.

4. To ensure achieving the social goals, trade unions and other stakeholder groups should have the right to speak on the issues of regulation policy and the ability to influence the regulatory authorities at the national level.
5. Should the liberalisation processes be undertaken in the future, the Member States shall strive not only for a more balanced regulation policy, but also for equipping their regulatory authorities with adequate tools that enable the execution of norms and standards, providing also the possibility of imposing sanctions on entities that do not meet the requirements and ex public monopolies. However, strong regulatory authorities require a reliable and accountable legal basis.
6. If the goal of providing services in a sustainable, adequate, accessible and high quality manner for all citizens could not be achieved under conditions of a revised ownership structure and the new forms of market regulation, a return to a public ownership and delivery should be considered, introducing a higher predictability of services delivery and at the same time greater opportunity for the citizens to influence their scope. The situation where the incentives oriented on efficiency of services delivery are combined with the incentives impacting the quality and accessibility of the services should be strived after.

### 5.2 RECOMMENDATIONS CONCERNING EMPLOYMENT

1. The liberalisation of public (social) services should be subject to regulations that will force companies and ngos to compete on quality and eliminate the cost reductions through wage dumping. The principal way of achieving this goal is ensuring socially responsible public tenders, connecting them with existing collective agreements and establishing sectorial minimum wages. In short: the competition in the area of employment should be conducted respecting the fair play principle.
2. There is a need of avoiding the collapse of the system of national regulations concerning employment. Therefore, indicators should be adopted to ensure the quality of employment, maybe such as the ones

adopted in the recent EU directive on postal services and public transport.

3. These goals will not be achieved if employers are still able to circumvent the labour law or collective agreements, hiring employees in self-employment forms or other forms not providing any social protection. Market regulations regarding the minimum wage and working hours should be extended to all forms of labour.
4. One of the main objectives is to secure an appropriate level of employment and avoid a lack of sufficient staffing, what is very common, e.g. in the hospital health care. Labour market indicators should serve as a support for employees who are encouraged to take a voluntary redundancy. Research in the area of human resources management and other similar analyses should be supervised by independent bodies, both in terms of their effectiveness and their compliance with the dignity of the employee.
5. The researchers suggest establishing the Liberalisation Fund, similar to the Globalisation Fund set up by the European Union, which would aim to mitigate the negative outcomes of liberalisation and privatisation for the employed in the public (social) service sectors. Such a fund could be financed by taxing the profits of companies in the public sector and the license fees.
6. Control actions ensuring more equal access to various types of training for different groups of employees of the liberalised sectors should be undertaken.

### 5.3. RECOMMENDATIONS CONCERNING LABOUR RELATIONS

---

1. In general, the process of liberalisation should be supplemented by a policy aimed at ensuring social cohesion not only in the area of availability of high quality public (social) services, but also in the regulation of employment and collective bargaining.
2. There is a need of supplementing the market regulations with social clauses that will provide acceptable conditions of employment, in order to avoid liberalisation leading to the emergence of the phenomenon of "race to the bottom". For example, the EU regulations on public transport of 2007 contain a provision according to which the public authorities are free to impose certain social standards in order to "ensure transparent and comparable principles of competition between operators and avoid the risk of social dumping". Similarly, the EU directive on postal services clearly emphasises that "social considerations should be taken into account while preparing the opening of the postal market". In this context, the minimum wage in the postal sector in Germany can be a positive example. Moreover, according to the EU directive on public supply services, public authorities are always free to define standards in the areas of high social sensitivity. It seems necessary to transform the mentioned possibility into an obligation, in order to ensure the healthy competition in the liberalised sectors of the public (social) service.

3. The main objective in the field of labour relations should be to avoid competition based on low labour costs. Indicators should be developed to avoid the risk of social dumping (EC Reg. 1370/2007).
4. In order to avoid social dumping, all companies and ngos participating in public tenders for the provision of social services should be subject to the same labour relations systems with the minimum standards imposed. It is necessary to ensure that these systems cover the entire chain of production and delivery of services, and that collective bargaining agreements are extended to all companies and ngos of the given service sector.
5. Labour relations in the newly liberalised sectors should take the form of binding minimum standards achieved by negotiations between autonomous social partners. Both the minimum standards and collective bargaining should be coordinated at the EU level.
6. There is a need of regular monitoring of the impact of liberalisation and privatisation on the labour relations and working conditions. Monitoring should be based on clear objectives, and its outcomes should be taken into account when developing sectorial policies at the EU and Member States level.

### 5.4. RECOMMENDATIONS CONCERNING THE QUALITY OF SERVICE

---

1. There is a need of market regulation obliging companies and ngos in liberalised public (social) services markets to invest in greater productivity and higher quality, instead of focusing on cutting wage costs and the use of non-standard forms of employment.
2. A market regulation should also protect the existence of sufficient funds for companies and ngos operating in the sectors of public (social) services, ensuring them the opportunity to provide high quality services.
3. A comprehensive directory of quality criteria that would prevent negative compromises between performance and quality of service should be developed and imposed (as part of the public (social) service obligations). This directory should be mandatory for all public (social) service providers, especially those in labour-intensive sectors. The voluntary European Quality Framework for social services should be applied in that context.
4. In addition, consumers should be equipped with the right to monitor and impact various qualitative aspects of service delivery, ensuring them a significant impact on the process of providing public (social) services. This postulate could be embodied e.g. in a form of a public (social) services quality councils. Again the voluntary European Quality Framework for social services could be useful.
5. The regulations should protect a sufficiently high level of investment, enabling the prevention of long-term negative effects on the quality of public services.



## 6. REFERENCES

### Legislation

#### Regulating the social assistance system:

- Social Welfare Act of 12 March 2004 (Dz.U. 2009 Nr 175, poz. 1362)
- Supporting the Family and Foster Care Act of 9 June 2011 (Dz.U. 2011 nr 149 poz. 887)
- Family Benefits Act of 28 November 2003 (Dz.U. 2003 nr 228 poz. 2255)
- Vocational and Social Rehabilitation and the Employment of the Disabled Individuals Act of 27 August 1997 (Dz.U. 1997 nr 123 poz. 776)

#### Regulating the social dialogue stakeholders relations:

- Labour Code Act of 26 June 1974 (Dz.U. 1974 nr 24 poz. 141)
- Trade Unions Act of 23 May 1991 (Dz.U. 1991 nr 55 poz. 234)
- Employers' Organisations Act of 23 May 1991 (Dz.U. 1991 nr 55 poz. 235)
- Tripartite Commission for Social and Economic Affairs and the Provincial Social Dialogue Commissions Act of 6 June 2001 (Dz.U. 2001 nr 100 poz. 1080)
- Resolving Collective Disputes Act of 23 May 1991 (Dz.U. 1991 nr 55 poz. 236)
- Informing the Employees and the Consultation Process Act of 7 April 2006 (Dz.U. 2006 nr 79 poz. 550)
- European Economic Interest Grouping and the European Company Act of 4 March 2005 (Dz.U. 2005 nr 62 poz. 551)
- European Cooperative Act of 22 June 2006 (Dz.U. 2006 nr 149 poz. 1077)
- European Employees' Councils Act of 5 April 2002 (Dz.U. 2002 nr 62 poz. 556)
- Participation of Employees in a Company Resulting from the Cross-Border Merger of Companies Act of 25 April 2008 (Dz.U. 2008 nr 86 poz. 525)
- Regulation of the Minister of Labour and Social Policy of 4 April 2001 on the Procedure of Registration of Collective Bargaining Agreements, Maintaining the Register of Agreements and Registration Files, Registry Clauses and Registration Cards (Dz. U. 2001 Nr 34, poz. 408)

#### Statistical reports and tables

- Pomoc społeczna i opieka nad dzieckiem i rodziną w 2012 roku (Social Assistance, Child and Family Services in 2012), Główny Urząd Statystyczny, Warszawa 2013 [http://stat.gov.pl/cps/rde/xbcr/gus/ZOS\\_Pomoc\\_spoeczna\\_i\\_opieka\\_nad\\_dzieckiem\\_i\\_rodzina\\_w\\_2012\\_r.pdf](http://stat.gov.pl/cps/rde/xbcr/gus/ZOS_Pomoc_spoeczna_i_opieka_nad_dzieckiem_i_rodzina_w_2012_r.pdf)
- Rocznik Statystyczny Pracy 2012, GUS, Warszawa 2012 [http://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5515/7/3/3/rs\\_rocznik\\_statystyczny\\_pracy\\_2012.pdf](http://stat.gov.pl/download/gfx/portalinformacyjny/pl/defaultaktualnosci/5515/7/3/3/rs_rocznik_statystyczny_pracy_2012.pdf)
- MPiPS-03/05 (2012) <http://www.mpips.gov.pl/pomoc-spoeczna/raporty-i-statystyki/statystyki-pomocy-spoecznej/statystyka-za-rok-2012/>
- Podstawowe fakty o organizacjach pozarządowych. Raport z badania 2012 - [http://www.ngo.pl/PodstawoweFakty\\_2012\\_raport/ebook/content/PodstawoweFaktyNGO\\_2012\\_KlonJawor\\_raport.pdf](http://www.ngo.pl/PodstawoweFakty_2012_raport/ebook/content/PodstawoweFaktyNGO_2012_KlonJawor_raport.pdf)

#### Scientific publications:

- Abramowicz B., Dialog społeczny w Polsce – instytucjonalizacja i praktyka, Ruch wydawniczy i socjologiczny, rok LXXI – zeszyt 4 - 2009
- Gardawski J., Dialog społeczny w Polsce. Teoria, historia, praktyka; Ministerstwo Pracy i Polityki Społecznej, Katedra Socjologii Ekonomicznej SGH, Warszawa 2009
- Kozek W. [red], „Gra o jutro usług publicznych w Polsce”, Wydawnictwa Uniwersytetu Warszawskiego, Warszawa, 2011
- Męcina J. [red.], Dialog społeczny na poziomie zakładu pracy. Między zasadami a realiami, Ministerstwo Pracy i Polityki Społecznej, 2009
- Męcina J., Wpływ dialogu społecznego na kształtowanie stosunków pracy w III Rzeczypospolitej, Oficyna Wydawnicza ASPRA-JR, Warszawa 2010
- Szarfenberg R., „Standaryzacja usług społecznych”, niedatowana ekspertyza została opracowana w ramach projektu 1.18 „Tworzenie i rozwijanie standardów usług pomocy i integracji społecznej”, współfinansowanego ze środków Unii Europejskiej w ramach EFS



COUNTRY-CASE STUDY  
**POLAND**



