



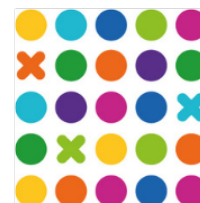
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Polish Report on Care Workers' Job Quality and Inclusive Working Conditions

Partner: University of Rzeszow

Authors: Agata Ludera-Ruszel, Hubert Kotarski

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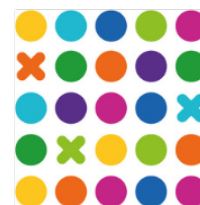
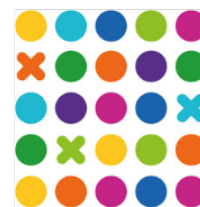


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1. Introduction

The aim of this national report is to analyse job quality and inclusive working conditions of care workers in Poland. The report will include analysis of law and policy, labour market characteristics, and industrial relations, as well as analysis of the interplay between national law and EU/European and international law.

A socio-legal research methodology will be applied.

The outline of the national report is as follows. Section 2 discusses various aspects of care work and domestic work, including occupations, labour market characteristics, overall regulatory framework, and current debates. Section 3 addresses fundamental trade union rights, social partners, collective bargaining, and industrial relations. Section 4 presents a discussion on employment status, flexible forms of employment, and employment protection, while Section 5 presents a discussion on wages and benefits. Section 6 focuses on working time, health and safety, implications of the COVID-19 pandemic, and training and competence development. Section 7 discusses social security coverage and benefits. Section 8, finally, contains a concluding discussion.

1.1. Main characteristics of the labour law and industrial relations system and welfare state model in Poland

The current Polish model of regulating obligatory work relations is based on the assumption that within these relations, there are employment relations based on the paradigm of subordinated work (provided in conditions of subordination of one party of this relation to the other party) and employment relations based on the paradigm of independent work (provided in situations of autonomy [independence] of one party of this relation from the other party). This assumption results in a binary division between employee and non-employee employment and, in effect, a division of the employed into employees and independent contractors¹. Employment relationship, created by employment agreement, is regulated by labour law, while employment provided on civil law agreement basis (contract of service, contract for a specific task) falls within civil law. In contemporary labour law literature, the appropriateness of the existing division of paid employment relations and its assumptions is increasingly being asked in the light of the Constitutional principle of the protection of *every work* (Article 24)². The Labour Code³ remain the main source of labour law in Poland. The conditions of employment of a particular category of workers are regulated in a specific statutes (*pragmatyki pracownicze*), where the provisions of the Labour Code are applied only alternatively. Since Poland have a continental European legal tradition the statutory labour law established by the Parliament play a dominant role⁴.

Polish labour law has been substantially altered with systemic transformation (the collapse of the Communist regime) and later Poland's integration with the European Union⁵. The duties of the State in respect of work protection have their origin in the adoption of the social market economy model⁶ as the foundation of its

¹ Krzysztof Wojciech Baran, *System Prawa Pracy. Tom VII. Zatrudnienie niepracownicze* (Warszawa, Wolters Kluwer 2015), 22; Mark Freedland, Nicola Koutouris, *The Legal Construction for Personal Work Relations* (Oxford University Press 2011) 530.

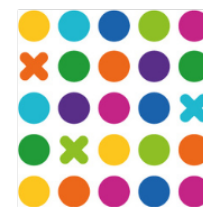
² Anna Musiała, *Prawo zatrudnienia* (Warszawa 2011); Małgorzata Gersdorf, *Prawo zatrudnienia*, Warszawa 2013).

³ Act of 26 June 1974, Journal of Laws from 2023, item 1465.

⁴ Ludwik Florek, 'Democratic institutions of industrial relations: a Polish perspective' (1991) 13(3) Michigan Journal of International Law 621, 623.

⁵ Jacek Męcina, 'Labour Market and Labour Relations. Part I' (2018) 9:2(18) Warsaw Forum of Economic Sociology, 93.

⁶ Wiesław Skrzydło, *Konstytucja RP. Komentarz* (Wolters Kluwer, Lex/el, 2013).



economic system, that is an economy which takes into consideration the social aspects of its functioning (art. 20 of the Constitution). Within the social market economy model, the economic system is based, on the one hand, on free operation of market mechanisms, freedom of enterprise and private ownership, but on the other on solidarity, dialogue and cooperation between social partners – all constituting the pillars of an economy referred to as “social”⁷. A social market economy is characterized by a tendency to maintain balance between work and capital. In a social market economy, the State does not act solely as the “watchman” but, at the same time, is a welfare state which interferes with the course of its economy in order to realize specific social needs, including those connected with work protection, the fulfilment of which would be impossible if based only on free market laws⁸. In this sense, a social market economy rests upon the principle of social justice, expressed in art. 2 of the Constitution, but it also makes reference to art. 1 of the Constitution, which reflects the essence of a state seen as the common good of all its citizens, and which envisages – in the case of a conflict – the common good taking precedence over the individual interest of a person or a particular group⁹.

The current industrial relations system is based on a three inter-connected basic democratic institutions. These are: trade union freedom (trade union pluralism), collective bargaining and the right to strike. Democratic industrial relations are considered to be an important element of a market economy model based – as mentioned – on a dialogue and cooperation of social partners¹⁰. The main actors of industrial relations in Poland are trade unions and employers’ organizations. However, the majority of workers and employers remain unaffiliated. In 2022, 353 employers’ organizations and 11 656 trade unions organizations were active at various levels. According to the estimations of the Polish National Statistical Agency (GUS), enterprise and under-enterprise and branch trade union organizations constitute the most numerous group among trade unions (76,4%), followed by inter-enterprise trade union organizations (20,8%). In the years between 2014 and 2022, the number of employers’ organizations increased by 28,8%, while active trade unions – edged down by 9,6%. In 2022, trade unions united over 1,4 million people, by 6.5% less than in 2018. People associated in trade unions accounted for 4.7% of the adult population of Poland and 14.8% employed on the basis of an employment contract in workplaces employing more than 9 people. Among the people on the membership lists of trade union organizations 0.5% employed on the basis of civil law contracts. The employers’ organizations united 21,6 thous. employers¹¹.

Currently, social welfare in Poland involves activities aimed at improving living and working conditions of population. The system implements the duty of the State to create a legal framework to ensure social security, that is given to all citizens whenever incapacitated for work by reason of different social risk, such as sickness, retirement, age and involuntary unemployment. This obligation of the State and corresponding right, is guaranteed by the Constitution of Poland (Article 67). In Poland the social welfare system operate at municipal (Municipal Social Assistance Centers - MOPS) and regional (Regional Social Policy Centers-ROPS) level. They are subject to Voivodship marshals. At the level of government administration, issues of social assistance belong to the Ministry of the Family, Labour and Social Policy. During their activities municipal social assistance centers and regional social policy centers cooperate with other institutions, including social organizations, non-governmental

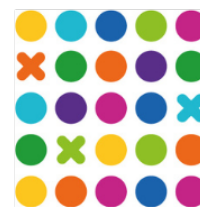
⁷ Teresa Liszcz ‘Praca i kapitał w Konstytucji Rzeczypospolitej Polskiej’ (2014) 22 *Studia Iuridica Lublinensia*, 259.

⁸ Dariusz R. Kijowski, Patrycja J. Suwaj ‘Kryzys prawa administracyjnego?’ in A. Doliwa and S. Prutis (eds) *Wypieranie prawa administracyjnego przez prawo cywilne* (Wolters Kluwer 2012).

⁹ Wiesław Skrzydło, *Konstytucja...*, op. cit.

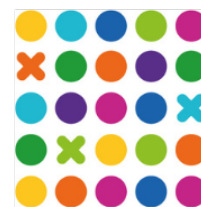
¹⁰ Ludwik Florek, *Democratic...*, op. cit., 621.

¹¹ GUS, ‘Social dialogue partners – employers’ organizations and trade unions in 2022’ (2023).



organizations, the Catholic Church, other churches, religious associations as well as natural and legal persons, that may take the form of joint actions¹².

¹² Radosław Wolniak, 'Social welfare organization in Poland' (2020) 143 Scientific Papers of Silesian University of Technology, 307.



2. Care work and domestic work: occupations, labour market characteristics, overall regulatory framework, and current debates

2.1. Labour market characteristics

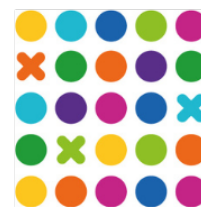
Poland is experiencing an aging population. As a result, there is an increasing demand for care services, particularly in the elderly care sector. The Covid-19 pandemic has highlighted the essential role of care workers. It has led to increased demand for care services, particularly in the healthcare sector, while also placing immense pressure on existing care resources. Despite the growing demand for care services and the overall increase in number of care workers in the past few years, Poland faces the shortage of skilled workers in the care sector and insufficient supply of institutional care, that fulfills only a limited fraction of the care needs. Care sector in Poland is experiencing for a several years a significant outflow of skilled workers, in particular healthcare professionals. This can be attributed to factors related to challenging working conditions in the care sector and social undervaluation of care work, that is believed as having no real economic value. The care workers are one of group for whom having a decent working condition pose enormous challenges. In care sector decent work more often remains an 'exclusive' and 'luxurious' ideal.

The care sector in Poland includes both public and private employment opportunities. Public sector employment can be found in government-run healthcare facilities, social services agencies, and public nursing homes. Private sector employment includes privately-owned healthcare facilities, nursing homes, home care agencies, and other care service providers. Since the insufficient supply of institutional care in Poland, the care system in Poland is characterized by strong reliance on family commitment¹³. The care sector is highly women and migrant dominated. It has been estimated that in 2019, every fifth migrant worker is household worker which would give a total number of about 100,000 migrant household workers¹⁴. This includes care workers, coming mainly from Ukraine and Belarus. The current political situation (war that is taking place in Ukraine) has intensified the migration pressure from Ukraine. Unlike migration in other sectors of the economy, migration for care purposes, is alike all care sector, strongly gender biased with middle-aged females employed more frequently than men. Sometimes, a care work considered to be an additional job, performed in turns with spells of employment in the source country via a temporary agency work that are the main source of workers in a private care sector¹⁵. This informal care sector plays a vital role in supplementing the formal (institutional) care system, but also generates additional challenges. Firstly, it places additional strain on family caregivers who often face challenges in balancing their care responsibilities with other obligations, in the sphere of employment. The involvement of women in care work is followed by the traditional division of roles in the family by keeping men in a role subsidiary to that of

¹³ Oliwia Beck, Kornelia Kędziora-Kornatowska, Michał Kornatowski, 'Long-term home care in Poland – framework, problems, prospects' (2014) 49(2) Hygeia Public Health, 49(2), 193.

¹⁴ Emilia Roig, 'Care crisis: Racialized women at the Cross-roads of Migration' (2014) Labour Market and Family Policies, Heinrich Böll Stiftung E-paper
< https://heimatkunde.boell.de/sites/default/files/emilia_roig_epaper_maerz2014_care_crisis_engl.pdf> accessed 24 April 2024.

¹⁵ Agnieszka Sowa-Kofta, Ricardo Rodrigues, Giovanni Lamura, Alis Sopadzhiyan, Raphael Wittenberg, Georg Bauer, Johanna F. Doetter, Stefania Llinca, Janna Marczak, Andrea Piersinaru, H. Rothang, 'Long-term care and migrant care work: Addressing workforce shortages while raising questions for European countries' (2018) 25(4) Eurohealth, 16.



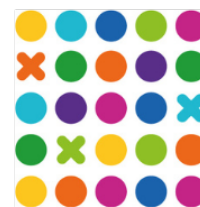
women in relation to the exercise of their caring duties and the socially established view that the capacity to perform care work is considered as something 'inherent' to the worker (women), thus not perceived as a 'real' job. Thus, the combination of work with care responsibilities is more challenging for women who are more likely to resign (entirely or partly) from employment (at different stage of their professional activity as well as due to the existing options for an earlier retirement). Secondly, it is the access high-quality employment that guarantees adequate income and decent working conditions that for domestic care work is a particular cause for concern. This determines the even higher level of poverty among these workers. Besides, negative consequences for personal autonomy and general well-being, difficulties in access to high-quality employment, can also have severe social and economic implications, such as income inequalities and labour market segmentation.

2.2 Occupations

In Poland the occupations in the care sector can be divided into medical professions and non-medical professions. In Poland there is no one statutory catalogue of occupations in the care sector. Particular occupations may be identified based on the provisions of specific regulation that provides for the catalogue of occupations and specialties for the job matching and occupational guidance as an instrument for employment promotion¹⁶. Based on this catalogue, in Poland care work, including domestic care work, can be divided into two main categories: basic care work and socialized care work.

Basic care work includes low complexity and varied care tasks that meet the primarily bio-psycho-social needs of a person concerned, including personal care and domestic care (household tasks, preparation of meals), hygiene/health services, excluding a service that requires a special (including medical) knowledge and qualification, social activation, accompanying in walks, lunchtime etc. To provide basic care work as an assistant for a disabled person, care worker in social home, care worker for elderly, environmental care worker, medical caregiver, hospital orderly a specific level of education (secondary school education) and/or formal qualification (graduation of vocational course or postsecondary school) and/or experience (length of service) may be needed, which fosters the professionalization of a basic care work. Basic care work can be provided: a) at home upon a decision of a person in need (or his/her family member) or upon a decision of a municipal welfare social center or in settings such as assistance centers, family assistance homes, social assistance homes, healthcare institution, such as hospital. Within current classification of occupation basic care work falls within a different category of occupations. Some of them have the status of medical profession, some of them not. The following graph illustrates the complexity of occupations within basic care work.

¹⁶ For a classification of occupations in care sector see The Regulation of the Minister of Labour and Social Policy of 27 April 2010 on classification and specialties for need in the labour market and scope of its use (Journal of Laws from 2018, item 227).



Basic care work

I. Technicians and associate professionals

Associate professionals for social issues

Workers for social assistance and support for family:

- assistant for a disabled person: provides support in everyday activities aimed at achieving independence, integration and preventing the isolation of people with disabilities. This includes among others: help in learning and at work, providing company and support, help in hygiene activities, help in mobility, help in cooking and eating.
- care worker in social home: a first contact employee with the residents of social home, who meets the bio-psycho-social needs of a person who is beneficiary of social home. By using many methods and therapeutic tools he activates and stimulate a person in care. Its role is to motivate the residents to actively spend their time, for self-realization and developing their interests, but also to accompanying during walks, feeding, helping with personal hygiene, assisting with rehabilitation exercises.
- environmental care worker: primarily act as a career for an elderly, disabled, chronically ill persons. He is responsible, in particular for: maintaining cleanliness at home, assistance in cooking, washing clothes, ironing, making necessary purchases, assistance in care and hygiene activities, such as washing, clothing, eating, controlling the medication taken, assistance in dealing with official matters, including taking care of scheduled medical appointments.
- care worker for elderly: primarily act as a career for an elderly person. His scope of duties is like the duties of environmental care worker, closely adopted to the particular needs of an elderly person.

II. Service providers

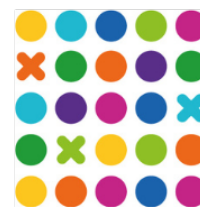
Personal care workers in health services

Healthcare assistants:

- medical caregivers: primarily perform broadly understood care activities under a stick, elderly or otherwise dependent person that among others consist satisfying basis needs of a person concerned. This include: care activities related to hygiene, nutrition, movement and mobility, undertaking comprehensive cooperation with or therapeutic staff and helping during rehabilitation treatment, including disinfection and maintenance of professional tolls using during these treatments.

Home-based personal care workers:

- domestic caregivers: perform the tasks related to the provision safety and meeting the basic needs of person concerned (disabled, elderly), including among others: taking care of hygiene, helping with washing, bathing and getting dressed, putting to sleep, taking care of hygiene and aesthetic of the environment: cleaning rooms, washing dishes, ironing, shopping, preparing meals, feeding, controlling the corrections of taking medicines, arranging walks and recreational activities. Additional tasks can be ordered by employer that may include among others: making municipal payments, looking after animals and plants.



- PCK nurse: supports the person concerned in all his daily activities. Depending on the needs of the ward, she performs: nursing and hygienic activities, economic and caring activities and provides psychological support, working closely with doctor, environmental nurse or ward's family. Among others the duties of PCK nurse includes: personal hygiene of ward, preparing meals and feeding, washing and cleaning the household clean, organizing purchases, organizing free time, helping pay bills, taking care of the mental health of ward.

Other personal care workers:

- hospital orderly: paraprofessional who assist individuals with physical disabilities, mental impairments, and other health care needs with their activities of daily living and provide bedside care — including basic nursing procedures.

III. Basic workers

Cleaning staff:

- hospital ward: primary responsible for cleaning hospital environment, but also responsible for transporting breakfast and lunches to patients, providing basic assistance to patients, providing support related to maintaining the cleanliness of patients and assistance in performing psychological activities, taking care of the safety of patients, guiding patients to examinations in another part of the building, moving dirty linen and clothes.

Source: Authors.

Specialized care work requires a specialized formal knowledge (at most a bachelor's or master's degree studies) and qualifications adopted to a particular type of illness or disability of a person concerned. Specialized care work is provided: a) at home upon a decision of a person in need (or his family members); b) in settings such as assistance centers, social assistance homes and healthcare institution such as hospital.

The occupations related to the specialized care work have in majority the status of medical profession, with the exception for psychologist and psychotherapist. The following graph illustrates the occupations within specialized care work.

Specialized care work

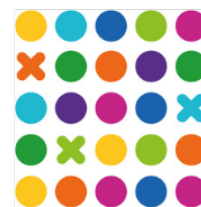
I. Health professionals

Specialists for health protection

- nurses with specialization (e.g., in anesthesiology or oncology),
- nurse without specialization
- midwife with specialization (e.g., in gynecology or neonatology),
- midwife without specialization

II. Technicians and associate professionals

Associate professionals for health protection



- paramedic: providing health services in the event of sudden threat to life or health. He may independently undertake medical actions and activities in accordance with current medical knowledge and administer potent drugs independently without a doctor's order, also in all hospital wards.
- occupational therapist: providing care and cooperation with the ward by recognizing and then striving to meet their life needs, considering health, psychological and social factors.



Environmental workers for health protection

- environmental therapist: works with people with mental and emotional disorders. Provides comprehensive support and therapeutic assistance to the patients and their family. This include among others: recognizing the needs and capabilities of the patient, planning therapeutic activities, developing an individual plan of support, educational of patient's environment in the matters related to the disease.
- environmental nurse: planning and providing a comprehensive nursing, care, medical and rehabilitation activities for the patient in his residential environment, when necessary, with cooperation with doctor, midwife, family of patient.

Source: Authors.

2.3 Overall regulatory framework

In Poland there is no one specific regulation addressed exclusively to workers in the care sector. Consequently, care work is the subject of the regulations that are addressed generally to healthcare sector and to employment in general. Under the Healthcare Institutions Law¹⁷, a person practicing a medical profession is a person authorized under separate regulations to provide health services and persons who have acquired professional qualifications to provide health services in a specific scope or in a specific field of medicine (article 2(1)(2)). Among the medical professionals who provide a care work, only a part of them is the subject of a specific statutory regulations. These are: nurse and midwife¹⁸, paramedic¹⁹. Currently the Parliament is working on the general statutory regulation on medical professions, that will also cover: occupational therapist and medical caregiver²⁰. These statutory regulations are designed to cover all relevant issues related to the occupations concerned, including the rules and conditions of performing the professions. However, in the area of employment the regulation of this specific law is limited only to the general issues, therefore for a specific issues related to the employment status and working conditions, the relevant provisions of Labour Code²¹ and Civil Code²² (depending on a form of employment and consequently employment status: employee or nonemployee), will be appropriate, in the same way as to the workers in the care sector that are not the subject of a specific statutory regulations.

¹⁷ Act of 15 April 2011, Journal of Laws from 2023, item 991.

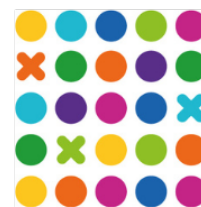
¹⁸ Act of 15 July 2011 on the occupations of nurse and midwife, Journal of Laws from 2022, item 2702.

¹⁹ Act of 1 December 2022 on the paramedic and the professional self-government of paramedic, Journal of Laws from 2022, item 2705.

²⁰ Draft of the Act on medical professions <<https://www.sejm.gov.pl/sejm9.nsf/PrzebiegProc.xsp?nr=3183>> accessed 10 July 2023.

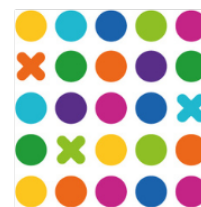
²¹ Act of 26 June 1974, Journal of Laws from 2022, item 1510.

²² Act of 23 April 1964, Journal of Laws from 2022, item 1360.



2.4 Current debates

In recent years, the ongoing debates surrounding care work in Poland concentrates over a few interrelated issues: 1) the quality of care services: professionalization of care work, the quality of care services provided to vulnerable populations, such as the elderly and individuals with disability, the standards of care, the adequacy of staffing levels, and the need for improved training and supervision of care workers to ensure high-quality and compassionate care; 2) improvement of working conditions of care workers, recognition of care work and assurance of fair and dignified wages, in particular for informal domestic care workers; 3) better accessibility of care services that is linked to effective strategies on how to attract and retain professionals in the country; 4) the need to develop a comprehensive long-term care system to meet the needs of aging population; 5) integration of formal care and informal care providing by family members; 6) the need to challenge gender stereotypes and promotion of a gender balance in the care sector and ensure equal opportunities and remuneration for both women and men in care professions, that is linked to the wider debate on gender equality and work-life balance.



3 Fundamental trade union rights, social partners, collective bargaining

3.1 Fundamental trade union rights

In Poland fundamental trade union rights in the care sector are protected under the general regulations, in particular Polish Constitution²³, Labour Code, Trade Union Act²⁴ and other statutory and non-statutory regulations, that apply to care workers on the same basis as to the other workers. Thus, in the care sector there are no specificities in relation to fundamental trade union rights. Trade union rights in the care sector include:

1. Freedom of Association: workers in the care sectors have the right to join and form trade unions of their choice. This right is enshrined in Polish Constitution (Article 12 and 59(1)). According to Article 2(1) of the Trade Union Act, the right to form and join trade unions is enjoyed by all persons engaged in gainful employment. The amendment from 2018 (that was effective since 1 January 2019²⁵) expanded the personal scope of freedom of association above employee to any person, who performs work for remuneration on a different basis than employment (on the basis of a contract of mandate, a contract for the provision of services, a contract for a specific task, as well as so-called self-employed persons, i.e. those who conduct their own economic activity and provide work largely or entirely for one employer), and have such rights and interests in the connection with the performance of the work which can be represented and defended by a trade union. Additionally, since 1 January 2019 extended the right to join trade unions (excluding the right to for trade union) to volunteers and other persons who provide unpaid work²⁶.

2. Collective bargaining: trade unions in the care sector have the right to engage in collective bargaining on behalf of their members. This right is enshrined in Polish Constitution (Article 20 and 59(2)) and more detailed subject to regulation by Chapter 11 of the Labour Code. However, not also self-employed persons can be covered by collective agreement²⁷. Regarding care sector trade unions can negotiate with employers on various issues, in particular wages, benefits and other working conditions that are challenging in the care sector.

3. Right to strike: workers in the care sector who have the right to join trade unions have the right to engage in strikes as a form of industrial action to protest against unfair labor practices or to demand improvements in their working conditions. Workers can engage in strike, but the right to organize strike is reserved only to trade unions. Strikes must comply with legal requirements, such as proper notification and participation in strike ballots. The right to strike is enshrined in Polish Constitution (Article 59(3)). The implementation of the right to strike is laid down in the Act on Resolution of Collective Disputes²⁸. It is important to note, that Act on the rights of patients²⁹, specifies penalties of up to PLN 500,000 for organizers of strikes in the health care that had infringed on the Act on Resolution of Collective Disputes (Articles 59 and 68 of the act).

²³ The Constitution of the Republic of Poland of 2 April 1997, Journal of Laws from 1997, no 78, item 483.

²⁴ Act of 23 May 1991, Journal of Laws from 2022, item. 854.

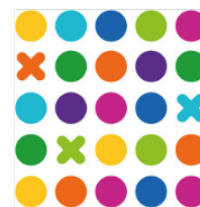
²⁵ Such change was pointed out by the Constitutional Tribunal in its judgement of 2 June 2015, case ref. No K 1/13.

²⁶ More on this issue see Tomasz Duraj, 'Prawo koalicji osób pracujących zarobkowo na własny rachunek po nowelizacji prawa związkowego – szanse i zagrożenia' (2020) 2 Studia z zakresu prawa pracy i polityki społecznej, 67.

²⁷ Barbara Surdykowska 'Osoby samozatrudnione a prawo do rokowań zbiorowych in Małgorzata Skrzek– Lubasińska and Roman Sobiecki (eds.), *Samozatrudnienie konieczność czy wybór przedsiębiorczych* (Warszawa 2017 SGH), 121, 136.

²⁸ Act of 23 May 1991, Journal of Laws from 2020, item. 123.

²⁹ Act of 6 November 2008, Journal of Laws from 2022, item 1876.



4. Representation and Participation: trade unions remain a primary channel of workplace representation. Under Trade Union Act, trade unions are required to “represent the rights and collective interests of all employees regardless of their trade union membership”. However, due to the relatively low level of union membership in Poland, including in the care sector, most employees are in workplaces where there is no union presence. As an alternative to workplace representation through trade union, is the representation by works council, that were introduced to Polish legislation in 2006 with the aim to implement EU directive³⁰. Unlike representation by trade unions, works council applies only to employees. Trade unions in the care sector have the right to participate in social dialogue and engage in consultations with employers, government authorities, and other relevant stakeholders on matters affecting care sector. This is implemented through the Council on Social Dialogue laid down in the Act on the Council on Social Dialogue³¹. The Council is a forum for a tripartite dialogue of employers, employees and government on employment and workplace – related issues on a country and regional level. It supplements a bipartite form of social dialogue in the form of collective bargaining between social partners – employers and employees at enterprise and sectoral level. Among others, the competence of the Council include: giving opinions on every matters related to social policy, giving opinion on legal act drafts, preparing of legal act drafts. In addition to trade unions, the Council – at country and regional level - includes representatives of employers (organization of employers) and the government (at country level and regional level: Voivode). In addition, there is the Tripartite Healthcare Team (*Zespół Trójstronny ds. Ochrony Zdrowia*) which deals with matters of the health sector. It was founded in February 2005. It is affiliated with the Ministry of Health (*Ministerstwo Zdrowia*). It includes six representatives of government ministries of health, economy, family and social policy, finance, state treasury, and education and science, two representatives of each nationally representative employer organizations and two representatives of each nationally representative trade unions.

5. Legal protection: trade union members in the care sector are protected against discrimination, unfair treatment, or dismissal based on their union affiliation or participation in union activities. Employers are prohibited from taking retaliatory actions against workers exercising their trade union rights.

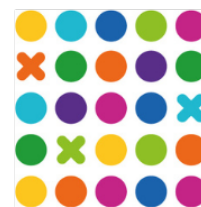
3.2 Social partners

In the care sector in Poland, the main social partners include:

- a) Trade unions, that play a crucial role in advocating for the rights and welfare of workers in the care sector, they work to ensure that care workers have a collective voice and can negotiate for better wages, benefits and working conditions. There are a trade union organization that are affiliated to one of the nationally representative trade union confederations, that take part in tripartite social dialogue:
- the All-Poland Union of Nurses and Midwives (*Ogólnopolski Związek Zawodowy Pielęgniarek i Położnych, OZZPiP*), affiliated to the Trade Unions Forum (*Forum Związków Zawodowych, FZZ*), 80,000 members, including 78,000 nurses and around 2,000 midwives.
 - the All-Poland Union of Midwives (*Ogólnopolski Związek Zawodowy Położnych*), affiliated to the Trade Unions Forum (*Forum Związków Zawodowych, FZZ*).

³⁰ The representation through works council is laid down in Act of 7 April 2006 Act on Information and Consultation of Employees, Journal of Laws from 2006, no 79, item 550.

³¹ Act of 24 July 2015, Journal of Laws from 2018, item. 2232.



- the Health Care Secretariat of the Independent and Self-Governing Trade Union 'Solidarity' (*Sekretariat Ochrony Zdrowia Niezależny Samorządny Związek Zawodowy 'Solidarność', SOZ NSZZ Solidarność*), 45,000 members, all medical occupations, including nurses, midwives, paramedic.
- the Federation of Healthcare and Social Care Employee Unions (*Federacja Związków Zawodowych Pracowników Ochrony Zdrowia i Pomocy Społecznej, FZZPOZiPS*), affiliated to the All-Poland Alliance of Trade Unions (*Ogólnopolskie Porozumienie Związków Zawodowych, OPZZ*), 20,500 members, all medical occupations.

In addition, there are a trade union that are not affiliated to nationally representative confederations, that are involved in collective bargaining at the company level and at the regional level, such as All-Polish Union of Medical Rescue (*Ogólnopolski Związek Zawodowy Ratowników Medycznych*), Trade Union Employees of Psychiatric Care and Addiction Treatment (*Związek Zawodowy Pracowników Lecznictwa Psychiatrycznego i Uzależnień*).

b) Employer's associations, that represent the interests of employers in the care sector, such as healthcare facilities, nursing homes, home care agencies. They engage in social dialogues at bipartite (with trade unions) and tripartite (also with government authorities) level to address employment issues and contribute to the development of labor policies in the care sector. There are two nationally representative employer organizations, which are active in the care sector, that are involved in social dialogue at the national and regional level:

- The Confederation of Polish Employers (*Konfederacja Pracodawców Polskich, KPP*).
- Business Centre Club (*BCC*).

The employer's organizations that are the members of the Confederation of Polish Employers, include:

- the Nationwide Union of Private Healthcare Employers (*Ogólnopolski Związek Pracodawców Prywatnej Służby Zdrowia, OZZPPSZ*).
- the Nationwide Association of Non-Public Hospitals (*Ogólnopolskie Stowarzyszenie Szpitali Niepublicznych, OSSN*), that consists of more than 150 non-public hospitals.
- the Nationwide Association of Non-Public Local Government Hospitals (*Ogólnopolskie Stowarzyszenie Niepublicznych Szpitali Samorządowych, OSNSS*).

In addition, there is an independent 'Zielona Góra Agreement' Federation of Health Care Employer Unions (*Federacja Związków Pracodawców Ochrony Zdrowia Porozumienie Zielonogórskie, PZ*), to represent the interests of general practitioners in non-public health care entities.

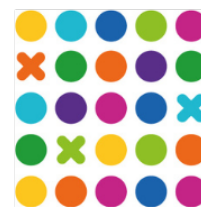
c) Government authorities, that plays a central role in formulating labor law, regulation and policies that affect care workers and employers in the care sector. Government authorities engage in social dialogue at tripartite level with trade unions and employer's associations to address challenges in the care sector, allocate resources, and develop social and healthcare programs.

d) Professional associations representing specific care professions, such as nursing associations or paramedic associations, that advocate for the interest and professional development of their members, ensuring that care workers adhere to ethical standards and professional guidelines.

e) Patient and service user associations, that represent the interests of the individuals receiving care services, provide platforms for service users to voice their needs, preferences, and concerns, influencing the development and improvement of care services.

f) Academic and research institutions, that provide expertise, conduct research on healthcare and social service matters, and contribute to evidence-based policymaking and best practices in care.

3.3 Collective bargaining



There are no official data on the coverage rate of collective bargaining in the care sector. According to estimates it might cover not more than 5% of care workers³². Collective agreements in the care sector covering care workers are concluded at the company and workplace level. Collective bargaining concentrated mostly on wages and other benefits. Collective agreements at sectoral (multi-employer) level in Poland are very rare. There is no multi-level collective agreement exclusively for a care sector³³. The annual report from the national labor inspectorate PIP shows that in 2021 only 48 new collective agreements were registered at this year, including 1 collective agreement in the health and social security sector. Comparing with 68 new collective agreements in 2019³⁴. The low level of low level of collective bargaining coverage is the result of a low rate of unionizing and collective bargaining coverage among workers in general. The care sector is not an exception in this area. The union membership has declined sharply since the early 1990s., and this trend is continuing. According to the dates of Polish national statistical agency GUS, that are collected for every three years, in 2019 only around 1.4 million employees were union members at this date, and with the total number of employees estimated at 13.2 million, while just 15,000 of union members were not employees but working under a so-called “civil contract”, a relatively common form of work in care sector in Poland. This produces a union membership figure of 10,6%. The union membership is much higher in public sector than in private and in public-private companies. Most of workers are in one of the free above indicated the nationally representative trade union confederation, and only a small proportion are the members of trade unions not affiliated to the main union confederations³⁵.

4 Employment status, flexible forms of employment, and employment protection

4.1 Employment status

In terms of employment structure in the care sector in Poland, care workers are distributed across formal and informal work arrangements. Informal employment is prevalent in the care provided by family members, but also by migrants. Formal work arrangements in the care sector are allocated to employment or other personal work relations. This can be bipartite work relations or tripartite work relations through temporary work agencies, where the agency is the employer, and the care worker is temporarily assigned to work at various care settings. The employment status under employment relationship is shaped by labour law, in particular by the provisions of Labour Code and alternatively by a specific statutes (*pragmatyki pracownicze*) that apply to the particular categories of workers (e.g. teachers, judges, public officers). Regarding the temporary agency workers their employment relationship is at first governed by Act on Employment of Temporary Employees and only subsidiary by the

³² According to data provided for Eurofound

<<https://www.eurofound.europa.eu/de/publications/report/2011/poland-industrial-relations-in-the-health-care-sector>> accessed 10 July 2023.

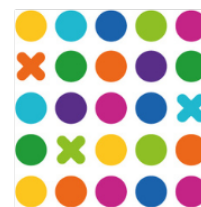
³³ The Ministry of Family and Social Policy

<https://archiwum.mrps.gov.pl/gfx/mpips/userfiles/_public/wykaz_zbiorowe.pdf> accessed 8 July 2013.

³⁴ National Labor Inspectorate

<<https://www.pip.gov.pl/pl/f/v/269141/Sprawozdanie%20z%20dzialalnosci%20Panstwowej%20Inspekcji%20Pracy%20-%202021.pdf>> accessed 8 July 2023.

³⁵ Partnerzy dialogu społecznego - związki zawodowe i organizacje pracodawców, GUS, 27.08.19 <<https://stat.gov.pl/obszary-tematyczne/gospodarka-spoeczna-wolontariat/gospodarka-spoeczna-trzeci-sektor/partnerzy-dialogu-spoecznego-zwiazki-zawodowe-i-organizacje-pracodawcow-wyniki-wstepne,16,1.html>> accessed 8 July 2023.



provisions of Labour Code³⁶. On the other hand, the status of those who perform their work under other personal work relations are regulated by the provisions of civil law, that do not give any or give an access to a limited range of labour rights that are allocated in the employment relationship³⁷. The exception applies to temporary agency workers who perform work under civil law contracts whose work relation is first and foremost regulated by the provisions of Act on Employment of Temporary Employees that shape their work status a little different. The employment structure in the care sector in Poland, reflects an existing binary division between an employment relationship and all other, different forms of paid and unpaid work relations, around which is build an application of labour law in Poland and the trend of gradual move from traditional forms of employment to those more flexible one. Employment contract is generally a most preferable form of employment, since it guarantees an employment security and the access to various benefits, especially right to paid holiday leave and the protection against overwork.

4.2 Flexible forms of employment

In the care sector in Poland, still the prevalent is the employment contract, in particular full-time and permanent employment contract. This, considered as “traditional” form of employment, is mainly found in healthcare professionals, such as doctors, nurses, and medical technicians, that often work in public sector, mainly in hospitals, clinics, and other healthcare facilities, with fixed schedules and regular working hours. Among care workers a common is also part-time employment, allowing for more flexibility in scheduling and potential for multiple part-time positions. Part-time employees are entitled to prorated benefits and rights based on their working hours. Polish regulation on part-time work have largely been adopted in 2003 in line with the process of harmonization of polish legal order with the EU legislation, in particular with the EU Part-Time Work Directive (Council Directive 97/81)³⁸. In Polish legal order there is no one complex regulation on part-time work. Fragmented provisions that are addressed to part-time work has been incorporated in Labour Code. The relevant requirements laid down in the Part-Time Work Directive were implemented in the Labour Code with regard to: non-discrimination at work and equal treatment, prohibition of discrimination and changing of work time, information on the availability of part-time and full-time positions, establishing of the level of remuneration for part-time work free from deductions, establishing of work time entitling to additional remuneration for overtime work, as well as establishing mandated leave, and employer’s obligation to lower work time for an employee entitled to maternity or paternity leave³⁹. It is indicated, however, on the lack, under existing regulations, legal definition of “part-time work” and “part-time worker”. As far as the principle of *pro rata temporis* is concerned, as contained in the Part-Time Work Directive, Polish regulation that reflect this principle, is more restrictive, since it does not provide for the possibility to deny access to particular conditions of employment subject to time worked even when there are justified objective reasons⁴⁰. Polish regulation is also more restrictive with regard to the duty of employer to give a consideration to worker’s request to change their working time, and the information about

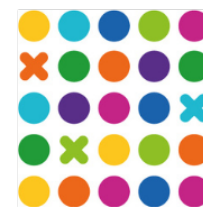
³⁶ Act of 9 July 2003, Journal of Laws from 2023, item 1110.

³⁷ Agata Ludera-Ruszel, ‘The right to (decent) work. The right to everyone or ‘chosen’ ones? The situation in Poland’ (2021) 1 *Ruch Prawniczy Ekonomiczny i Socjologiczny*, 150.

³⁸ Iwona Jaroszevska-Ignatowska, *Zatrudnienie w niepełnym wymiarze czasu pracy* (Warszawa, Wolters Kluwer 2018).

³⁹ Katarzyna Bomba, ‘Zakaz dyskryminacji ze względu na zatrudnienie w niepełnym wymiarze czasu pracy w świetle Dyrektywy Rady 97/81/WE zawierającej Ramowe Porozumienie dotyczące zatrudnienia w niepełnym wymiarze czasu pracy (2014) 20(1) *Journal of Modern Science*, 221.

⁴⁰ Ibidem.



the availability of full-time and part-time employment, imposing on an employer relative obligation to consider such a request and to provide such an information in a way adopted in the enterprise⁴¹. On the other hand, clause 5 point 3 (d) and (e) are not reflected in the Polish legal system, i.e. the employer should perform action in order to facilitate access to part-time employment on all levels of the enterprise, including skilled and managerial positions as well as facilitate access by part-time workers to vocational training in order to enhance career opportunities and occupational mobility. The employer should also provide existing bodies representing workers with information concerning the availability of part-time employment within the enterprise⁴².

Care worker, in both full-time and part-time employment contract, may be organized as a shift work. Shift work is common in care services that require round-the-clock coverage. Shift work is common in healthcare facilities and residential care facilities to provide for a continuous care, thus including day, evening, and night shifts. Therefore, shift work very often involves irregular working hours and varying schedules. It is then reported a negative impact of night shift work on health and wellbeing of employees⁴³.

Permanent employment contract still provides for a higher level of employment security. However, the last amendment to Labour Code from 2023 has substantially diminished the gap between permanent employment contract and fixed-term employment contract regarding employment protection and thus it shut down the existing segmentation between permanent and temporary employees. Some care workers may be employed on fixed-term employment contract, which have a defined end date. The current legal regulation on the conclusion and termination of fixed-term employment contract is the effect due to the transposition of the Fixed-Term Directive (Council directive 99/70/EC) to the national law and the adoption of polish law to the jurisdiction of CJEU (in particular in *Nierodzik* case⁴⁴) with the aim to protect employees against abuses in the use of fixed-term employment contract and to guarantee that fixed-term employee would not be treated in a less favorable manner without any objective justification⁴⁵. The Polish legislator has based the protection against abuse arising from the use of fixed-term employment contracts on two supplementing protective measures b) and c) from clause 5 of the directive 99/70/EC with are in fact only supplemented by the protective measure a) from this directive. Far beyond the aim of fixed-term employment contract the legislator came to the conclusion that the most effective limiting of fixed-term employment would be achieved only by determine the maximum total duration of fixed-term employment contract, including its renewals and the maximum number of renewals of such contract. As a result in article 25¹ of the Polish Labour Code the period of employment under a fixed-term employment contract and maximum total period of employment under successive fixed-term employment contract between the same parties has been determined as 33 months with total number of three fixed-term employment within this period. The period of 33 months is considered to be as a compromise between expectations of social partners within the

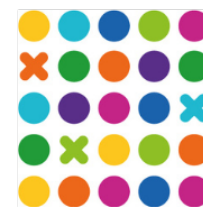
⁴¹ Zbigniew Hajn, 'Ochrona pracowników niepełnoetatowych 97/81 Wspólnoty Europejskiej a prawo polskie' in Michał Seweryński (ed.) *Studia Prawno-Europejskie* (2008), 89.

⁴² Katarzyna Bomba, 'Zakaz...', op. cit.

⁴³ Agnieszka Dymek-Skoczyńska, Aleksandra Zielińska, Małgorzata Piskorz-Szymandera, Dorota Talarska, 'The impact of shift work on selected areas of human functioning and health – overview of research' (2016) 4(62) *Polish Nursing*, 592.

⁴⁴ CJUE of 13.3.2014 in the case C-38/13 *Małgorzata Nierodzik v. Samodzielny Publiczny Psychiatryczny Zakład Opieki Zdrowotnej im. Dr. Stanisława Deresza w Choroszczy*, (ECLI:EU:C:2014:152).

⁴⁵ Agata Ludera-Ruszel 'Typical or atypical? Reflections on the atypical forms of employment illustrated with the example of a fixed-term employment contract – a comparative study of selected European countries', (2015-2016) 37 *Comparative Labour Law and Policy Journal*, 407.



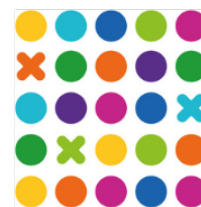
Tripartite Committee for Social and Economic Matters⁴⁶. In this way, within the limits set by the law, the conclusion of fixed-term employment contract without any objective reasons, which should be perceived as an exception due to the aim of this contract which is temporary in nature, become considered as a general rule. Moreover, another points of criticism include lack of any guidance with regard to the conditions under which fixed-term employment contracts should be regarded as “successive”, including possible intervals between them or different type of work, which seems important functionally. Polish legislator has just only determined the conditions under which fixed-term employment contract shall be determined as indefinite employment contract, which include the exceeding the allowed total duration and number of fixed-term employment contract (article 25¹ § 3 of the Polish Labour Code). Moreover, with the aim to prevent the practice of so-called “annexing of employment contract” the law provides that the extension of the existing fixed-term employment contract is considered as the conclusion, after the day of termination of the pervious one, the new fixed-term employment contract (article 25¹ § 2 of the Polish Labour Code). Determined in the article 25¹ § 4 of the Polish Labour Code the list of cases that justified conclusion and reviewal of fixed-term employment contract beyond the limitations set by the § 1 of this provision, is open. Apart from the clear and precise “objective” grounds such as: the necessity to replace employees during their justified absence from work (which thus no longer is a separate type of employment contract), the necessity to perform the casual and seasonal work and the necessity to perform work during the period of cadency the law also provide for the “objective grounds” that lie on the employer under which the conclusion of fixed-term employment contract meet the actual and temporary demand for work and is necessary in the light of all circumstances of the conclusion of this contract. In this way the question of what circumstances allow for unlimited in practice conclusion of fixed-term employment contract is open and therefore remain under the gesture of jurisprudence. Workers on fixed-term employment contract are entitled to similar benefits as permanent employees. Fixed-term employment contracts are often used for temporary or project-based positions. Until the amendment to the Labour Code from 2023 that finally has equalized the employment protection offered to fixed-term employees and permanent employees, fixed-term employment contract will not be seen by an employer as an attractive alternative to permanent employment contract and we may expect that it will be no longer be abused instead of permanent employment contract.

Fixed-term employment contract is the only possible form of employment contract in employment through temporary work agency. The possibility of employing a temporary agency worker on the basis of permanent employment contract is excluded. It is indicated that the Polish model of temporary agency work is rather detailed and restrictive⁴⁷. The regulation of temporary agency workers, in contrary to the many other EU countries, is quite new. In Poland, temporary agency work is comprehensively regulated in the Act of 9 July 2003 on the employment of temporary agency workers, that was adopted to implement Temporary Agency Work Directive (Council directive 2008/104/EC). The statutory restriction as to the type of employment contract concluded on this basis, kind of work that could be performed through temporary agency work and the maximum statutory maximum period of temporary agency work, express the legislator’s intention to make temporary agency work as a time-limited and path to permanent employment contract⁴⁸. To the extent not provided for under the Act on the employment of temporary agency workers, temporary agency work is regulated by the provision of labour law. With regard to temporary agency workers, the restriction on the use of fixed-term employment contract and the rules on

⁴⁶ Justification to the draft to the Act amending the Labour Law Act and amending certain acts (Journal of Laws of 2015, item 1220) < <http://www.sejm.gov.pl/sejm7.nsf/druk.xsp?nr=3321> > accessed 15 October 2023.

⁴⁷ Anna Reda-Ciszewska, ‘Protection of temporary agency worker in connection with maternity in Polish law’ (2021) 11 *Praca i Zabezpieczenie Społeczne*, 13.

⁴⁸ Journal of Laws from 2019, item. 1563.



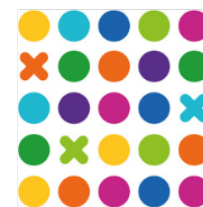
termination of this type of contract, under Labour Code, does not apply. The labour law provisions will not apply to temporary agency worker who perform its work on the basis of civil law contract, that is also possible under Act on the employment of temporary agency workers.

Alternatively, to employment contract, in the care sector is present a self-employment where work is provided on a basis of civil law contract, in particular contract of services (*umowa zlecenia*) or contract for specific task (*umowa o dzieło*) concluded directly with the client (or member of his family) or with healthcare facilities. In the health sector the common is the medical service contract, as a type of contract of services, that defines the terms and conditions under which medical (including care) services will be provided and outlines the rights and responsibilities of the parties⁴⁹. These contracts can be also used in employment through temporary work agency. All these types of contracts are not regulated by Labour Code and are regulated by Civil Code and by the parties to the contract. Therefore, it provides less employment security and do guarantee any – or only to a limited range of – the labour (individual and collective) rights that are allocated in the employment relationship. This include, in particular protection of remuneration (that is not subject to the obligation to ensure the minimum remuneration for work), protection regarding working time (any limits on daily and weekly working time, lack of the right to daily and weekly rest periods and days off from work, and the lack of the right to holiday leave). Self-employed are guaranteed the right to have safe and hygienic working conditions and – as mentioned earlier- benefit from the fundamental trade union rights. Care workers who are self-employed are responsible for their taxes, social security contributions and they bear all the risks that are normally face employer in an employment relationship. Consequently, self-employment is considered as an alternative to employment contract and very often is imposed to care workers and abused. The bogus self-employment – on the one hand, and consideration of all self-employed workers as an independent contractor (Polish law does not provide for third intermediary category of workers)- on the other hand- are problematic issues for Polish labour law regulations.

4.3 Employment protection

The implementation of dismissal law, under existing regulations of the Polish Labour Code, leads to a strong labour market segmentation between employee, meaning as those, who have an employment contract and the rest workers, who are engaged on different working arrangements, especially self-employed, and those who provide their work under civil law contracts, including temporary agency workers. The first and foremost problematic aspect of the dismissal law in Poland is the fact that it applies only to the employment regulated by the labour law provisions – an employment contract. It does not cover employment arrangements on the basis on self-employment and civil law contracts, as well as temporary agency work, which all are widespread among care workers. These working arrangements are not the subject of dismissal law. The termination of the contract is shaped by the principle of the freedom of the parties to the contract. Consequently, the level of employment protection is mainly determined by the parties to the contract. For these reasons, at the time moving towards greater flexibility in the labour market both temporary work arrangements, especially on the civil-law basis and self-employment (that is often bogus), are considered by employers as “attractive” alternatives to regular permanent and full-time employment contracts. On the other spectrum is the employment contract that provides for the employee with the protection against unfair and unjust dismissal by an employer. Due to the last legislative

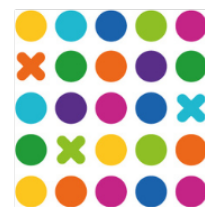
⁴⁹ More on this topic see Dorota Karkowska, Tomasz Karkowski, *Zatrudnianie w podmiotach leczniczych* (Warszawa 2018).



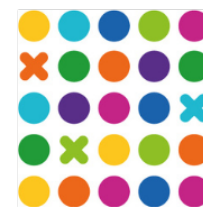
amendment from 2023⁵⁰, there was at least solved one of the factors that was responsible for the abuse relating to the use of fixed-term employment contract. Then have been removed the differences with respect to ordinary termination by an employer of a permanent employment contract and fixed-term employment contract. The transition to a free-market economy was not accompanied by changes in the regulation on protection against dismissal, which became even more flexible with regard to fixed-term employment contract compared to the rules that apply to indefinite-term employment contracts. Under preexisting regulations, which did not properly reflect the nature of temporary employment, a fixed-term employment contract can be terminated by an employer at any time, with no reason, under no control of trade unions, with only limited judicial control, and the right to relatively small compensation in cases of unlawful dismissal. Until 2015, the notice period for the termination of a fixed-term employment contract was fixed at 2 weeks, regardless of the length of the service of the dismissed employee. As a result, fixed-term employment contract appeared excessive in Poland. In recent years, Poland had had the highest share of fixed-term employment in the EU, and one of the highest among OECD countries. In 2015 fixed-term employment covered more than a quarter of all the employed (28,4%), which is characterized by a disproportionately higher proportion of young people (15-29) compared to other EU countries, especially labour market entrants and the low skilled, for whom fixed-term employment is not a voluntary choice. Temporary contracts were thus rarely a step towards permanent employment. The legislative changes were made until 2023 had not addressed this problem. The legislative amendment from 2015 only aligned the notice period for fixed-term and permanent employment contracts, which currently in both cases depend on the length of the service of the employee, but had not put any limitations on the ordinary termination of fixed-term employment contracts, leaving fixed term employees without any, even minimal, stabilization of their employment relationship, and so adding to the risk of the unjustified use of temporary employment⁵¹. The amendment from 2023 has finally faced this problem. It has equaled the rules on ordinary termination of fixed-term employment contract with permanent employment contract as regards the need to justify the termination of employment and the necessity to consult the intention of termination with the company trade union organization. If the consultation with trade unions is not so decisive for an employment protection of fixed-term workers – due to the low level of trade union membership of care workers and workers in general – the need to provide for the justification of termination is a key for an employment stabilization of fixed-term employee and the countervailing of abusive use of fixed-term employment contract. Moreover, since 2023 the employee in case of unjustified or unlawful ordinary termination of fixed-term employment contract can, alternatively to compensation, call for the restitution of employment relationship. The exception only applies to fixed-term employment contract that had already expired or if reinstatement to work would be inadvisable due to the short period remaining until the expiry of that period. These rules on ordinary termination of fixed-term employment contract do not apply to the fixed-term employment contract in employment through temporary agency and to employment contract for a probatory period. Parties to the employment contract through temporary agency are free to decide whether this contract can be terminated. Then the termination of the contract by the employer is possible without justified reason and only with a short (2 or 3 days) notice period. The employment contract for a probatory period can be ordinary terminated by employer without the need to provide justified reason and the need to provide for a consultation with the company trade union organization. The employee in case of ordinary termination cannot call for the restitution of employment relationship. Since the temporary limitations on the conclusion of employment contract for a probatory period, these differentiations in the employment protection have no real importance.

⁵⁰ Act of 9 March 2022 amending the Labour Law Act and amending certain acts (Journal of Laws from 2023, item. 641).

⁵¹ On this topic see: Agata Ludera-Ruszel, 'Ocena nowej regulacji umowy o pracę na czas określony – pozytywny kierunek zmian czy utrzymanie status quo?' (2016) 2 Praca i Zabezpieczenie Społeczne, 25; Agata Ludera-Ruszel, Typical..., op. cit.



The employment contract, both permanent, fixed-term and for a probatory period, can also be terminated extraordinary without notice period. The rules for extraordinary termination are the same for permanent employment contract, fixed-term employment contract and the employment contract for a probatory period. It imposes on the employer the duty to provide the justified reason for termination and the duty to consult his intention with the company trade union organization. In case of unjustified or unlawful extraordinary termination of employment contract the employee can generally call alternatively for compensation or restitution of employment relationship. The exception only applies to fixed-term employment contract that had already expired or if reinstatement to work would be inadvisable due to the short period remaining until the expiry of that period.



5 Wages and benefits

Wages and benefits for care workers in Poland can vary depending on factors such as the form of employment (whether it is employment contract or other work relation), specific occupation, experience, level of qualifications, location, and type of employer (public or private).

Care workers who provide their work through employment contract have the right to the statutory minimum wage and have the access to the widest range of employment benefits on the same basis as to the other employees. The statutory, and considered as mandatory, common benefits, includes, among others, paid annual leave, paid maternity and parental leave, paid sick leave, paid overtime, compensation for night shifts and work on Sunday, old-age pension insurance, disability and survivors' pension insurance, sickness insurance, and work accident insurance, that include occupational disease insurance, and occupational medicine, that include the pre-employment health examination, periodic health examination and of necessary control health examination, workplace risk assessment, prevention and addressing of occupational diseases, workplace injury management, health and safety training.

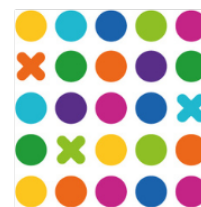
In January 2024 the statutory minimum wage was 4.242 PLN (around 958 Euro).

Workers who provide their work as self-employed based on civil law contracts are not entitled to such a wide range of benefits as employees. As a service provider, workers are entitled to receive a minimum hourly rate of 27,70 PLN in January 2024 (around 6 Euro). These workers are also entitled to certain statutory, mandatory benefits, that include: maternity and parental benefits at the time of inactivity due to childbirth and bringing up children, old-age pension insurance, disability and survivors' pension insurance, work accident insurance, that include occupational disease insurance. They are not entitled to mandatory occupational medicine that include pre-employment health examination, periodic health examination and of necessary control health examination. However, due to the general duty of employer to provide to health and safety working conditions to every worker, an employer must in every case assess whether such an examination may be necessary. The same apply to health and safety training. A service provider may be – at its request – covered by sickness insurance, and therefore have the right to sickness benefit for the time of inactivity due to disease. However, as a contractor in the contract for a specific task, worker is not entitled to receive a minimum hourly rate, as well as he is not covered by social insurance nor compulsorily neither voluntarily. Therefore, he has not the right to benefits related to sickness, maternity, parental and occupational accidents.

The minimum wage and the minimum hourly rate are regulated in the Act on minimum remuneration⁵². The gradual increase of statutory minimum wage and minimum hourly rate leads to the full implementation by Poland of the EU Minimum Wage Directive, since the average remuneration for work in Poland in January 2024 was 7.768,35 PLN (around 1.700 Euro)⁵³.

⁵² Act of 10 October 2022, Journal of Laws from 2020, item 2207.

⁵³ Aleksandra Majchrowska, Paweł Strawiński, 'The evolution of the minimum wage in Poland and its consequences on labour market' (2024) 55(1) Bank i Kredyt, 55.



The statutory minimum wage for employees in the health sector in general, is stipulated in the Act on the method of determining the basic remuneration of certain employees employed in healthcare entities⁵⁴. All other care employees not employed in healthcare entities, are entitled to the general statutory minimum wage.

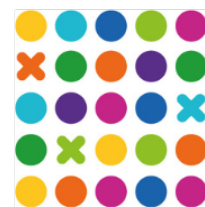
The minimum wage in care sector in healthcare entities, broken by occupational groups, will be:

1. Physiotherapist and other medical professional with the required higher education at the master's level and specialization, a nurse with the professional title of Master of Nursing or a midwife with the title of Master of Midwifery with the required specialization in the field of nursing or in the field applicable in health care – 8.186,53 PLN (around 1.839 Euro).
2. Physiotherapist and other medical professional with the required higher education at the master's level, a nurse or midwife with the required higher education (first degree studies) and specialization or a nurse or midwife with the title of Master of Midwifery with secondary education and specialization – 6.473,07 PLN (around 1.454 Euro).
3. Physiotherapist, nurse, midwife, paramedic, other employee performing a medical profession specified in 1-2 point, with the required higher education (first degree studies), physiotherapist, paramedic with the required secondary education, or a nurse or midwife with the required secondary education, who does not have the title of specialist in nursing or in the field applicable in health care – 5.965,38 PLN (around 1.340 Euro).
4. Other employee performing a medical profession specified in points 1-3, with required secondary education and medical caregiver – 5.457,69 PLN (1.226 Euro).
5. Employee of basic activity (including hospital orderly and hospital ward) other than an employee performing a medical profession with the required education below secondary – 4.125 PLN (around 926 Euro).

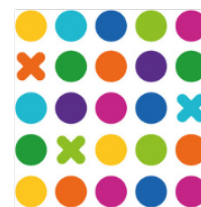
The Healthcare Institutions Law contain a provision that provide care workers with a specific benefits. These benefits are given to employees, and only with one exception to persons who provide work under other personal work relations. Under the Health Institutions Law, an employee practicing a medical profession in healthcare entities is entitled to:

- the remuneration for a standby duty outside healthcare facilities that provides a medical activity that require round-the-clock coverage in the amount of 50% of the hourly rate of basic remuneration that is calculated by dividing the amount of the monthly basic salary resulting from the employee's personal classification by the number of working hours to be worked in a given month;
- the compensation to shift work in the amount of at least 65% of the hourly rate basic remuneration, calculated as indicated above, for each hour of night work and at least 45% of the hourly rate of basic remuneration, calculated as indicated above, for each hour of daytime work on Sundays and public holidays as well as non-working days during an average five-day working week;
- compensation for a members of an emergency medical teams, as indicated in the provisions of the Act of 8 September 2006 on the National Medical Emergency Service, for every hour of work in the amount of 30% the hourly rate of basic remuneration, calculated as indicated above. Exceptionally the right to this compensation is also guaranteed to the members of an emergency medical teams who provide their work outside the employment relationship, on other personal work relations, in the amount 30% the hourly rate of salary resulting from the contract under which they work.

⁵⁴ Act of 8 June 2017, Journal of Laws from 2022, item 2139.



- compensation for on-call duty work in the amount of 100% of his normal remuneration for work during night, Sunday and holidays and day off for work during those days and 50% of his regular remuneration for work during any other day.
- compensation for work exceeding an average of 48 hours per week in the adopted reference period in the amount of 100% of his normal remuneration for work during night, Sunday and holidays and day off for work during those days and 50% of his regular remuneration for work during any other day.
- compensation for each hour of being on standby in the amount of 50% of the hourly rate of basic remuneration that is calculated by dividing the amount of the monthly basic remuneration resulting from the employee's personal classification by the number of working hours to be worked in a given month.



6 Working time, health and safety, implications of the COVID-19 pandemic, and training and competence development

6.1 Working time

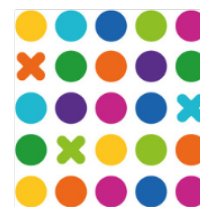
Basically, working time of care workers who provide work based on employment relationship is the subject of the same rules and limitations as applicable for the other employees. In this respect, the important are:

1. Standard working hours, that in Poland is 40 hours, usually spread over five days, with eight hours per day in the primary reference period does not exceed 4 months. In this regard, the Polish legislator goes far beyond the protective measures adopted in directive 2003/88/EC, which do not include the notion of working day and in which working time is only restricted to the maximum average 48-hours weekly working time standard, minimum 11-hours continuous daily rest period and minimum 24-hours weekly rest period⁵⁵. The daily working time can be exceeded to 16 hours in the reference period not exceeding 1 month, when employee is being partly on standby for work. In this case an employee is entitled, immediately after each period of performing work in an exceeded daily working time, to rest period for a period of time that ensures at least a specified number of hours worked, regardless of the weekly rest period.
2. On-call time that is classed as working time only of employee actually worked. Otherwise, on-call time is not classified as working time. However, an employee who remain on-call time at the workplace, is entitled to an adequate free time. This does not refer to employee being on-call time at home The Polish regulation raises doubts about its conformity with directive 2003/88/EC⁵⁶. According to TSUE on-call time at the workplace should be classified as working time, regardless of whether during this time work has been carried out or not, while an employee remain on disposal of an employer and while directive 2003/88/EC only makes a distinction between working time and rest⁵⁷.
3. Overtime, that is allowed but is the subject to certain limitations. Overtime should not exceed 150 hours per year, and the weekly working time limit, including overtime, should not exceed 48 hours. However, in case of the need to conduct a rescue operation to protect human life or health the limit of 150 hours per year does not apply. For overtime work an employee is entitled to the compensation in the amount of 100% of his normal remuneration for overtime during night, Sunday and holidays and day off for work during those days and 50% of his regular remuneration for overtime during any other day. Exceptionally, instead of compensation an employee will be entitled to a day off on his request or without such a request but in the amount half as high. The legal definition of overtime, meaning as a work performed out of the ordinary working hours, raises doubts about its conformity with directive 2003/88/EC since Polish definition of overtime do not include remaining of employee in disposal of employer, when work is not carried out. It is indicated that directive 2003/88/EC does

⁵⁵ Agata Ludera-Ruszel, 'The situation of women in the labour market in Poland in the light of existing labor law provisions concerning the working time' (2016) 4 Przegląd Politologiczny, 148.

⁵⁶ Krzysztof Stefański in: Krzysztof W. Baran (ed), *Kodeks pracy. Komentarz* (Wolters Kluwer 2018).

⁵⁷ See rulings: from 9.09.2003 r., C-151/02, Jeager, Zb. Orz. 2003, s. I-8389; from 1.12.2005 r., C-14/04, Dellas, Zb. Orz. 2005, s. I-10253; from 11.01.2007 r., C-437/05, Vorel, Zb. Orz. 2007, s. I-333.



not make such a difference. It only differentiates between working time, covering remaining at disposal of employee, and rest period⁵⁸.

4. Paid break of at least 15 minutes, if an employee works more than six hours per day. For a workday longer than eight hours, the break should be at least 30 minutes. The right to paid break is in line with directive 2003/88/EC⁵⁹.
5. Rest periods, according to which an employee is entitled to at least 11 hours of uninterrupted rest between two consecutive working days and to at least 35 hours of uninterrupted rest in every week. The week rest period should be normally taken on a Sunday, which is defined as a period covering 24 hours starting from 6:00 am. Polish labour law does not provide for the legal definition of rest period. Therefore, for this aim one must refer to the definition under directive 2003/88/EC⁶⁰.
6. Rules on work by night defined as work performed between 10:00 pm. And 6:00 am, when an employee is entitled to additional right and benefits. The legal definition of "employee working at night" complies with legal definition of directive 2003/88/EC⁶¹.
7. Maximum working hours, that in general is average 48 hours per week, calculated over a reference period of up to four months. Maximum weekly working hours arise from directive 2003/88/EC.
8. Annual holiday leave that is at least 20 days per year for a full-time employee. After of at least 10 years of employment this entitlement increases to 26 days per year. Polish regulation providing an employee 26 days of holiday leave is more advantageous to directive 2003/88/EC⁶². Depending on the specific collective agreements the amount of holiday leave may further increase. The certain periods of studying are considered as equal to employment for the entitlement to annual holiday leave. During the holiday leave an employee retains the right to remuneration as if he were working.

The Healthcare Institutions Law contain a specific provision on working time that apply to employees practicing a medical profession in healthcare entities. For care workers this includes:

1. Standard working hours that generally may not exceed 7 hours and 35 minutes per day and 37 hours and 55 minutes per week in an average five-day working week in the agreed reference period does not exceed 3 months. Exceptionally, if it is justified by the type of work or its organization, working time may be exceed to 12 hours per day provided that the working hours per week do not exceed 37 hours and 55 minutes in the reference period does not exceed 1 month, or exceptionally not exceed 4 months. However, working time of pregnant employee and employee bringing up child not older than 4 years, in any case may not exceed 8 hours per day. The working time schedule should be applied based on work schedules established for the adopted reference period, specifying working days and hours for individual employee as well as days off.
2. The specific rules of on-call duty that can be imposed on: a) care employees with the higher education (first degree or second degree studies), who practicing a medical profession in healthcare entities that provide stationary and continuous (round-the-clock) care services, b) paramedic who are employed in hospital emergency ward and in emergency medical teams. Time of on-call duty is covered by working time.

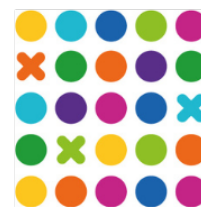
⁵⁸ Beata Bury, *Praca w godzinach nadliczbowych jako obowiązek pracownika* (C.H. Beck 2007), 18.

⁵⁹ Krzysztof Stefański in: *Kodeks...*, op. cit.

⁶⁰ Marta Derlacz-Wawrowska in: Marta Derlacz-Wawrowska and Monika Latos-Miłkowska and Marcin Wujczyk (eds.), *Kodeks pracy. Komentarz w perspektywie europejskiej i międzynarodowej* (Wolters Kluwer 2014).

⁶¹ Krzysztof Rączka in: Małgorzata Gersdorf and Michał Rączkowski and Krzysztof Rączka (eds.), *Kodeks pracy. Komentarz* (Warszawa 2014).

⁶² Marta Derlacz-Wawrowska in: *Kodeks...*, op.cit.



Consequently, in this regard this regulation comply with directive 2003/88/EC⁶³. Work on-call duty may exceed standard working hour of 37 hours and 55 minutes per week in the adopted reference period. In this case will not apply the general, statutory limit of 150 hours of overtime per year.

3. The rule that apply to a) care employees with the higher education (first degree or second degree studies), who practicing a medical profession in healthcare entities that provide stationary and continuous (round-the-clock) care services, b) paramedic who are employed in hospital emergency ward and in emergency medical teams, that allows to exceed weekly working time limit, including overtime, of 48 hours, provided that such an employee will agree in writing and the reference period will not exceed 1 month. The consent may be withdrawn with a one month's notice. An employee who does not agree on the extension of his weekly working time cannot be discriminated for this reason.
4. The rule that applies to employees on-call duty that the 11 hour's rest period should be given immediately after the end of duty. In the case justified by the work organization a) care employees with the higher education (first degree or second degree studies), who practicing a medical profession in healthcare entities that provide stationary and continuous (round-the-clock) care services, b) paramedic who are employed in hospital emergency ward and in emergency medical teams are entitled to at least 24 hours of uninterrupted rest each week granted in a reference period not longer than 14 days.
5. Rules on being standby for work that apply to care employees with the higher education (first degree or second degree studies), who practicing a medical profession in healthcare entities that provide stationary and continuous (round-the-clock) care services. In the case of the call and the need to provide work the rules of on-call work are applied.

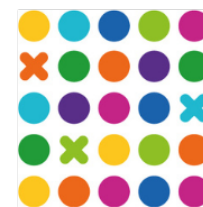
The regulations on working time that apply to care employees are not applicable to care workers who provide their work based on other, than employment relationship, personal work relations. With regard to these workers there are any statutory, mandatory working time regulations. Therefore, any regulations on working time may be only contain in collective agreements or individual contract of service.

6.2 Health and safety

The right for every worker to have a health and safety work environment has been enshrined in the Polish Constitution (Article 66(1)). This means that the Constitutional right to have health and safety work environmental have a broad personal scope and encompass every work relation⁶⁴. This general right is exercised by the provisions of Labour Code that specifies the obligations of the parties in this regard. According to the Labour Code an employer has a general duty to protect the health and life of employees by ensuring safe and hygienic working conditions. This corresponds with the duty of employee to comply with the regulations and rules on safe and hygienic working conditions. This includes the duty of an employee to refrain from work, without any negative consequences, that does not ensure them with safe and hygienic working environment. It is important to note that the employer's duty to ensure safe and hygienic working conditions apply not only to employees, but also to every worker, including self-employed persons, who provide services at the workplace or at another place

⁶³ Tomasz Rek in: Maciej Dercz and Tomasz Rek (eds.), *Ustawa o działalności leczniczej. Komentarz* (Wolters Kluwer 2019).

⁶⁴ Michał Raczkowski, 'Bezpieczne i higieniczne warunki pracy w zatrudnieniu cywilnoprawnym' (2019) 1 *Praca i Zabezpieczenie Społeczne*, 66.



indicated by an employer. However, the range of statutory duties of employer are different in relation to employment relationship and other work relations. The difference applies to:

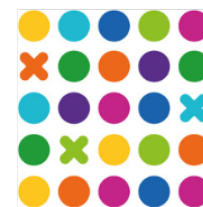
1. Health and safety training before starting work and periodically during employment, that is mandatory only regarding employees. In relation to workers, who are not employees, an employer individually assesses, whether such a training is necessary for the duty to ensure that work is provided in a safe manner and in a working condition that poses no risk to health and life of an employee.
2. Occupational medicine that includes pre-employment health examination, periodic health examination and, if necessary, control health examination, that are mandatory only regarding employees. In relation to workers, who are not employees, an employer can individually assess, whether such medical examinations are necessary for the duty to ensure that work is provided in a safe manner and in a working condition that poses no risk to health and life of an employee.
3. Occupational medicine that provides for diagnosis and treatment of occupational diseases apply equally to employees and other workers, who then have the right to social security benefits. However, the employer duty to transfer an employee to another job with the right to compensatory allowance for a period of 6 months, when the symptoms of a diseases have already appeared or when due to occupational diseases an employee is unable to perform previous work, cover on employees and do not apply to other workers.
4. Employee health and safety bodies with whom employer should consult on health and safety. These bodies consist of only with employee (no other workers) representatives chosen by the company trade union organization. These are: a) health and safety service, in companies with more than 100 employees; b) health and safety committee, in companies with more than 250 employees. In companies employing no more than 100 employees, the performance of tasks of these bodies to an employee employed for other work. Small employers (with up to 10 employees or 50 if the health and safety risks are low) can carry these tasks out themselves, provided they have the appropriate training.

Regarding all care workers, regardless of the form of employment, the duty of employer to protect the health and life of employees may, in particular concern the protection against different physical, biological, chemical and psychophysical dangers that may occur during work is performed. The source of risks can be both working environment and the human behavior (patient). Physical dangers include, in particular: slip, trip or fall of a person, sharp elements, moving means of transport. Biological dangers are, in particular infections, allergies, poisoning, while the bacteria can be transferred through the contact with everyday objects, hands, broken skin, blood and other body fluids. Psychophysical risks include a physical load that led to excessive burden for musculoskeletal system and to excessive stress and professional burnout⁶⁵.

6.3 Implications of the Covid-19 pandemic

The COVID-19 pandemic had a significant implication for care workers in Poland, as it had for care workers worldwide. These implications encompass various aspects of their work and well-being. The key implications include:

⁶⁵ Paulina Gołębiowska, 'Zagrożenia w pracy z osobami starszymi – wybrane zagadnienia' (2017) XXX(4) Annales Universitatis Mariae Curie-Skłodowska, 121; Łukasz Cywiński, 'Zagrożenia osobistego bezpieczeństwa pracowników socjalnych w globalnych warunkach społeczeństwa polskiego. Teoria i praktyka' (2017) XXX(4) Annales Universitatis Mariae Curie-Skłodowska, 19.



1. Increased workload and stress. Care workers, especially those employed in hospitals, nursing homes and home care settings, have experienced a workload during pandemic. They have been at the front line of providing care for COVID-19 patients and managing the increased demands on healthcare services. The heightened stress levels from working under challenging conditions can have adverse effects on their mental and physical health⁶⁶.
2. Risk of infection. Care workers, by the nature of their job, are at a higher risk of exposure to infectious diseases, including COVID-19. Inadequate availability of personal protective equipment and the other resources early in the pandemic may have put them at even greater risk. While measures have like been implemented to improve safety, the risk of infection remains a concern⁶⁷.
3. Shortages of staff and resources. The pandemic placed significant strain on healthcare systems, leading to shortages of staff and resources. Care workers may have had to work longer hours, deal with staff shortages, and face challenges in accessing necessary medical supplies and equipment⁶⁸.
4. Impact on mental health. Care workers have faced emotionally challenging situations, dealing with the suffering and loss of patients, as well as potential exposure to the virus themselves. The pandemic has taken a toll on their mental health, leading to increased rates of stress, anxiety, and burnout⁶⁹.
5. Training and education. With the evolving nature of the virus and public health guidelines, care workers needed continuous training and education to stay updated on best practices and safety measures. Keeping up with the rapidly changing information has been a challenge.
6. Support and recognition. While many care workers have been hailed as heroes for their dedication during pandemic, they have also faced challenges in terms of recognition and support. Adequate compensation, access to resources, and appreciation for their efforts are crucial for sustaining a motivated and resilient workforce.
7. Changes in the working practices. The pandemic has led to changes in work practices, such as adoption of telemedicine, increased use of technology for communication and greater emphasis on infection control measures⁷⁰.
8. Vaccine rollout. The vaccination campaign in Poland would have also impacted care workers, with considerations such as prioritization for vaccination based on their roles, vaccine acceptance among workers, and education about the vaccines.

6.4 Training and competence development

Training and competence development of care workers in Poland are crucial condition for professionalization of care work, to ensure the delivery of high-quality care and support to those in need. This is also a necessary

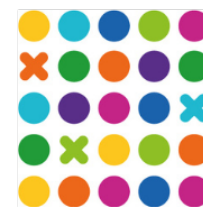
⁶⁶ Hanna Kinowska, Marta Juchnowicz (2023), 'Wellbeing of employees in the healthcare industry in Poland under pandemic conditions' (2023) 586(1) *Polityka Społeczna*, 25.

⁶⁷ Paweł Przyłęcki, 'The Covid-19 pandemic impact on the Polish medical personnel work: a survey and in-depth interviews study' (2023) 11, *Front Public Health* < <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10293619/> > accessed 24 April 2024.

⁶⁸ Klaudyna Grzelakowska, Jacek Kryś, 'The impact of Covid-19 on healthcare workers' absenteeism: infections, quarantines, sick leave – a database analysis of the Antoni Jurasz University Hospital No. 1 in Bydgoszcz, Poland' (2021) 6(1) *Medical Research Journal*, 47.

⁶⁹ Maria Belcarz, 'The impact of the Covid-19 pandemic on the mental health and social functioning of healthcare workers' (2023) 14(4) *Journal of Education Health and Sport*, 319.

⁷⁰ Kornelia Kaźmierkiewicz, 'Impact of Covid-19 on the functioning of medical facilities in Poland' (2023) 20(1) *Journal of Education Health and Sport*, 140.



condition for the increasing of the social value of care work.⁷¹ There are several components involved in training and competence development for care workers in Poland that deserve the attention in this regard.

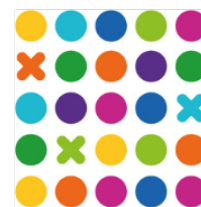
1. Care workers in Poland, including basic care workers, typically need to have specific educational qualifications (to complete a specific level of general education and specific vocational education that provide a specific theoretical knowledge and practical skills) to work in various healthcare entities. Depending on the type of care they provide (e.g., elderly care, disability care), they may also require a specialized training (e.g., training in adaptive techniques for work with people with disabilities or training in geriatric care or wound care for work with elderly) and/or experience meaning as a length of services in care sector. However, in practice, usually any formal (educational) requirement is needed to provide basic care at home of patient when care worker has been involved by a person in need or his family member on their own as well as to informal care work providing by family members and migrants.
2. Care workers in Poland may participate in various forms of continuous professional development that is essential to enhance their skills and competences. Vocational training may keep care workers updated with the latest best practices, regulations, and technological advancements in the field. This, as a result contribute to the professionalization of care workers. Care workers may participate in vocational training on their own in a number of professional development opportunities offered by a training entity (private and public), but also they may participate in training organized by an employer at company or outside the company.

Regarding employees the general regulation on vocational training is contain in Labour Code. This regulation does not apply to other work relations. Labour Code created a general obligation for every employer to facilitate professional employee development. This general obligation does not impose on an employer the duty to organize a specific vocational training as well as to bear the financial burden for vocational training of an employee. This obligation only means that an employer may not prevent an employee in participating in vocational training, that may involve in particular the necessary to agree on changes in working time schedule. When an employer organize a vocational training (that take place on the initiative of an employer) or agree that an employee will participate in training organized on their own, an employee has the right to paid training leave to take final examination (its length is depending on the type of exam and the level of education) and to paid day off from work for the time necessary to arrive on time for compulsory classes and for their duration. In other cases, an employee who participate in vocational training on their own may only apply to unpaid leave and to day off from work for the time necessary to arrive on time for compulsory classes and for their duration, on the free decision of employer⁷².

Some statuses that are addressed to certain categories of care workers contain specific regulations regarding training and competence development of care workers. Such a specific regulations are contained in: Act on the occupations of nurse and midwife; Act on the paramedic and the professional self-government of paramedic; Act on the psychologist profession and the professional self-government of psychologists and in Draft of the Act on medical professions.

⁷¹ Iwona Malinowska-Lipień, Ewa Kawalec-Kajstura, Iwona Bodys-Cupak, Alicja Kamińska, Anna Majda, Zuzanna Radosz-Knawa, Mary Silva, Eduardo Batalha, Manca Pajnic, Checulaev Champeix, 'Giving Care – Empowering personal caregivers and personal assistants by developing technical, soft and sigital skills' (2022) 30(3) Nursing Problems, 83.

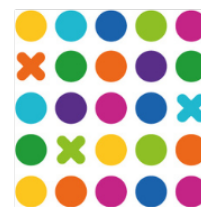
⁷² More on this issue see Agata Ludera-Ruszel, *Podnoszenie kwalifikacji zawodowych przez pracowników na gruncie kodeksu pracy oraz wybranych ustaw szczególnych* (Wolters Kluwer 2015).



Act on the occupations of nurse and midwife provides for a broad regulation on post-graduate education and other forms of development of qualifications of nurses and midwives. These regulations generally apply to nurses and midwives who provide their work based on employment contract and to other personal work relations. First and foremost, it imposes on nurses and midwives the general obligation to constantly updating their knowledge and professional skills, matched by the right to professional development in various forms of post-graduate education. The forms of post-graduate education include specialization training, qualification course, specialist course, training course. The post-graduate education may be undergone at nurse or midwife who is an employee on its own request based on referral issued by the employer to the organizer of the education. This form of professional development does not apply to other work relations. The post-graduate education of an employee and other workers may undergo without such a referral of an employer on the basis on an agreement concluded with the organizer of post-graduate education. When a post-graduate education is provided based on referral issued by the employer an employee is entitled to a paid day off from work for a part of the working day and the paid training leave to take part in the mandatory classes in the amount of up to 28 days and additional maximum 6 days to take part in the national exam after specialization training. In this case, an employer may also on their own decision grant an employee with an additional benefits, such as reimbursement of the costs of travel, accommodation and meals in accordance with the rules applicable to business trips within the country, of the education take place in a location other than the employee's place of residence and place of work; covering tuition fees charged by the education provider; grant an additional training leave. A nurse and midwife who takes a post-graduate education without referral issued by the employer may be granted unpaid leave and day off from work for a part of the working day. This regulation applies to employment and other work relations.

Act on the paramedic and the professional self-government of paramedic also provides for a broad regulation on a continuing professional development of paramedic. These regulations generally apply to paramedics who provide their work based on employment contract and other personal work relations. First and foremost, it imposes on paramedic the general obligation to constantly updating their knowledge and professional skills in the form of post-graduate education or other forms of professional development. This corresponds with the obligation of employer to facilitate professional employee development of paramedic. The forms of post-graduation include: specialization training and qualification courses. The costs of professional development of paramedic are born by paramedic or by healthcare entities where paramedic performs his profession. A paramedic engaged in professional development is entitled at his request to a paid training leave of up to 6 working days per year. The date of training leave is agreed each time with the employer.

Draft of the Act on medical professions that under parliamentary works and is addressed to occupational therapist and medical caregiver, contains a broad regulation on a continuing professional development of a persons who perform a medical profession. First and foremost, the regulation imposes on the person who perform a medical profession an obligation to professional development in the forms of post-graduate and other forms of professional development. This corresponds with the right of the person who perform a medical profession to professional development in these forms. The costs of professional development are born by a person on its own or by healthcare entities where a performs his medical profession or by educational entity. The forms of post-graduation include specialization training and qualification courses. The form of other professional development includes improvement course and self-education. A paramedic engaged in professional development is entitled at his request to a paid training leave of up to 6 working days per year. The date of training leave is agreed each time with the employer.



7 Social security coverage and benefits

Social security system in Poland aims to provide financial assistance, healthcare, and other benefits to eligible individuals, ensuring a basic standard of living and safeguarding against various risks such as old-age, maternity and parenting, sickness, including occupational sickness, disability, unemployment, work accidents. The financing of the Polish social security system relies on social contributions. The organizational structure of the system is characterized by a relatively complexity, since it involves institutions at central and regional level⁷³. The main source of financing of social security system in Poland include taxes and social insurance contributions⁷⁴. The right of every citizen to social security whenever incapacitated for work by reason of sickness or invalidism as well as having attained retirement age is guaranteed by the Polish Constitution. The scope and forms of social security shall be specified by statute (Article 67). Social security system in Poland is in the responsibility of the Ministry of Family and Social Policy and the Social Insurance Institution (*Zakład Ubezpieczeń Społecznych*). The social security system in Poland is composed of: the social insurance and welfare system, health insurance system, benefits in respect of unemployment and family benefits. Pursuant to the Polish Constitution, social security system in Poland is governed by a few detailed legal instruments. Among others there are:

- Act of 13 October 1998 on the social insurance system – the so-called System Act⁷⁵
- Act of 17 December 1998 on pensions from the Social Insurance Fund – the so-called Pension Act⁷⁶.
- Act of 25 June 1999 on cash social insurance benefits in respect of sickness and maternity – the so-called Sickness and Maternity Act⁷⁷.
- Act of 30 October 2002 on social insurance in respect of accidents at work and occupational diseases – the so-called Accident Insurance Act⁷⁸.
- Act of 27 August 2004 on health care benefits financed by public funds – the so-called Health-Care Act⁷⁹.
- Act of 20 April 2004 on employment promotion and labor market institutions⁸⁰.
- Act of 12 March 2004 on social assistance⁸¹.
- Act of 11 February 2016 on state aid in raising children⁸².
- Act of 17 November 2021 on family care capital⁸³ – this Act is the basis for the provision of family care capital and for co-financing of the fee for a child's stay in a nursery, children's club or at a day career in the amount of PLN 400.
- Act of 28 November 2003 on family benefits⁸⁴.
- Act of 4 April 2014 on the establishment and payment of allowances for careers⁸⁵.

⁷³ Agnieszka Chłóń-Domińczak, 'Migrants' Access to Social Protection in Poland' in: Jean-Michael Lafleur and Daniela Vintila (eds.), *Migration and Social Protection in Europe and Beyond* (IMISCOE Research Series. Springer, Cham. 2020) <https://doi.org/10.1007/978-3-030-51241-5_22> accessed 24 April 2024, 328.

⁷⁴ Ibidem.

⁷⁵ Journal of Laws of 2022, item 1009, 1079 and 1115.

⁷⁶ Journal of Laws of 2022, item 504.

⁷⁷ Journal of Laws of 2021, item 1133, as amended.

⁷⁸ Journal of Laws of 2019, item 1205, of 2021, item 1621, 1834, of 2022, item 755.

⁷⁹ Journal of Laws of 2021, item 1285, as amended.

⁸⁰ Journal of Laws of 2022, item 690.

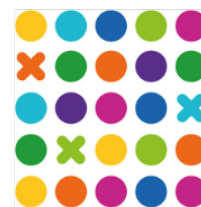
⁸¹ Journal of Laws of 2021, item 2268, as amended.

⁸² Journal of Laws of 2022, item 1577.

⁸³ Journal of Laws of 2021, item 2270.

⁸⁴ Journal of Laws of 2022, item 615, as amended.

⁸⁵ Journal of Laws of 2020, item 1297.



7.1 Social insurance system

The social insurance system consists of: old-age pension insurance (in case of retirement), disability pension insurance (in case of completely or partly incapacity for work), sickness insurance (in case sickness), maternity and parental insurance (in case of give birth children and in case bring up children), work accidents insurance (in case of accidents at work and occupational sickness). The access to the social insurance and the benefits provided from this system, is conditioned on the social security contributions covered by employer and worker on a) old-age and disability insurance; b) sickness insurance, that include maternity and parental insurance; c) work accidents insurance, that include occupational sickness insurance. Care workers who provide their work based on employment contract are obligatory covered by all these types of insurance, and the contributions are mandatory paid for employer and employee (deducted from employee's salary) in the rates determined in the System Act. According to the System Act, care workers who are self-employed and provide their work based on contract of services the compulsory are: old-age insurance, disability insurance and work accidents insurance. The sickness insurance and maternity and parental insurance can be obtained voluntarily by a worker. Regarding worker who provide work on the basis of contract for specific task none of these insurances are obligatory, but a worker may obtain old-age insurance and disability insurance voluntarily⁸⁶. The optional character of social insurance in case of contract for specific task would be considered as useful solution when work on this basis remain as an additional source of income. This does not apply, however, when work performed on contract for a specific task remain a main source of workers' income. In case of illness or accident such a worker would not be entitled to benefits from social insurance system. Therefore, it is proposed to amend the rules on the coverage to social insurance for workers who perform their work on the basis of contract for specific task⁸⁷. In the Polish legal scholarship there is an ongoing debate as the whether the model of social insurance system coverage is adequate to the category of self-employed person defined as dependent self-employment – the category that is not identified under existing legislation in Poland⁸⁸.

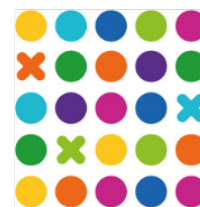
7.2 Disability pension insurance

Disability pension insurance provides for a following benefits: disability pension in case of completely or partly incapacity for work; training pension (for a pension eligible to disability pension, when ZUS certifying doctor or ZUS medical board has stated that he should retrained because he is incapable of work in current occupation); survivor's pension and supplement to the survivor's pension for a complete orphan (granted to eligible family members of a person who, at the time of death, held the established entitlement to the old-age pension or met the requirements to receive it, held the established entitlement to the bridging pension, or held the established entitlement to the disability pension or met the requirements for its award. When the right to the survivors' pension is established by ZUS, it is assumed that the deceased person was completely incapable of work); nursing

⁸⁶ More on this issue see: Antoni Kolek, 'Voluntariness of Social Insurance for Entrepreneurs – De Lege Ferenda Postulates' (2023) 16(3) Economic and Regional Studies, 16(3), 399.

⁸⁷ Justyna Wiśniewska-Chaszczyńska, 'Umowa o dzieło a system ubezpieczeń społecznych' (2021) 1 Ubezpieczenia Społeczne. Teoria i Praktyka, 1.

⁸⁸ On this issue see: Marcin Krajewski, 'Economically dependent self-employment – is it time to single out a new title to social security' (2022) 101 Acta Universitatis Lodziensis. Folia Iuridica, 223.



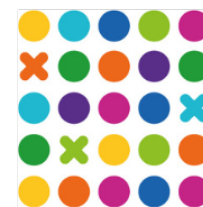
supplementary allowance (granted to person who is eligible to old-age pension or disability pension, if such a person has been declared completely incapable of work and independent existence or has reached the age of 75). Sickness insurance, maternity and parental insurance provides for the following benefits: sick pay and sickness allowance; rehabilitation benefit (granted to a person who is covered by sickness insurance and has already used up the entire sickness allowance, but is still incapable of work, provided that further treatment or rehabilitation can help the person restore his/her earning capacity); compensatory allowance (granted to an employee whose remuneration has been reduced because he has undergone vocational rehabilitation aimed at adaptation or training for a specific job); maternity allowance (granted to person that has become a mother or a father or has taken the child to be brought up); care allowance (granted to an insured person for the period of release from work due to the necessity to take personal care of a family member); additional care allowance (granted to an insured person for the period of release from work due to the necessity of taking personal care of the child or a disabled adult in connection with the closure of facilities attended by children or disabled adults due to COVID-19 pandemic). Accident insurance provides for the following benefits: lump-sum compensation in respect of an accident at work (granted to an insured person who has suffered permanent or long-term injury as a result of accident at work or occupational disease); lump-sum compensation in respect of employee's death (granted to family members of an employee who died as a result of an accident at work or an occupational disease); lump-sum compensation for a permanent and long-term damage to health in relation to occupational disease. Additionally, an employee will be eligible to: sick pay and sickness allowance, training allowance, compensation allowance, disability pension in case of completely or partly incapacity for work, nursing supplementary allowance, survivor's pension, and supplement to the survivor's pension for a complete orphan.

7.3 Healthcare insurance system

Polish healthcare insurance system is organized as a insurance-budgetary system. National Health Fund (*Narodowy Fundusz Zdrowia*) is a public institution responsible for managing and overseeing the public health system in Poland. It operates as main payer for healthcare services and is funded through contributions from employees, employers, and the government. Care workers who provide work based on employment contract and contract of service, including as a self-employed, are obligatory covered by healthcare insurance, as stated in Health-Care Act. Workers who provide work based on the contract for a specific task are not covered by a health insurance, thus they are not eligible to public health care benefits. These workers may be only covered by a private health insurance through insurance company. The public healthcare insurance is responsible for public funding of: preventive services; diagnostic services; medical services; rehabilitation services; provision of medicinal products and medical devices.

7.4 Unemployment benefit

Unemployment benefit remains a basic social security benefit that is available in the case of unemployment. The key function of unemployment benefit is to provide unemployed person with an adequate income support in the absence of other means of financial resources during unemployment (income function). Unemployment benefit is paid from the Labor Fund that is financed from contributions paid by employer and employee (it is deducted from employee's salary). The obligation to pay these contributions refers to employee and self-employed person who provide work based on contract of service. A contribution for the Labor Fund is not charged from a contract

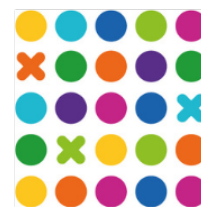


for specific task. Consequently, a care worker employed on a contract for a specific task, who become unemployed, will not be eligible to unemployment benefit. The amount of unemployment benefit is not related to the minimum wage or the past remuneration of individuals. Unemployment benefit at the level of the so-called basic amount depends on the length of time for which the right to unemployment benefit may be exercised. Within the first 90 days a beneficiary is entitled to unemployment benefit in the amount of 1.491,90 PLN per month (around 335 Euro), while in the later days the unemployment benefit is in the amount of 1.171,60 PLN per month (around 263 Euro). The amount of unemployment benefit, depending on the joint period of employment or other paid activity, is calculated at the level of: 80% of basic unemployment benefit in the case of persons with a total period of employment not exceeding 5 years; 100% of basic unemployment benefit in the case of persons with a total period of employment between 5 and 20 years, and 120% of basic unemployment benefit in the case of persons with a total period of employment of at least 20 years. Both the unemployment status and unemployment benefit payments are conditional on some job-seeking behaviour of unemployed person. Among the duties a primary one is a duty to accept a suitable job offer from a labour office. The law provides for a relatively broad definition of 'suitable job' that is determined by four conditions: qualification, health, geography, and income. Under these conditions a suitable job is defined as employment or other gainful work, subject to social insurance, and for the performance of which the unemployed person has sufficient qualifications or occupational experience, or which the unemployed person can perform after prior training or apprenticeship for adults; the health condition of the unemployed allows him/her to perform it, and the total time of commuting to the place of work and back by public transport does not exceed 3 hours, and for the performance of which the unemployed person collects monthly gross remuneration in the amount of at least the minimum remuneration for work calculated as the fulltime equivalent⁸⁹.

Unemployment is one of the reasons for social assistance benefits due to the provisions of the Act on social assistance. The key principle of the social assistance system in Poland is to provide support to those in a difficult situation in life, and to offer them help in social re-inclusion and in becoming socially independent, also in view of their professional integration and return to the labor market. Therefore, the social assistance benefits are not of a universal character and are limited to persons and families without sufficient income, i.e., lower than the legal income criterion. In principle social assistance benefits are an example of means-tested benefits, that are available only to unemployed person without sufficient income, lower than the legal income threshold. Taken into considerations assistance and motivation aspect of social assistance benefits, it is accepted that income threshold for public assistance must be determined at the level that face the risk of poverty and threat for wellbeing of individual, but not weakening the incentive for re-employment of social assistance recipients⁹⁰. A person who is unemployed is eligible to cash benefits in the form of temporary benefit for a period that in any single case is determined by the social assistance center. The amount of a temporary benefit is stated as up to the difference between the income criterion and the personal income. However, according to the provisions of the Act on social assistance, the level of the single benefit cannot be lower than 50% of the difference between the income criterion and the person's income. The amount of the temporary benefit cannot be lower than 20 PLN [5 Euro] by month. Regarding an unemployed person who is running a household alone, their personal income may not exceed 776 PLN per month (round 174 Euro) per month. For a person in a family the income per person may not exceed 600 PLN (per month around 134 Euro). For these reasons, the role of social assistance benefits as an instrument to

⁸⁹ Michał Brodecki, 'Wybrane problem interpretacyjne zasiłku dla bezrobotnych' (2017) 18(3) Zeszyty Naukowe Towarzystwa Doktorantów UJ. Nauki Społeczne, 67.

⁹⁰ Iwona Sierpowska, *Pomoc społeczna. Komentarz* (Wolters Kluwer 2017), 83.



combat poverty and social exclusion is called into question⁹¹. It is emphasized that social assistance does not protect against social exclusion, but rather help its recipients to subsist on a low standard of living⁹².

7.5 Family benefits

Family benefits in Poland are aimed at providing support to families with children. These benefits help alleviate the costs raising children and ensure certain standard of living for families. A key families benefits available in Poland includes:

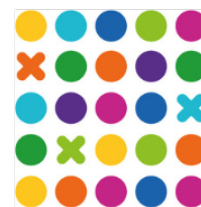
1. Child-support benefit under the 'Family 500+' programme. This benefit is universal. It is granted for every child under 18 years of age, regardless of family income. The concern that rises this cash payment are build around its negative effect on women's professional activity and its non-justification, related to unfair distribution of resources⁹³.
2. 'Good Start' benefit offers a support for families with children in incurring expenses related to the start of the school year. This benefit is granted to parents or guardians of school-going children aged between 7 and 20 (up to 24 in the case of children with disabilities). The Good Start benefit is granted regardless of income⁹⁴.
3. Family care capital and subsidy for the child's stay in a childcare institution for children up to 3 years. This benefit is available to parents for the second and subsequent child in the family, from the age of 12 to 35 months. The capital is available regardless of family income.
4. Family allowance and supplements to this allowance. The family allowance is granted if the family income per person in the family or the income of a learner does not exceed PLN 674 net per month. When a disabled child is a family member, the income threshold increases to PLN 764 net. The following supplements may be granted in addition to the family allowance: a) the child-birth supplement; b) the supplement in respect of care of the child during the period of the child care leave; c) the supplement for a single parent bringing up a child; d) the supplement for bringing up a child in a multi-children family; e) the supplement in respect of the education and rehabilitation of a disabled child; f) the supplement for a child starting the school year; g) the supplement for a child starting education at school outside the place of residence.

⁹¹ Witold Klaus, 'The Relationship between Poverty, Social Exclusion and Criminality' in: Konrad Buczkowski, et.al. *Criminality and Criminal Justice in Contemporary Poland. Sociopolitical Perspective* (Farnham:Ashgate 2015), 56.

⁹² Ibidem.

⁹³ Lilia Hrytsai, 'Evaluation of the Family 500+ Programme: National and International Perspectives' (2021) XXVIII(2) *Annales Universitatis Mariae Curie-Skłodowska. Sectio K*, 101.

⁹⁴ On this issue see: Michał Krawczyk, 'Family Caring Capital As The Latest Instrument Of National Family Policy' (2022) 58(131) *Zeszyty Naukowe Uniwersytetu Przyrodniczo-Humanistycznego w Siedlcach*, 13.



8 Concluding discussion

The job quality and inclusive working conditions of care workers in Poland remain critical issues that demand immediate attention from policy makers, stakeholders, and society as a whole. The considerations taken in this chapter have delved the challenges faced by care workers, that play a vital role for ensuring a decent working conditions. The data presented clearly highlights the prevalent concerns regarding low wages, long working conditions, lack of adequate training and insufficient benefits faced by all care workers. The care workers for whom having a decent working condition pose enormous challenges include care workers who provide their work outside employment relationship as a self-employed and domestic care workers who very often work in informal economy. These unfavorable conditions not only impact the well-being and job satisfaction of the workers themselves, but also jeopardize the quality of care provided to those who depend on their services and lead to the outflow of skilled care workers from polish labor market.

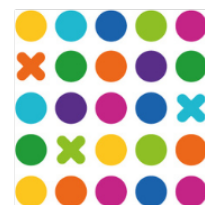
To address these challenges and promote positive change, a multi-pronged approach is essential. Firstly, the Polish government should prioritize the implementation of robust labor regulations and policies that protect the rights of care workers, ensuring fair wages, reasonable working hours, and access to benefits such as healthcare and paid leave. With this aim, the necessary would be the change in the existing model of application of labor law provision to the personal work relations. Moreover, the appropriate should be inclusion in the labor law the standards tailored to the specifications of the employment of domestic workers, making the protection offered by labor law more effective.

Secondly, investing in comprehensive training programs and continuous profession development for care workers will not only enhance their skills but also elevate the standard of care delivered to those in need. By recognizing their invaluable contribution to society, the creation of an inclusive and supportive environment for these essential workers would be possible. With this aim, the necessary would be inclusion of employers in the professional development of care workers, that will go beyond the duty of 'not to disturb' to the duty to active participation in this process.

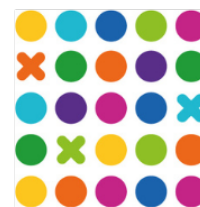
Furthermore, fostering dialogue between stakeholders, including government agencies, healthcare providers, unions, and non-governmental organizations, is crucial in devising sustainable solutions that address the unique challenges faced by care workers. Regardless of the changes in statutory labor law provisions, trade union organizations may paly a vital role in ensuring decent working conditions for care workers. A first step in this direction should be the broader trade union membership of care workers, in particular self-employed care workers and collective barraging coverage of care workers.

Lastly, societal attitudes towards care work must undergo a transformation. As mentioned in the introduction, from a sociological perspective, care work in Poland is considered to be as one of the most socially undervalued kind of work, believed as having no real economic value. This, in particular refer to domestic care work, including that provided by family members and migrants. Therefore, care workers should be appreciated, respected, and valued for their tireless dedication to improving the lives of others.

This change in perception will not only attract more individuals to the profession but also elevate the overall status of care work in society.



In conclusions, the job quality and inclusive working conditions of care workers in Poland are not only a reflection of our social values but also have a direct impact on the well-being of both care providers and recipients. By acknowledging the urgency of this issue and taking concrete steps to improve the situation, we can build a more equitable, compassionate, and sustainable future for care workers and the communities they serve.



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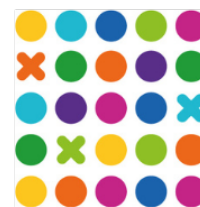
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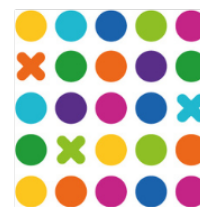
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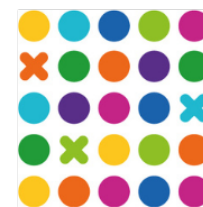
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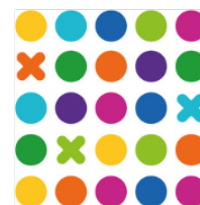
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