Poland: Developments in working life 2016

Developments in working life in Europe: EurWORK annual review 2016
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Political context affecting working life aspects

No information.

The government(s) in office during 2016

<table>
<thead>
<tr>
<th>Government 1</th>
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<tr>
<td>In office since / to</td>
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<tr>
<td>Name of the head of government (prime minister)</td>
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<tr>
<td>Name all the parties that are forming this government</td>
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Note: two former, minor parties were endorsed by PiS and had their candidates included on PiS lists in 2015 parliamentary elections, elected deputies from Poland Together (8 seats in Sejm and 6 in Senat) and Solidary Poland (9 seats in Sejm and 2 in Senat) joined PiS parliamentary group subsequently (total of 234 seats in Sejm and 61 in Senat)

List the changes in the composition of the government in 2016

1) On 15 September 2016 Dawid Jackiewicz was dismissed from the office of Minister of State Treasury, the Ministry was subsequently merged into the Ministry of Development;
2) On 28 September 2016 Paweł Szałamacha was dismissed from the office of Minister of Finance, Deputy Prime Minister Mateusz Morawiecki – who is also the Minister of Development – has assumed the post.

Additional comments

Reconstruction of the government in the autumn of 2016 has led to emergence of ‘economic superministry’ centred around the Ministry of Development headed by Deputy Prime Minister Morawiecki, who is also the Minister of Finance

Elections and referenda

None took place in 2016

Forthcoming significant elections or political events in 2017

None

Reactions from the social partners on new government’s working life policies

Not relevant.
Developments in social dialogue and collective bargaining 2016

Major developments in national/peak-level social dialogue 2016

Changes affecting the social dialogue actors and institutions in 2016

Representativeness
There were no major changes in representativeness of social partners in 2016. The main social body tripartite forum – Social Dialogue Council (Rada Dialogu Społecznego, RDS) was established on 22 October 2015. There are 11 Task Teams within the RDS.

In November 2016 Ministry of Development proposed draft regulation concerning the joint committee of government and entrepreneurs and government representative of entrepreneurs (Ustawa o Komisji Wspólnej Rządu i Przedsiębiorców oraz Rzeczniku Przedsiębiorców). The project, formally has not been reviewed, but was met with very aloof reception by the RDS because it undermines the concept of representativeness of the employers side.

Major developments affecting the main actors
In December 2016 social partners started to evaluate how the Act on the Social Dialogue Council works in practice. The assessment is expected to be completed by June 2017.

Legislative or institutional changes to the main social dialogue institutions
2016 was the first year of operation of the Social Dialogue Council. The Council has adopted 18 tripartite resolutions since the beginning of its activity. The most of them concerning administrative issues. There are a few resolutions concerning substantial topics. Among them:

Resolution number 16 concerning public procurement and labour law).
Resolution indicating that RDS calls for such fixing the budget of public procurement so it would be possible to comply with applicable laws especially in the area of minimum wage.
Resolution number 18 concerning working program in 2017. The resolution indicates such subject as: reinforcement of social partner role in the area of administration of Labour Found and Guaranteed Employee Benefits Fund; reinforcement of social partners role in European Semester and issue of lifelong learning.

The visible strengthening bilateral relations between employers’ organisations and trade unions within the RDS constitutes the major change compared with the previous institution of dialogue (Tripartite Commission for Socio-Economic Affairs) It was manifested in the adoption of bipartite resolutions. Since the beginning of the year social partners passed jointly 21 bipartite resolutions. Some of them are mentioned in the table below.

Changes in the social dialogue processes
No changes in practice national-level social dialogue processes occurred in 2016. Social partners and the government were getting used to new institutional framework.
### Main social dialogue topics and outcomes in 2016

<table>
<thead>
<tr>
<th>Themes</th>
<th>Description of issue</th>
<th>Main result</th>
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<tbody>
<tr>
<td><strong>General labour market topics</strong></td>
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<tr>
<td>Job creation, reduction of unemployment</td>
<td>No (major) issues debated in this area.</td>
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<tr>
<td>Active labour market policies</td>
<td>No (major) issues debated in this area.</td>
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<tr>
<td>Benefits (unemployment, sickness schemes)</td>
<td>Within the RDS – Social partners protested against the funding from the Labour Fund internships for doctors as a task not related DIRECTLY with the tasks of the Fund. <strong>Resolution no. 14 (bipartite)</strong> Government decided use 1,032 mld PLB from Labour Fund to finance internships for doctors despite the opposition of social partners.</td>
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<td>Taxation and non-wage related labour costs</td>
<td>Within the RDS – social partners positively assessed increasing of <em>Income Tax Personal Allowance</em> introduced by government and called for further consultation in the field of taxation reforms. <strong>Resolution no. 1 (bipartite)</strong> Consultation ongoing</td>
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<tr>
<td>Pension reforms</td>
<td>Within the RDS – in Social Protection Task Team there was a stormy discussion about Presidential draft regulation concerning decreasing of the retirement age. Views present by trade unions and employers’ organizations were completely opposite.</td>
<td>The Parliament passed a law decreasing the retirement age.</td>
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<tr>
<td>Labour market participation of different groups</td>
<td>Within the RDS - joint position of social partners on facilitating labour market access for citizens from non-EU European post-Soviet countries. <strong>Resolution no. 13 (bipartite)</strong></td>
<td>In January 2017 Directive 2014/36/EU of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers is still not implemented in Poland. There is a huge diversity of opinions among members of Government.</td>
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<tr>
<td>Working life related themes</td>
<td>Within the RDS – social partners positively assessed changes in the Act on Minimum Wage and presented some amendments <strong>Resolution no. 9</strong> (bipartite)</td>
<td>Parliament passed a regulation concerning minimum wage for person employed on base of civil law contracts.</td>
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<tr>
<td>Wage setting systems, including the setting of minimum wages</td>
<td>Within the RDS – social partners positively assessed governmental initiative concerning increasing wages of healthcare employees and called to discuss questionable issues in the frame of sectoral dialogue. <strong>Resolution no. 20</strong> (bipartite)</td>
<td>Debate about increasing wages of healthcare employees is going on.</td>
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<td>Working time regulations</td>
<td>No (major) issues debated in this area.</td>
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<tr>
<td>Terms and conditions of employment, including different forms of contracts</td>
<td>Within the RDS (Task Team for Labour Law) - discussion on the improvement the level of protection for temporary agency workers on the basis of a governmental draft amendments to the current law. Social partners failed to agree on a common position.</td>
<td>Governmental project supported only by the unions directed to further work in the parliament</td>
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<td>Health, safety and well-being at work</td>
<td>No (major) issues debated in this area.</td>
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<tr>
<td>Work-life balance related themes, incl. family leaves</td>
<td>No (major) issues debated in this area.</td>
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<tr>
<td>Skills, training and employability</td>
<td>No (major) issues debated in this area.</td>
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<tr>
<td>Any other relevant themes/topics addressed in the national level/peak level social dialogue</td>
<td>Within the RDS – There were two social partners’ resolutions concerning sectoral issues - first of them concerned necessity to increase of the competitiveness of the Polish steel industry (<strong>Resolution number 8</strong> (bipartite). The second one concerned the</td>
<td>Declaration 5, 8, 10 did not have any impact.</td>
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situation of Polish cement industry in the context of unfair competition from Russia and Belarus
Resolution number 10 (bipartite).
Social partner presented jointly critical assessment of EU energy and climate policy
Resolution number 5 (bipartite)

Examples of selected significant social dialogue debates

Social dialogue debate on minimum social standards for self-employed workers and workers on civil contracts.
One of the features of the Polish labor market is the high rate of people employed on the basis of civil contracts (such as contract for mandate, or contract for specific task). The trade unions see this phenomenon negatively for years. The government presented a draft law introducing the hourly minimum wage for those employed on the basis of a civil law contract. The project was supported by trade unions and employers organization. Employers' organizations pointed to the unfair competition generated by enterprises which are paying abnormally low wages. The debate was related primarily to the cleaning services industry and the security sector.
The Act came into force on 1 January 2017 and it is too early to assess its effects.
It must be emphasized that it does not solve the problem of the people performing subordinate work who are not covered by the Labour Code such as solo self-employed in economically dependent position.

Lowering the retirement age
The return to a lower retirement age was one of the demands expressed by the Law and Justice Party (PiS) during the election 2016. Lowering of retirement age (60 for women, 65 for man) was strongly supported by trade unions.
3 employers organizations (Konfederacja Lewiatan, Pracodawcy RP, Business Centre Club) were strongly against. Their attempts to negotiate on the concept to return exclusively to the lower retirement age for men ended in failure.

Sectoral and company level social dialogue 2016
In 2015, 2016 there were no important changes in the legislation.
In September 2016 Codification Committee was established. It is composed by legal scholars and representative of social partners. The Committee has 18 month to prepare draft of new : Individual Labour Code and Collective Labour Code. At the moment there is no information so far about the arrangements agreed. As regards industrial relations one of the ideas disseminated informally by Ministry of Labour is to revive collective bargaining through limitation of the general rule that collective agreements at a lower level cannot contain clauses providing for worse conditions for employee than those negotiated at a higher level or provided by the law.
As far as sectoral dialogue is concerned 5 new tripartite teams have been created under the auspices of the RDS: for automotive industry, for aviation transport and for land transport.
Main developments - other than wages and working time - from important collective agreements or bargaining rounds

There were two dimensions of collective bargaining in 2016. In companies in good economic condition collective bargaining focused mainly on increasing wages, which decelerated in previous years: in 2012 real wages declined, and in 2013 average growth in real wages still did not keep the pace with productivity growth. In connection with shrinking labour supply, the room for more active wage negotiations rounds opened in 2016. But in some sectors one could observe a growing wave of ‘defensive negotiations’ aiming at reducing the scale of redundancies and employment restructuring. Under the circumstances there was no room for qualitative agreements.

In general, the number of collective agreements were falling. Collective agreements were often replaced with regulations of work and remuneration regulations introduced unilaterally by the employer with little resistance from trade unions.

Examples of innovative collective agreements (at any level) made during 2016

No such examples identified.

Policies and actions to address pay-inequalities

The recent public debate on pay gaps at the workplace

RDS held debates on the pay-discrimination related issues, which would materialise in the joint position of employer and employee side no 2 and Resolution number 16

As of the former, the 'first day wage syndrome' was tackled: in the event of labour inspectorate arrival, some employers (or their onsite representatives) claimed that working persons without valid employment contracts in writing have just started working today. Such excuse (if the persons without contracts have been working longer, de facto performing unregistered work) had been efficient, as the Labour Code required the contract to be signed by the end of the first day of work. The problem might affect some 380 thousand workers. The amendment to Labour Code was prepared and adopted with a full approval of employer and employees’ side in RDS.

As of the latter, the recently introduced modifications to the Public Procurement Law were discussed. The amendments were intended to eliminate social dumping practices from public procurement by introducing a requirement for bidders to have their staff employed on the basis of employment contracts only (no civil law contracts allowed). So called ‘social clauses’ had been introduced into law in 2015. The social partners analysed the data on social clauses implementation in public procurement in 2015, reaching consensus expressed in their joint position.

Also in 2016 the topic of the abuse of low-paid temporary agency workers who perform their work at the same workplace as permanent -better paid employees was addressed in intense heated debate within the RDS throughout. As a result the draft law has been prepared and delivered to the parliament by government with full support of the trade unions but with the resistance of employers’ organisations. Amongst other the situation of pregnant women – temporary workers is to be more protected and strict limits on the length of the work of the same temporary worker for a single user –employer are to be introduced.

Positions regarding the posted workers directive

Positions of trade unions

The major trade union organisations endorsed ETUC position. NSZZ “Solidarność” is supportive to the European Commission’s initiative of ‘targeted revision’ (equal pay principle included), despite some reservations. In particular, “Solidarity” notes that in their proposal the
Commission should have secured the right for trade unions to negotiate on behalf of posted workers and to determine joint responsibility of the main contractor and subcontractors for employment conditions. Furthermore, the union criticized the Commission avoiding comprehensive consultation of the proposal with European-level social partners. OPZZ embraced the equal pay principle in their mid-term programme, in relation to posted workers. Furthermore, the confederation cites the example of Switzerland as the evidence supporting introduction of the equal pay principle.

Positions of employers organisations

The major employer organisations are firmly against the ‘targeted revision’ (see: Confederation Lewiatan’s opinion, and Employers’ of Poland and BCC’s joint statement). In general, the employers see the possible implementation of the ‘targeted revision’ as an act that would definitively put end to provisions of Polish services in Europe. In the joint statement by Employers’ of Poland and BCC, there is a passage: ”introducing the equal pay principle is a real threat to freedom of provisions of services”

Position of the government

The Polish government’s stance towards the ‘targeted revision’ has been consistently critical. Significantly, the switch in power in late 2015 has nor altered the position, the current PiS government is equally unsympathetic to the EC initiative as the former cabinet of the Civic Platform (Platforma Obywatelska, PO) and the Polish Peasants Party (Polskie Stronnictwo Ludowe, PSL). In August 2015 (before the parliamentary elections) Poland signed the Letter of Nine Labour Ministers, representing NMS from CEE to Commissioner Thyssen, criticising the prospective revision, while in May 2016 (after the elections) Poland was among 11 MS which activated the „yellow card procedure” in response to the Commission’s initiative.

Pay gaps at the workplace

Evidence

No studies that specifically look into workplace level pay inequalities are available. All that can be offered are, therefore, more general-oriented studies on pay gaps. In late 2015 the Institute of Structural Research (Instytut Badań Strukturalnych, IBS) published a study Pay inequalities between men and women (Nierówności płacowe kobiet i mężczyzn, in Polish) with a view of assessing the wage gap. The study employs existing data and provides not only statistical data from a wide spectrum of legitimate sources (Poland compared to other EU Member States) but also attempts to seek explanations for pay inequalities and forwards some policy recommendations on how to combat the phenomenon more effectively. The report estimates the wage gap at 10% in men’s favour. In early 2016 wynagrodzenia.pl web portal published an annual pay report for 2015. According to the study (reportedly 161 thousand participated in a online survey), women’s earnings amounted to 3,400 PLN gross a month (median value), while for men is was 4,200 PLN, so the wage gap between the two sexes was 19%. The wage gap slightly differs depending on volume of employment: the widest stretch is observed in the huge companies with 1000+ staff (the median monthly pay of a woman worker is only 78% of her male colleague), while in the microfirms (1-9 staff) a woman makes 84% of a median monthly pay of a man.

The National Labour Inspectorate (PIP) does not monitor pay inequalities.

Policies to address pay inequalities at the workplace

In 2016 by virtue of amendments to the Minimum Wage Act, the lowest hourly rate to be paid for work performed under a civil law contract was set at PLN 12 (enforceable from 1 January 2017), to be further raised to PLN 13. The move was intended to level up the earnings of
employees and non-employees (contractors). Minimum Wage Act was at the same time also amended by eliminating a lowered rate of 80% of the national minimum wage applicable for employees in their first year of employment.

In 2015 the government (former cabinet) introduced the document called Guidelines of the Council of Ministers for State Administration on Enclosing Social Clauses in Calls for Tender (Zalecenia Rady Ministrów w sprawie stosowania przez administrację rządową klauzul Społecznych w zamówieniach publicznych), which imposed on state administration units a requirement to include a condition for bidders of having their staff employed on the basis of employment contracts. Following the amendment to the Public Procurement Law of 2016 the ‘lowest price’ can no longer be treated as the main award criterion, while the bidder is obliged to have their staff employed on the basis of employment contracts.

**Social partner’s involvement in addressing pay inequalities at the workplace**

In 2016 the All-Poland Alliance of Trade Unions (OPZZ) launched their mid-term programme campaign called “Decent work, pay and pension”, based on the extensive agenda which included i.a. the “equal pay principle”, explicitly related to the debate on the “targeted revision” of posting of workers Directive. OPZZ reiterates its firm support to amending the Directive in such way that the equal pay principle id fulfilled.

**Promoting the reconciliation of working families and caregivers**

**Recent policies**

In early 2016 the social policy programme ‘500+’ took off. Under the programme a monthly benefit, of 500 PLN (roughly 120 EUR) is available to parents with two or more children aged under 18 can for the second child and any further children. Less affluent families can claim the benefit upon a proof of their monthly income not exceeding 800 PLN net per person in a family household. Parents of children with officially recognised disabilities can claim the benefit for the first child, provided they have a monthly income not exceeding the level of 1,200 PLN net per person in a family household. The benefit is accessible regardless of the marital status of the parents of eligible children; both married couples and parents in informal relationships are entitled. The benefit may be considered useful in terms of work and family life reconciliation as the benefit could be channeled into baby-sitting services or allow one of the parents to reduce working hours.

**Rights to request special working time arrangements, place of work etc.**

No such arrangements exist.

**The role of collective agreements**

There is no such study available.

Due to limited role of collective bargaining and modest content of the collective agreements, which rarely go beyond the traditional scope (wages, working time), those issues are not present on the bargaining agenda.

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