



**INFO-RIGHTS**

Making information the basis for strengthened and increased working rights in the agriculture and manufacturing sectors within the context of intra-EU posting of workers

# **POLAND REPORT** —————

## **ON THE MANUFACTURING SECTOR IN POLAND – CASE STUDY**



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In accordance with the Labor Code in Poland, the following employment conditions apply in the production industry:

Manufacturing industries are those that produce some type of goods through a combination of human labor, automated equipment, chemical processing, tools, and various systems. Manufacturing activities are based on the main stages of production, processing and preparation of goods, often starting from raw materials to obtain products that can be sold through B2C or B2B channels.

There are many types of manufacturing industries, such as industrial manufacturing, automotive manufacturing, consumer electronics manufacturing, chemical manufacturing, and food and beverage manufacturing.

## I. Types of employment contracts

Contract of employment

- for a limited period
- for an indefinite period

Mandatory contract

Temporary employment contract

- Contract of employment on specified time
- a civil law contract, for example a mandate contract, but only if it is justified by the nature of the work and the method of performing it.

## II. Working time

The Labor Code in Poland indicates that the maximum working time is 8 hours a day in an average 5-day working week, which gives us an average 40-hour working week in a maximum 12-month settlement period. Each holiday falling on a day other than Sunday reduces the total working time by 8 hours. Additionally, the employee is entitled to at least 11 hours of uninterrupted rest every 24 hours.

However, this is only the case when employees are employed under an employment contract.

In Poland, in the manufacturing industry, the use of mandate contracts is very popular.

The working time under a mandate contract is not limited in any way. A civil law contract is regulated by the Civil Code, so the provisions of the Labor Code do not apply in this case. The daily execution time of the order depends on mutual arrangements (between the client and the contractor). If the contract sets a maximum daily limit, the contractor is obliged to inform the client of his intention to exceed it.

The same applies to the duration of the mandate contract - it all depends on individual arrangements that should be included in the contract. It can be prepared for several days or weeks, or for several months or even years. There are no legal restrictions in this regard.

The introduction of regulations regarding the minimum hourly rate makes mandate contracts somewhat similar to employment contracts, in which a minimum monthly salary is guaranteed. Apart from this, there are definitely more differences than similarities between both forms of employment. First of all, the right to paid leave, downtime pay, etc. cannot be guaranteed on the basis of a mandate contract. Unlike an employment contract, in a mandate contract the contractor may appoint other people to perform the tasks entrusted to him, provided that the contract does not prohibit this. In the case of an employment contract, this is not possible. Additionally, the working time is not specified in the mandate contract and the work schedule can be prepared for contractors only on the basis of the deadlines declared by them.

### III. Dimension of holiday

Each employee is entitled to annual leave under an employment contract. The amount of leave depends on the employee's previous employment experience.

The period of education is also included in the internship.

The duration of the leave is:

- 20 days per calendar year for an employee with less than 10 years of service
- 26 days per calendar year for an employee with more than 10 years of service

On-demand leave is part of annual leave. An employee is entitled to a maximum of 4 days of leave on request per calendar year.

The terms of employment regarding the amount of annual leave and remuneration for work do not apply to an employee posted to the territory of the Republic of Poland if, in accordance with his qualifications, he performs a given position - for a period not longer than 8 days per year, starting from the date of commencement of work in a given position. - preliminary assembly or installation works provided for in the contract concluded by the employer posting an employee to the territory of the Republic of Poland with an entity conducting business in this territory, the performance of which is necessary to use the delivered products.

<https://www.biznes.gov.pl/pl/portal/00133>

A temporary employee employed under an employment contract is entitled to paid holiday leave. During the holiday leave, the temporary employee retains the right to full remuneration as if he had been working normally during that time.

A temporary employee is entitled to 2 days of leave for each month of being at the disposal of the user employer (regardless of the number of user employers).

It is assumed that the employee remains at the employer's disposal when he performs his normal duties or orders from his superiors, as well as activities in the interest of the employer-user, even without instructions, or remains ready to perform them.

The rules for granting annual leave depend on the period of work performed by the temporary employee for a given user employer:

- if the period of work is **shorter than 6 months**, the temporary employment agency and the user employer may agree on the temporary employee's use of annual leave in whole or in part during the period of temporary work. The temporary employment agency should notify the temporary employee about the arrangements made before concluding an employment contract with him.
- if the period of work is **at least 6 months**, the user employer must enable the temporary employee to take vacation leave within the period agreed with the employee. In such a case, the temporary employee also has the right to leave on request (the employee submits a request for this leave no later than on the day the leave begins). The amount of leave on request cannot exceed 4 days in each calendar year as part of the employee's annual leave entitlement.

Vacation leave is granted for days that would be working days for the temporary employee if he or she did not take the leave.

<https://www.biznes.gov.pl/pl/portal/00178>

## IV. Salary

The employee is entitled to remuneration in an amount not lower than that specified in the provisions on minimum wage

<https://www.gov.pl/web/premier/min-stawka-godzinowa-2024>

The amount of the minimum wage is the same for all full-time employees and does not depend on the length of service.

The minimum wage from July 1, 2024 is PLN 4,300 gross.

The minimum hourly rate for certain civil law contracts from July 1, 2024 is PLN 28.10 per gross hour.

In the case of persons employed under a part-time employment contract, the minimum remuneration is set in proportion to the number of hours worked by the employee in a given month.

### SALARY ADDITIONS

An employee performing night work is entitled to a remuneration allowance for each hour of night work in the amount of **20% of the hourly rate** resulting from the minimum wage.

Night time covers 8 hours between 9 p.m. and 7 a.m. The specific 8 consecutive hours are selected by the employer, acting independently or in cooperation with trade unions, depending on the method of determining the working time distribution.

For overtime work, an employee is always entitled to normal remuneration for each hour worked. In addition, overtime work must be compensated with an **additional salary (100% or 50%) or time off**.

An employee is entitled to an allowance of 100% of remuneration for overtime work due to:

- in the night
- on Sundays and holidays that are not working days for the employee, in accordance with the employee's working time schedule
- on a day off from work granted to an employee in exchange for work on a Sunday or holiday, in accordance with the working time schedule applicable to him
- for each hour of overtime work due to exceeding the average 40-hour weekly working time standard in the adopted settlement period, unless this standard was exceeded as a result of overtime work, for which the employee is entitled to a bonus of 50%.

An employee is entitled to an allowance of 50% of remuneration for overtime work on days that are working days for the employee, in accordance with the employee's working time schedule (including working Sundays and holidays). The exception is overtime work at night (for which you are entitled to a bonus of 100% of the remuneration).

The minimum hourly rate for mandate contracts is determined by the Government.

<https://www.gov.pl/web/premier/min-stawka-godzinowa-2024>

## V. Health and safety

Occupational health and safety (BHP) - a set of rules regarding the safe and hygienic performance of work, as well as a separate field of knowledge dealing with shaping appropriate working conditions. The field of occupational health and safety includes issues related to ergonomics, occupational medicine, labor economics, occupational psychology, technical safety and others. Refers to a set of rules regarding safe work in hygienic conditions.

[https://pl.wikipedia.org/wiki/Bezpiecze%C5%84stwo\\_i\\_higiena\\_pracy](https://pl.wikipedia.org/wiki/Bezpiecze%C5%84stwo_i_higiena_pracy)

The employer's primary obligation is to ensure safe and hygienic working conditions and to provide protective equipment to ensure that employees protect their life and health in the work environment. The employer, but also the employees, is responsible for occupational health and safety. Therefore, the employer must both create appropriate working conditions and train employees, providing instruction and instructions on safe behavior.

## VI. Equal treatment

Employees have equal rights due to equal performance of the same duties. This applies in particular to the requirement for equal treatment of men and women in employment. This rule results directly from the Labor Code.

According to it, employees should be treated equally in terms of:

- establishing an employment relationship

- establishing employment conditions
- promotion and access to training to improve professional qualifications
- termination of the employment relationship.

Employees cannot be discriminated against due to:

- gender
- age
- disability
- race
- religion
- nationality
- political beliefs
- trade union membership
- ethnicity
- faith
- sexual orientation
- employment for a fixed or indefinite period
- full-time or part-time employment.

Equal treatment in employment means non-discrimination in any way, directly or indirectly.

To talk about discrimination:

- the employer does not have to discriminate against all employees because of a given characteristic
- discrimination against an employee does not have to be a conscious and intentional action of the perpetrator.

**Direct discrimination** occurs when an employee has been, is or could be treated in a comparable situation less favorably than other employees because of one or more reasons considered to be discriminatory criteria.

**Indirect discrimination** occurs when, as a result of an apparently neutral provision, criterion applied or action taken, there are or could be unfavorable disproportions or a particularly unfavorable situation in terms of establishing and terminating an employment relationship, terms of employment, promotion and access to training in order to improve professional qualifications for all or a significant number of employees belonging to a group distinguished for one or more reasons defined as discriminatory.

Indirect discrimination does not occur when a provision, criterion or action of the employer is objectively justified due to the legitimate aim to be achieved and the means to achieve this aim are appropriate and necessary.

Discrimination also includes encouraging another person to violate the principle of equal treatment in employment or ordering him to violate this principle.

## VII. Collective labor agreements

Collective labor agreements are a type of social agreements concluded through negotiations between the employer(s) and employees, represented by trade unions. In collective labor agreements, employees represented by trade unions and the employer (or employers) may establish, for example, working conditions differently than in the provisions of the Labor Code. Thanks to such an agreement, the method of remunerating and bonusing employees can be better adapted to the specific nature of a given entrepreneur's activities.

However, the rules established in the agreement cannot be less favorable to employees than the provisions of the Labor Code and other acts and implementing acts. Provisions of a collective agreement that violate the principle of equal treatment in employment are not legally binding.

*Pursuant to Art. 239 of the Labor Code, a collective labor agreement may be concluded:*

- *for all employees employed by the employer(s)*
- *for certain employee groups*
- *and may also include persons performing work on a legal basis other than an employment relationship, as well as retirees and pensioners.*

In Poland, there is a division into company and multi-company collective labor agreements. The company agreement is concluded at the plant level. A multi-company arrangement may cover any number of different workplaces, e.g. schools, mines, steelworks or other companies. In a multi-company agreement, uniform work rules are established that apply to employees performing work in all entities covered by a given multi-company agreement. In Poland, there are no legal regulations establishing a separate category of industry agreements. A multi-company agreement may apply to plants operating in the same economic area, e.g. power plants, but the law does not prohibit concluding multi-company agreements for enterprises from different industries. Cross-company collective labor agreements apply only to those enterprises that have expressed their will to conclude the agreement. However, there is no obligation to conclude supra-company agreements for all enterprises operating in a certain area of the economy. No company is required to join any inter-company collective labor agreement, this applies to both existing companies and newly established companies or companies entering the Polish market with their activities.

## VIII. Unions

Provisions of Art. 12 and art. 59 section 1 of the Constitution of the Republic of Poland ensure freedom of association in trade unions and the freedom to create and operate them. The separation of trade unions from other forms of association and the granting of special rights to them result from the special role played by trade unions. Their purpose is, in accordance with Art. 1 section 1 of the Act of 23 May 1991 on trade unions, representing and defending the rights and interests of professional and social workers. The nature of matters in which trade unions perform their functions is determined by Art. 4 of the Trade Union Act. These include: defense of dignity, rights and material and moral interests, both collective and individual.

The forms and rules for performing their functions by trade unions are specified, among others, in: provisions of the Trade Union Act and the Labor Code.

The right to create and join trade unions is granted to persons performing paid work. A person performing paid work is:

1. employee as well
2. a person providing work for remuneration on a basis other than an employment relationship, if he does not employ other people for this type of work, regardless of the basis of employment, and has rights and interests related to the performance of work that can be represented and defended by a trade union.

There are three representative trade unions in Poland:

- **Niezależny Samorządny Związek Zawodowy “Solidarność” (NSZZ “Solidarność”)** <https://www.solidarnosc.org.pl/>
- **Ogólnopolskie Porozumienie Związków Zawodowych (OPZZ)** <https://www.opzz.org.pl/>
- **Forum Związków Zawodowych (FZZ)** <http://www.fzz.org.pl/>

Which can represent employees from the manufacturing industry and beyond. In addition to the organizations mentioned above, there are federations in Poland (approx. 300), nationwide trade unions (273) and local trade unions (approx. 24,000). Approximately 7,000 operate independently - without connections with a large trade union organization and only at the local level. trade union organizations of a company nature.

## **SAMPLE COLLECTIVE LABOR AGREEMENT**

<https://www.mzzgkorlen.pl/nowy-zakladowy-uklad-zbiorowy-pracy/>

## **SOURCE TEXTS**

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19740240141/U/D19740141Lj.pdf>

<https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu20031661608>

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20230001893/O/D20231893.pdf>





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