

ACT
of 26 June 1974
THE LABOUR CODE¹⁾

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(Excerpts)

**SECTION III. REMUNERATION FOR WORK
AND OTHER BENEFITS**

**Chapter I. Fixing Remuneration for Work and Other Benefits Connected
With Work**

Article 77¹. Conditions for the remuneration for work and grant of other benefits connected with work shall be fixed in the collective labour agreements in accordance with the provisions of Section Eleven, but subject to the provisions of Articles 77² to 77⁵.

Article 77². § 1. Any employer employing at least 20 employees who are not covered by a collective labour agreement or any multi-establishment collective labour agreement corresponding to the requirements specified in paragraph 3 below, shall fix the conditions of remuneration for work in the rules relating to remuneration.

§ 2. In the rules relating to remuneration referred to in paragraph 1, the employer may also fix other benefits connected with the work and the principles of allocating them.

§ 3. The rules of remuneration shall be valid for as long as the employees are not covered by an establishment collective labour agreement or a multi-establishment collective labour agreement fixing the conditions of remuneration for work and granting other benefits connected with work for a period and in a manner which allows for the specification, on the basis thereof, of individual conditions in the contract of employment.

§ 4. The rules of remuneration shall be fixed by the employer. If there exists in the establishment a trade union organization functioning in relation to the employer, the employer shall agree the rules of remuneration with such organization.

§ 5. The rules of remuneration shall be governed by the provisions of Article 239, paragraph 3, Article 241¹², paragraph 2, Article 241¹³ and Article 241²⁶ paragraph 2, respectively.

§ 6. The rules of remuneration shall come into force within two weeks of the date on which they have been communicated to the employees according to the practice adopted by a given employer.

Article 77³. § 1. The conditions of remuneration for work and allocation of other work-related benefits for employees employed in entities of the State budget sector, provided

they are not otherwise covered by any collective labour agreement, shall be specified, at the request of a relevant minister, by a regulation, within the scope not reserved by other laws as the competence of other authorities, by a minister competent in labour issues.

§ 2. As of the date on which a collective labour agreement comes into force the provisions of the regulation referred to in paragraph 1 shall not apply to the employees of entities of the State budget sector subject to such collective labour agreement.

§ 3. The regulation referred to in paragraph 1 should define the conditions of establishment and payment of, without limitation:

1) employees' basic remuneration;

2) other than the basic remuneration components which, especially due to specific characteristics or conditions of performed work, are justified by employees' professional qualifications, provided, however, that the remuneration component conditioned by the duration of employment, if any, cannot be greater than 20 per cent of the basic remuneration;

3) other work-related benefits, including those which may be conditioned by the periods of the employee's work; the above may particularly apply to a jubilee award and a one-time cash severance pay due to an employee whose employment relationship has been discontinued due to going on a pension because of incapacity to work or due to retirement.

Article 77⁴. Repealed.

Article 77⁵. § 1. The employee who, upon employer's request, performs an official task outside the locality where the employer has its seat or outside the regular workplace shall be entitled to dues for the purpose of covering expenses related to the business trip.

§ 2. The minister competent for labour shall, by regulation, determine the amount and rules of assessing the dues to which the employee employed in a State or self-government entity of the budget sector is entitled in respect of business trips at home and abroad. In particular, the regulation shall state the amounts of daily allowances, having regard to the period of a trip and, in case of trips abroad, the currency in which to fix the daily allowances and limits for accommodation in different countries, as well as the conditions for the refund of costs of travel, accommodation, and other expenses.

§ 3. The conditions for payment of dues in connection with a business trip to an employee employed with an employer other than the one specified in paragraph 2 shall be laid down in the collective labour agreement or in the rules of remuneration or in the contract of employment if the employer is not covered by a collective labour agreement or is not obliged to stipulate the rules of remuneration.

§ 4. The provisions of a collective labour agreement, the rules of remuneration or a contract of employment shall not fix a daily allowance per 24-hour business trip at home and abroad in the amount lower than the daily allowance for a business trip at home fixed for the employee referred to in paragraph 2.

§ 5. Where a collective labour agreement, the rules of remuneration or a contract of employment does not contain any provisions referred to in paragraph 3, the employee shall be entitled to dues to cover business trip costs accordingly pursuant to the provisions referred to in paragraph 2.

Chapter Ia. Remuneration for Work

Article 78. § 1. Remuneration for work should be fixed in a manner corresponding, in particular, to the type of work performed and qualifications required for its performance, and shall take into account the quantity and quality of the work performed.

§ 2. In order to fix remuneration for work the procedure provided for in Articles 77¹ to 77³ shall be applied to fix the amount and the principles of allocating remuneration rates to employees for work of a specific type or in a specific post as well as other (additional) components of their remuneration if they were envisaged in relation to the performance of specific work.

Article 79. Repealed.

Article 80. Remuneration shall be due for work performed. For any period of non-performance of work an employee shall retain the right to remuneration only when the provisions of labour law so provide.

Article 81. § 1. If, in the period of any non-performance of work, an employee was ready to perform such work but was prevented from doing it by reasons of the employer, such employee shall have the right to remuneration according to his/her individual monthly or hourly rate of pay and if such component of remuneration has not been identified in the specification of the conditions of remuneration, 60 per cent of the remuneration. However, under no circumstances may such remuneration be lower than the amount of minimum remuneration for work determined under separate provisions.

§ 2. The remuneration referred to in paragraph 1 above shall be due to the employee for any stoppage duration which has not been caused by his/her fault. If the stoppage resulted from an employee's fault, remuneration shall not be due.

§ 3. The employer may, for the stoppage duration, instruct the employee to perform other appropriate work for the performance of which the employee shall receive remuneration due for such type of work, but not however, less than the remuneration fixed in accordance with paragraph 1. If a stoppage resulted from an employee's fault such employee shall have a right to remuneration only for work performed.

§ 4. Remuneration for a stoppage duration caused by weather conditions shall be due to employees employed to perform work dependent on such conditions if the provisions of law so provide. Should the employee be instructed for the duration of such stoppage to perform other work, he/she shall have the right to remuneration in relation to the work so performed, unless the provisions of labour law provide that the principles specified in paragraph 3 above shall be applicable.

Article 82. § 1. The employee shall receive no remuneration for making defective products or inadequate performance of services. If the inadequate performance of work by the employee results in lower quality of the product or of services his remuneration shall be reduced accordingly.

§ 2. Where the defect in the product or of the service has been repaired by the employee he/she shall have the right to remuneration corresponding to the quality of the product or the service but for the time of work needed for the repair of the defect the employee shall receive no remuneration.

Article 83. § 1. The work standards applicable to work to measure expenditure of labour, its efficiency and quality may be used when this is justified by the type of work.

§ 2. The work standards shall take into account the achieved level of technological development and organization of work. Work time standards may be changed in order to correspond to new technical and organizational solutions promoting higher work efficiency.

§ 3. The exceeding of work standards shall not constitute the reason for their change if it is a result of higher individual contribution of work or occupational efficiency of the employee.

§ 4. Employees shall be informed about the change of work standards at least two weeks prior to the introduction of the new work standards.

Chapter II. Protection of Remuneration for Work

Article 84. Employees may not renounce their right to remuneration nor transfer such right to another person.

Article 85. § 1. Remuneration for work shall be paid at least once per month, at the same day of month fixed in advance.

§ 2. Remuneration for work payable once per month shall be paid in arrears, immediately after the full amount thereof has been fixed, but not later than within the first 10 days of the next calendar month.

§ 3. Where the fixed day of payment of the remuneration for work is a rest day, the remuneration shall be paid on the preceding day.

§ 4. Components of remuneration for work due to the employee for a period longer than one month shall be paid in arrears within time limits specified in the provisions of the labour law.

§ 5. Upon demand of the employee, the employer shall make the documents, on the basis of which the remuneration has been calculated, available to such employee.

Article 86. § 1. The employer is obliged to pay remuneration at a location, date and time specified in the workplace regulations or in other provisions of labour law.

§ 2. Remuneration shall be paid in cash; a partial remittance of remuneration in a form other than cash shall be admissible only when so provided by statutory provisions of labour law or a collective labour agreement.

§ 3. The duty to pay a remuneration may be performed in a manner other than personal delivery to the employee if the collective labour agreement provides so or upon his/her prior consent in writing.

Article 87. § 1. After the social insurance premiums and advance payment on natural persons' income tax have been deducted from the remuneration, only the following items may be further deducted from the remuneration:

- 1) sums attached by virtue of enforcement titles in respect of maintenance payments;
- 2) sums attached by virtue of enforcement titles in respect of payments other than maintenance payments;
- 3) cash advances given to the employee;
- 4) pecuniary penalties defined in Article 108.

§ 2. The deductions shall be made in accordance with the order specified in paragraph 1 above.

§ 3. The deductions made shall be subject to the following limits:

- 1) in the case of maintenance payments, up to three fifths of the remuneration;

2) in the case of attachment of other payments or deduction of cash advances, up to one half of the remuneration.

§ 4. All the deductions specified in paragraph 1, subparagraphs 2 and 3, may not amount to more than one half of the remuneration and together with the deductions defined in paragraph 1 subparagraph 1 they may not amount to more than three fifths of the remuneration. Irrespective of these deductions, pecuniary penalties shall be deducted within the limits specified in Article 108.

§ 5. Any rewards paid from the establishment's reward fund, additional annual remuneration and amounts due to employees by profit sharing or from the balance surplus shall be liable to attachment in satisfaction of maintenance payments up to the entire amount thereof.

§ 6. Repealed.

§ 7. Remuneration received on a previous payday for time of absence from work and for which the employee is not entitled to be paid, shall be fully deductible from the next remuneration for work.

§ 8. Deductions from an employee's remuneration in the month in which the remuneration components are paid for periods longer than 1 month shall be made from the total amount of remuneration including any such remuneration components.

Article 87¹. § 1. The following remuneration for work shall be free of any deductions:

1) the minimum remuneration for work established on the basis of separate regulations and payable to employees employed on a full-time basis, after withholding social insurance premiums and personal income tax advance – in case of deduction of any amounts enforced pursuant to enforcement titles with regards to payment of amounts other than maintenance or alimony payments;

2) 75 per cent of the remuneration referred to in subparagraph 1 – in the case of deducting cash advances paid to the employee;

3) 90 per cent of the remuneration referred to in subparagraph 1 – in the case of deducting cash penalties referred to in Article 108.

§ 2. If an employee works on a part-time basis the amounts defined in paragraph 1 shall be decreased in proportion to the amount of working time.

Article 88. § 1. Whilst observing the principles specified in Article 87, the employer also deducts maintenance payments without execution proceedings, except in the following cases:

1) maintenance payments are to be deducted on behalf of several of creditors, and the overall sum which may be deducted will not cover all maintenance payments;

2) remuneration for work was seized through court or administrative execution procedure.

§ 2. The deductions specified in paragraph 1 shall be made by the employer on request of the beneficiary on the basis of enforcement titles presented by him/her.

Article 89. Repealed.

Article 90. In matters not regulated by Articles 87 and 88, the provisions of the Code of Civil Procedure and the provisions on administrative execution in respect of cash payments shall be applicable.

Article 91. § 1. Payments other than those specified in Article 87, paragraphs 1 and 7 may be deducted from an employee's remuneration only by his/her consent expressed in writing.

§ 2. In the cases referred to in paragraph 1 the amount of remuneration free from deductions shall equal:

- 1) the amount defined in Article 87¹, paragraph 1, subparagraph 1 – where payments are deducted for the benefit of the employer;
- 2) 80 per cent of the amount defined in Article 87¹, paragraph 1, subparagraph 1 – where deductions include payments other than those specified in subparagraph 1.

Chapter III. Benefits Due During Period of Temporary Incapacity to Work

Article 92. § 1. For a period of an employee's incapacity to work due to:

- 1) illness or isolation because of a contagious disease, said illness or isolation lasting 33 days in total per calendar year, an employee shall retain the right to 80 per cent of his/her remuneration, unless the provisions of labour law applicable to a given employer provide for a higher remuneration in such circumstances;
- 2) an accident while travelling to or from work or disease during pregnancy – within the period specified in subparagraph 1 – the employee shall retain the right to 100 per cent of his/her remuneration;
- 3) undergoing necessary medical examinations for candidates for donors of cells, tissues and organs as well as undergoing the procedure of collecting cells, tissues and organs – within the period mentioned in subparagraph 1 – the employee shall retain the right to 100 per cent of his/her remuneration.

§ 1¹. Repealed.

§ 2. The remuneration referred to in paragraph 1 above shall be calculated according to the principles valid for fixing a sickness benefit assessment base and shall be paid for each day of incapacity to work, including rest days.

§ 3. The remuneration referred to in paragraph 1 above:

- 1) shall not be decreased in the event of a reduction in the sickness benefit assessment base;
- 2) shall not be due where an employee has no right to sickness benefit.

§ 4. For a period of incapacity to work, referred to in paragraph 1 above, which lasts longer than 33 days per calendar year, the employee shall be entitled to receive sickness benefit on terms defined in separate provisions.

Chapter IIIa. Pension or Retirement Severance Pay

Article 92¹. § 1. An employee satisfying the conditions entitling him/her to receive a pension due to incapacity to work or retirement pension and whose employment relationship ceased in connection with a pension or a retirement pension, shall have the right to cash severance pay equivalent to one-month remuneration.

§ 2. An employee who has received severance pay may not require a right thereto.

Chapter IV. Death Benefit

Article 93. § 1. In the event of death of an employee during the existence of an employment relationship or during a period of receiving benefits following termination thereof due to incapacity to work by reason of illness, the employee's family shall have a right to death benefit from the employer.

§ 2. The amount of severance pay referred to in paragraph 1 above shall depend on the period of employment of the employee by a given employer and shall be equivalent to:

- 1) one month's remuneration if the employee was employed for less than 10 years;
- 2) three month's remuneration if the employee was employed for at least 10 years;
- 3) six month's remuneration if the employee was employed for at least 15 years.

§ 3. The provisions of Article 36, paragraph 1¹ shall apply as appropriate.

§ 4. Death benefit shall be payable to the following family members of the employee:

- 1) the spouse;
- 2) other family members satisfying the conditions required to receive a family pension as provided by the provisions on retirements and other pensions from the Social Insurance Fund.

§ 5. The death benefit shall be equally divided between all family members entitled thereto.

§ 6. Should there remain only one family member of the employee who is entitled to the death benefit, he/she shall be entitled to death benefit in one half of the amount specified in paragraph 2 above.

§ 7. No death benefit shall be payable to the family members referred to in paragraph 4 if the employer has provided life insurance for the employee and the compensation from an insurance institution is not lower than the death benefit payable pursuant to paragraphs 2 and 6. If such compensation is lower than the death benefit, the employer shall be obliged to pay such family the difference between the compensation and the death benefit.

SECTION IV. DUTIES OF EMPLOYER AND EMPLOYEE

Chapter I. Duties of the Employer

Article 94. The employer shall be under a particular duty, to:

- 1) make new employees familiar with their duties, the methods of work in particular posts and their basic rights;
- 2) organize work in a manner best suited to make effective use of working time and achievement of high efficiency and appropriate quality of work by employees through exercise of their abilities and qualifications;
 - 2a) organize work in the manner ensuring decreased onerousness of work, particularly any monotonous work and work with a pre-established tempo;
 - 2b) counteract discrimination in employment, particularly due to sex, age, disablement, race, religion, nationality, political beliefs, trade union membership, ethnic origin, religious convictions, sexual orientation or due to employment for a definite or indefinite period or on a full-time or a part-time basis;
- 3) repealed;
- 4) ensure safe and hygienic working conditions and to provide systematic training of employees in the area of work safety and hygiene;
- 5) pay correct remuneration on time;
- 6) support employees in their endeavours to develop their occupational qualifications;
- 7) create for employees taking up employment after graduation from a school of vocational education or a school of higher education conditions favourable for their adaptation to proper performance of work;
- 8) satisfy, within the limits of available means, the social needs of employees;

9) use objective and just criteria of evaluation of employees and of the results of their work;

9a) keep records in the matters involving the employment relationship and personal files of employees;

10) influence the establishment of principles of social coexistence in the employing establishment.

Article 94¹. An employer shall be obliged to make the text of provisions on equal treatment in employment available to employees in the form of written information disseminated in the employing establishment or provide employees with access to said provisions in another manner accepted at the given employer.

Article 94². The employer shall be obliged to inform employees, in the manner adopted by a relevant employer, of the possibility of full-time or part-time employment and the employees employed for a definite time – of vacant positions.

Article 94³. § 1. An employer shall prevent mobbing.

§ 2. Mobbing shall mean any actions or behaviour relating to an employee or directed against the employee consisting of persistent and long-lasting harassment or intimidation of an employee resulting in his or her decreased evaluation of professional capabilities, as well as resulting in or aimed at humiliating or ridiculing an employee, isolating him or her or eliminating him or her from a work team.

§ 3. An employee who suffers from health disturbance as a result of mobbing may claim a relevant sum from the employer as cash compensation for the incurred harm.

§ 4. An employee who terminated the employment contract in consequence of mobbing shall have the right to claim compensation from the employer in the amount of at least the minimum remuneration for work established pursuant to separate provisions.

§ 5. The employee's declaration on termination of employment contract should be in writing and include the reason referred to in paragraph 2 to justify the termination of the contract.

Articles 95, 96. Repealed.

Article 97. § 1. Upon the termination or the expiry of an employment relationship, the employer shall be obliged to immediately issue the employee with a certificate of employment. The issuance of the certificate of employment may not depend on the previous settlement of account between the employee and the employer.

§ 1¹. In case of termination or expiration of a contract of employment with an employee with whom the current employer concludes the next contract of employment immediately after the termination or expiration of the previous contract of employment, the employer shall be obliged to issue a certificate of employment to the employee upon the employee's demand only.

§ 2. The certificate of employment shall provide information on the period and type of work performed, posts occupied, the manner of termination or circumstances of expiry of the employment relationship and other information necessary to establish the employee's rights and social insurance rights. Moreover, the certificate of employment shall contain an annotation on any with-holding of remuneration for work as provided in the provisions on execution proceedings. At the request of the employee the certificate of employment should also disclose information on the amount and the components of remuneration and qualifications acquired.

§ 2¹. The employee may apply to the employer for amendments to the certificate of employment within seven days of the date of receiving the certificate. If the application is rejected, the employee shall have the right to apply to a labour court for an amendment of the certificate of employment within seven days of the date of being informed about the refusal to amend the certificate.

§ 3. Should the decision of the labour court establish that a termination of a contract of employment with an employee without notice due to his/her fault was effected in violation of the provisions on termination of employment certificates according to such procedure, the employer shall be obliged to include in the certificate of employment a clause stating that the contract of employment was terminated as a result of a notice given by the employer.

§ 4. The Minister of Labour and Social Policy shall specify, by regulation, the detailed wording of the certificate of employment and the manner and procedure for issue and amendment thereof.

Article 98. Repealed.

Article 99. § 1. An employee shall be entitled to make a claim for redress of damage caused by the employer through his/her failure to issue a certificate of employment in due time or by having issued an inaccurate certificate of employment.

§ 2. The compensation described in paragraph 1 above shall amount to the remuneration for the period during which the employee was unemployed for the above reasons, but for not longer than six weeks.

§ 3. Repealed.

§ 4. A court order for compensation due to the issue of an inaccurate certificate of employment shall constitute grounds for amendment of the certificate.

Chapter II. Duties of the Employee

Article 100. § 1. An employee shall be obliged to perform his/her work conscientiously and scrupulously and shall comply with the orders of his/her superiors which apply to work, unless they are contradictory to the provisions of law or the contract of employment.

§ 2. An employee shall be obliged, in particular:

- 1) to observe the working time established in the employing establishment;
- 2) to observe the workplace regulations and order adopted by the employing establishment;
- 3) to observe the law and principles of work safety and hygiene, and fire protection;
- 4) to care for the interests of the employing establishment, protect its property and to maintain the confidentiality of information, the disclosure of which could cause damage to the employer;
- 5) to maintain the confidentiality provided for by separate provisions;
- 6) to observe the principles of social coexistence at the employing establishment.

Article 101. Repealed.

Chapter IIa. Prohibition of Competition

Article 101¹. § 1. Within the limits specified in a separate contract, an employee must not carry on any activities competitive with the activities of the employer and must not

work in an employment relationship or on another basis for an economic subject carrying on such activities (prohibition of competition).

§ 2. An employer who suffers damage as a result of an employee's violation of a prohibition on competition provided for in a contract, may claim compensation for such damage from the employee on the principles specified in the provisions of Chapter I in Section V.

Article 101². § 1. The provision of Article 101¹, paragraph 1 shall also apply when an employer and an employee, who have access to particularly important information the disclosure of which could cause damage to the employer, conclude a contract prohibiting competition after the employment relationship has ceased. Such contract shall also specify the period of prohibition of competition and the compensation due to the employee from the employer, subject to the provisions of paragraphs 2 and 3 below.

§ 2. The prohibition of competition referred to in paragraph 1 above shall become invalid before the end of the period for which the contract provided where the circumstances justifying such prohibition cease to exist or the employer has not discharged his/her duty to pay compensation.

§ 3. The compensation referred to in paragraph 1 above may not be lower than 25 per cent of the remuneration received by the employee prior to cessation of the employment relationship for a period corresponding to the period of validity of the prohibition of competition; such compensation may be paid in monthly instalments. In the event of a dispute the compensation shall be determined by a labour court.

Article 101³. Contracts referred to in Article 101¹, paragraph 1 and in Article 101², paragraph 1 must be in writing, under pain of nullity.

Article 101⁴. The provisions of this Chapter shall not override any prohibition of competition provided for by separate provisions.

Chapter III. Occupational Qualifications of Employees

Article 102. Occupational qualifications of employees required for performance of work of a specific type or for a specific post may be defined in the provisions of labour law envisaged in Articles 77¹ to 77³, within the limits not regulated by special provisions.

Article 103. Within the limits and on conditions defined by a regulation of the Minister of National Education and the Minister of Labour and Social Policy, an employer shall facilitate the improvement of occupational qualifications by employees.

Chapter IV. Workplace Regulations

Article 104. § 1. Workplace regulations shall regulate the organization of and order in the process of work and the rights and duties of the employer and the employees connected therewith.

§ 2. Workplace regulations shall not be made if within the limits specified in paragraph 1 the provisions of a collective labour agreement are applicable or where the employer employs less than 20 employees.

Article 104¹. § 1. Workplace regulations while specifying the rights and duties of employer and employees connected with order in the employing establishment, must specify in particular:

1) organization of work, conditions for staying on the premises of the employing establishment during working time and after hours, equipping of employees with tools and

materials, clothing and working shoes, and with means of individual protection and personal hygiene;

2) working-time systems and schedules and adopted working-time settlement systems;

3) repealed;

4) night-time;

5) the date, the place, the time and frequency of payment of remuneration;

6) the types of work prohibited to young employees and women;

7) types of work and list of working posts open to young employees for the purposes of occupational training;

7a) the list of the types of light work which may be performed by young adults employed for other purposes than occupational training;

8) duties applicable to work safety and hygiene and fire protection, including the method of advising employees of occupational risks connected with work performed thereby;

9) the method adopted by a given employer to confirm the time of employees arrival at work, their presence at work and leave of absence from work.

§ 2. Workplace regulations shall include information on penalties applicable by virtue of Article 108, to employees for breaches of order.

Article 104². § 1. Workplace regulations shall be made by the employer in agreement with the establishment's trade union organization.

§ 2. Where the wording of workplace regulations is not agreed with the establishment's trade union organization within the time limits set by the parties and also where there is no such trade union organization operating in relation to a given employer, the workplace regulations shall be made by the employer.

Article 104³. § 1. Workplace regulations shall become effective 2 weeks from the date they were communicated to the employees by a method adopted by a given employer.

§ 2. The employer shall be obliged to ensure that each employee is familiar with the contents of the workplace regulations prior to the commencement of his/her work.

Article 104⁴. Repealed.

Chapter V. Rewards and Distinctions

Article 105. Employees who substantially contribute to the performance of the tasks of the employing establishment through exemplary fulfilment of their duties, show initiative at work and improve its effectiveness and quality, may be given rewards and distinctions. A copy of notice on granting a prize or a distinction shall be put in employee's personal file.

Article 106. Repealed.

Article 107. Repealed.

Chapter VI. Employees' Liability for Maintenance of Order

Article 108. § 1. For employee's failure to observe established organization and order in the working process, the work safety and hygiene regulations, fire protection regulations or the procedure adopted to confirm arrival and presence at work, as well as justifying absence at work, the employer may charge with the following:

- 1) penalty of admonition;
- 2) penalty of serious reprimand.

§ 2. Where an employee fails to observe the provisions on work safety and hygiene or fire protection, leaves work without excuse, reports to work drunk or drinks alcohol during working hours, he/she may also be liable to a pecuniary penalty imposed by the employer.

§ 3. The pecuniary penalty for one offence and for every day of an unjustified absence may not be higher than the daily remuneration of the employee and the total pecuniary penalties may not exceed one tenth of the remuneration to be paid to the employee, as defined in Article 87, paragraph 1, subparagraphs 1 to 3.

§ 4. The proceeds from pecuniary penalties shall be dedicated to the improvement of work safety and hygiene conditions.

Article 109. § 1. A penalty may not be imposed more than two weeks after the management has become aware of the offence of the employee and after three months have elapsed since the offence was committed.

§ 2. A penalty may be imposed only after the employee has been given a hearing.

§ 3. Where, due to the absence of an employee from the employing establishment he cannot be given a hearing, the two week period provided for in paragraph 1 shall not run, and if it has started it shall be suspended until the day the employee reports back to work.

Article 110. An employee shall be notified by the employer in writing of any fine imposed and the type of violation of work duties and the date of such violation shall be indicated and the employee shall be advised of his/her right to lodge an objection along with the time limits for filing such objection. A copy of the notice shall be placed in the personal file of the employee.

Article 111. In the imposition of any penalty, the particular nature of the breach of the employee's duties, his/her degree of blameworthiness, as well as his/her previous work record shall be taken into account.

Article 112. § 1. If a penalty has been imposed in violation of law, the employee may lodge an objection within 7 days of the date of being notified of the imposition of the penalty. Whether the objection will be granted or not shall be decided by the employer after having considered an opinion of the establishment's trade union organization representing the employee. Failure to overrule the objection within 14 days from the date of filing thereof shall mean that the objection was sustained.

§ 2. An employee who has filed an objection may, within 14 days of the date of being notified of the overruling thereof, apply to a labour court to revoke the penalty imposed upon him/her.

§ 3. Where the objection against a pecuniary penalty is sustained or such fine is revoked by a labour court, the employer shall be obliged to reimburse the equivalent of such fine to the employee.

Article 113. § 1. A penalty shall be deemed to be of no effect and a copy of the notice of the penalty shall be removed from the employee's personal file after a year of blameless work. The employer may, on his/her own initiative or at the request of an establishment's trade union organization representing the employee, decide to consider a penalty to be of no effect prior to the expiry of the above time limit.

§ 2. The provisions of paragraph 1, first sentence, shall be applied as appropriate where the employer upholds the objection or when the labour court issues a decision revoking the penalty.

Article 113¹. Repealed.

SECTION XI. COLLECTIVE LABOUR AGREEMENTS

Chapter I. General Provisions

Article 238. § 1. Whenever the provisions of this Section refer to:

1) a multi-establishment trade union organization – it shall mean a trade union organization which is a nation-wide trade union, a federation of trade unions or a nation-wide confederation of trade unions.

2) a trade union organization representing employees – it shall mean a trade union organization composed of employees, for whom the agreement is concluded. That shall also apply to a federation of trade unions, composed of such trade union organizations, and a nation-wide confederation of trade unions composed of such trade union organizations or federations of trade unions.

§ 2. The provisions of this Chapter on:

1) an agreement – shall apply to multi-establishment agreements and also to single establishment agreements;

2) employers – shall also apply to an employer.

Article 239. § 1. An agreement shall be concluded for all employees employed by the employers covered by an agreement, unless the parties thereto decide otherwise.

§ 2. An agreement may also apply to persons who do not work under an employment relationship, to retired pensioners and to other pensioners.

§ 3. An agreement shall not be concluded for:

1) members of the civil service corps;

2) employees of State offices employed by nomination and appointment;

3) self-government employees employed by election, nomination and appointment in:

a) marshals' offices;

b) poviats starosties;

c) gmina offices;

d) offices (or equivalents thereof) of unions of territorial self-government units;

e) offices (or equivalents thereof) of administrative units of territorial self-government units;

4) judges and public prosecutors.

Article 240. § 1. An agreement shall provide for:

1) the terms of an employment relationship's contents, subject to paragraph 3 below;

2) mutual obligations of the parties to the agreement including application of the agreement and observance of the provisions thereof.

§ 2. The agreement may provide for issues other than those mentioned in paragraph 1 above, which are not regulated by the provisions of labour law in an absolutely mandatory manner.

§ 3. The agreement must not violate rights of third parties.

§ 4. Agreements for employees of State budget entities, State budget establishments and ancillary enterprises of State budget entities may be concluded only within the scope

of financial means available to them, including remuneration fixed under separate provisions.

§ 5. The request for registration of the agreement concluded for employees of State budget entities, State budget establishments and ancillary enterprises of State budget entities shall contain a statement of the authority which has established a given subject or has taken over the functions of such an authority, on fulfilment of the obligation referred to in paragraph 4.

Article 241. Repealed.

Article 241¹. While defining mutual obligations in the agreement, the parties thereto may determine in particular:

- 1) the manner of publication of the agreement and of dissemination of its contents;
- 2) the procedure for periodic assessment of functioning of the agreement;
- 3) the procedure for explaining the provisions of the agreement and for settling disputes between the parties in respect thereof;
- 4) repealed.

Article 241². § 1. The agreement shall be reached by negotiation.

§ 2. The party taking the initiative in respect of reaching the agreement shall be obliged to inform every trade union organization on whose behalf the agreement is to be concluded of such an initiative, in order that such negotiations can be conducted jointly by all trade union organizations.

§ 3. The party entitled to reach the agreement must not reject the request of the other party to start negotiations whose purpose is:

- 1) to conclude the agreement on behalf of employees to whom the agreement does not apply;
- 2) to amend the agreement because of a substantial change in the economic or financial situation of the employer or deterioration in the economic situation of employees;
- 3) where the demand was made not earlier than 60 days before the end of the period for which the agreement had been reached or after the day of issuing a notice to terminate the agreement.

Article 241³. § 1. Each party shall be obliged to conduct negotiations in good faith and with respect for the legitimate interests of the other party. This shall mean in particular:

- 1) taking into consideration the claims of the trade union organization, justified by reference to economic situation of the employers;
- 2) refraining from making demands whose satisfaction is clearly beyond the financial means of the employer;
- 3) respecting the interests of employees to whom the agreement does not apply.

§ 2. The parties to the agreement may establish a procedure for settling matters of dispute connected with the subject of the negotiations or other disputes that may arise during such negotiations. In such instances, the provisions on settling mutual litigation shall not apply, unless the parties agree that they shall apply in respect of particular matters.

Article 241⁴. § 1. An employer shall be obliged to provide the representatives of the trade unions conducting negotiations with information on his/her economic situation, necessary to conduct responsible negotiations in respect of those matters subject to such negotiations. This duty shall apply, in particular, to the information provided for inclusion in the reports of the Central Statistical Office.

§ 2. The representatives of trade unions must not disclose any information obtained from the employer, which is a secret of the enterprise within the meaning of the provisions on suppressing unfair competition.

§ 3. Upon demand of each of the parties, an specialist may be appointed, whose task shall be to express an opinion on the issues connected with the subject matter of the negotiations. The costs of the specialist's opinion shall be covered by the party demanding the appointment of such specialist, unless the parties decide otherwise.

§ 4. The provisions of paragraphs 1 to 3 above shall be without prejudice to the provisions on the protection of State secrecy and official secret.

Article 241⁵. § 1. An agreement shall be evidenced in writing and shall be valid for an indefinite or definite period.

§ 2. The agreement shall provide for the scope of its application and shall indicate the seats of the parties thereto.

§ 3. Prior to the expiration of the period of validity of the agreement concluded for a definite period, the parties thereto may extend its application for a definite period or deem the agreement to be concluded for an indefinite period.

Article 241⁶. § 1. The contents of the provisions of the agreement shall be explained by the parties jointly.

§ 2. The explanations of the contents of the agreement, provided jointly by the parties thereto, shall also be obligatory for any parties who have concluded an arrangement to apply such agreement. Such explanations shall be made available to the parties to the agreement.

Article 241⁷. § 1. An agreement shall be terminated:

- 1) upon a joint declaration to that effect by the parties;
- 2) upon the expiration of the period for which it has been concluded;
- 3) upon the expiration of the period of notice to terminate the agreement, issued by one of the parties.

§ 2. A declaration by the parties to terminate the agreement and the notice to terminate the agreement shall be made in writing.

§ 3. The period of notice to terminate the agreement shall be three calendar months, unless the parties otherwise decide in the agreement.

§ 4 and § 5. Repealed.

Article 241⁸. § 1. For one year after taking-over of the employing establishment or a part thereof by a new employer, the employees shall be subject to the agreement which applied thereto before the taking-over of the employing establishment or a part thereof by a new employer, unless separate provisions provide otherwise. The provisions of such an agreement shall apply in the wording in force as of the day of the taking-over of the employing establishment or a part thereof by the new employer. The employer may also apply more favourable conditions than those arising from the previous agreement.

§ 2. Upon the expiry of the period of application of the previous agreement, the terms of employment contracts and of other legal instruments constituting a basis for the establishment of an employment relationship, arising from such agreements, shall apply until the end of the period of notice to terminate these terms. The provision of Article 241¹³, paragraph 2, second sentence shall apply.

§ 3. If, in the cases referred to in paragraph 1, the new employer also takes over other persons covered by the agreement valid for the previous employer, the new employer

shall apply the provisions of the agreement applicable to such persons for one year after the take-over.

§ 4. Where, before being taken over, the employees had been covered by a multi-establishment agreement, which is valid for the new employer, the provisions of paragraphs 1 to 3 above shall apply to the single establishment agreement.

Article 241⁹. § 1. Amendments to any agreement shall be made by means of additional protocols. The provisions applicable to an agreement shall apply to such additional protocols.

§ 2. Where an agreement has been concluded by more than one trade union organization, then during the period of its validity all acts connected with such agreement shall be performed by the trade union organizations party thereto, subject to paragraphs 3 and 4 below.

§ 3. The parties to an agreement may agree that a trade union organization which was not a party thereto shall assume the rights and duties of a party thereto.

§ 4. A trade union organization which after the conclusion of the agreement has become a representative organization under Article 241¹⁷ or Article 241^{25a}, paragraph 1 may assume the rights and duties of a party to the agreement by making a statement thereon to the parties of the agreement. Article 241^{25a}, paragraphs 3 to 5 shall apply accordingly to the establishment trade union organization.

§ 5. The information that a trade union organization has assumed the rights and duties of a party to the agreement shall be filed in the register of agreements.

Article 241¹⁰. § 1. Parties entitled to conclude an agreement may make an arrangement to apply the whole agreement or a part thereof, to which they are not parties. The provisions applicable to the agreement shall apply accordingly to such arrangement.

§ 2. The authority that registers the arrangement referred to in paragraph 1 above shall notify the parties to the agreement of the registration of this arrangement.

§ 3. Any amendment to the provisions of an agreement made by the parties thereto shall not constitute an amendment to the arrangement referred to in paragraph 1 above.

Article 241¹¹. § 1. An agreement shall be registered in the register kept for:

- 1) multi-establishment agreements – by the minister competent for labour;
- 2) single establishment agreements – by a competent district labour inspector.

§ 2. An agreement, concluded in conformity with law, shall be registered within:

- 1) three months – as regards multi-establishment agreements;
- 2) one month – as regards single establishment agreements

– from the day of submitting application for registration by one of the parties to such agreement.

§ 3. Where the provisions of the agreement are not in conformity with law, the registration authority may:

1) by consent of the parties register the agreement with the exclusion of such provisions;

2) request the parties to make appropriate amendments to the agreement, within 14 days.

§ 4. Where the parties neither consent to the registration of the agreement without the provisions not valid in law, nor make appropriate amendments to the agreement in due time, the registration authority may refuse to register the agreement.

§ 5. Within 30 days of the notification of the refusal to register the agreement, such refusal may be subject to appeal:

- 1) by the parties to a multi-establishment agreement – to the Circuit Court – the Court of Labour and Social Insurance in Warsaw;
- 2) by the parties to single establishment agreement – to a district court competent for the seat of the employer – the labour court.

The court shall examine the case in accordance with the procedure required by the provisions of the Code of Administrative Procedure in respect of non-litigious proceedings.

§ 5¹. Within 90 days of registration of the agreement, any person who has a legal interest therein may complain to the authority which has registered the agreement that the latter was concluded in violation of the provisions on conclusion of collective labour agreements. The complaint shall be made in writing and shall contain a justification thereof.

§ 5². Within 14 days of receiving the complaint referred to in paragraph 5¹, the registration authority shall call the parties to the agreement to present documents and to file explanations necessary for examination of the complaint.

§ 5³. Where it is ascertained that the agreement has been concluded in violation of the provisions on conclusion of collective labour agreements, the registration authority shall demand that the parties to the agreement remove such irregularities, unless it is impossible to remove the same.

§ 5⁴. Where:

- 1) the parties to the agreement fail to provide documents and explanations referred to in paragraph 5² within the set time limit, not shorter than 30 days; or
- 2) the parties to the agreement fail to remove the irregularities referred to in paragraph 5³ within the set time limit, not shorter than 30 days, or it is impossible to remove such irregularities

the registration authority shall delete the agreement from the register of agreements. The provision of paragraph 5 shall apply accordingly.

§ 5⁵. Terms of employment contracts or of other legal instrument constituting a basis for the employment relationship, stemming from the agreement deleted from the register of agreements, shall apply until the end of the period of notice to terminate such terms. The provision of Article 241¹³, paragraph 2, second sentence shall apply.

§ 6. In order to ensure uniform rules for registration of collective labour agreements and keeping a register of such agreements, the minister competent for labour shall, by regulation, determine the procedure for the registration of collective labour agreements, in particular the terms of filing applications for an entry in the register of agreements and for registration of an agreement, the scope of information to be provided in such applications, documents to be attached to the application, effects of failure to meet the requirements concerning the form and contents of the application, the procedure for deletion of agreements from the register, the method of keeping the register of agreements and registration files, and standard forms of registration clauses and registration charts.

Article 241¹². § 1. An agreement shall take effect on the day specified therein but not earlier than the day of its registration.

§ 2. An employer shall be obliged:

- 1) to notify the employees of an agreement's coming into effect, of amendments thereto, of a notice to terminate the agreement and of termination of the agreement;

2) to provide the trade union organization of an establishment with a sufficient number of copies of the agreement;

3) upon demand of an employee – to make the text of the agreement available to him/her and to explain its contents.

Article 241¹³. § 1. On the day on which an agreement takes effect, the more advantageous provisions thereof shall replace, by operation of law, the terms of a contract of employment or the terms of any other legal instrument constituting a basis for the employment relationship, which arise from previous provisions of labour law.

§ 2. Any provisions of an agreement which are less advantageous to the employees shall be introduced by a notice to terminate the existing terms of the contract of employment or the terms of other legal instrument constituting a basis for the employment relationship. Giving notice to terminate the existing terms of the contract of employment or the terms of other legal instrument constituting a basis for the employment relationship shall not be subject to any provisions which limit the admissibility to give notice to terminate the terms of such an agreement or instrument.

Chapter II. Multi-establishment Collective Labour Agreements

Article 241¹⁴. § 1. A multi-establishment collective labour agreement, hereinafter referred to as “a multi-establishment agreement”, shall be concluded:

1) for employees – by the competent body of the multi-establishment trade union organization, said body being competent under its statute;

2) for employers – by the competent body of an organization of employers in the name of the employers being members of such organization, said body being competent under its statute.

§ 2. Repealed.

§ 3. Repealed.

Article 241^{14a}. § 1. Where the multi-establishment trade union organization representing employees, for whom the multi-establishment agreement is to be concluded, is a member of a federation of trade unions or a nationwide confederation of trade unions, the agreement may be concluded, subject to paragraph 2, only by such multi-establishment trade union organization.

§ 2. The nation-wide confederation of trade unions shall participate in negotiations and shall conclude the multi-establishment agreement instead of its member multi-establishment trade union organizations, which represent employees, for whom such an agreement is to be concluded, and which have become representative organizations under Article 241¹⁷, paragraph 3, only when such a confederation receives a substantiated written request therefor from at least one of the multi-establishment trade union organizations which carry on negotiations on conclusion of the agreement. The organization to which the request has been directed must not refuse entering the negotiations; the refusal shall result in deprivation of the representativeness, for the purposes of a given multi-establishment agreement, of all the organizations to be replaced by the organization to which the request has been directed.

§ 3. Where the organization of employers, which groups employers to be subject to a multi-establishment agreement, is a member of a federation or confederation, the right to conclude the agreement shall be vested with the organization which directly groups the employers.

Article 241¹⁵. The following organizations shall have the right to initiate the conclusion of multi-establishment agreements:

- 1) the organization of employers entitled to conclude the agreement on behalf of employers;
- 2) any multi-establishment trade union organization representing the employees for whom an agreement is to be concluded.

Article 241¹⁶. § 1. Where the employees for whom a multi-establishment agreement is to be concluded are represented by more than one trade union organization, the negotiations leading to this agreement shall be conducted by a joint representative body of such organizations or by particular trade union organizations acting jointly.

§ 2. Where within the time limit set by the entity which takes an initiative to conclude a multi-establishment agreement, not shorter than 30 days after announcement of such an initiative to conclude the agreement, not all trade union organizations enter into negotiations in accordance with the procedure specified in paragraph 1 above, the negotiations may be conducted by the trade union organizations which have entered them. The negotiations shall be conducted in accordance with the procedure specified in paragraph 1 above.

§ 3. The condition for conducting the negotiations referred to in paragraph 2 shall be participation therein by at least one representative multi-establishment trade union organization, within the meaning of Article 241¹⁷.

§ 4. Where, prior to the conclusion of an agreement, a multi-establishment trade union organization is formed, it shall have the right to enter into the negotiations.

§ 5. A multi-establishment agreement shall be concluded by all trade union organizations which conducted the negotiations on such an agreement or by at least all representative trade union organizations, within the meaning of Article 241¹⁷, which participated in the negotiations.

Article 241¹⁷. § 1. A representative trade union organization shall be a multi-establishment trade union organization:

- 1) which is representative within the meaning of the Act on the Tripartite Commission for Social and Economic Matters and voivodeship commissions of social dialogue or
- 2) consisting of at least 10 per cent of the total number of employees to whom its statute applies, but not less than ten thousand employees; or
- 3) consisting of the largest number of employees for whom the multi-establishment agreement is to be concluded.

§ 2. The multi-establishment organization referred to in paragraph 1, subparagraphs 2 and 3, shall file an application for a declaration proving its representativeness with the Circuit Court in Warsaw, which shall issue its decision thereon within 30 days from the day of filing the application, in accordance with the procedure of the provisions of the Code of Civil Procedure on non-litigious proceedings.

§ 3. Where the representativeness of a nationwide trade union confederation has been established, the nationwide trade unions and their federations which belong to it shall become representative by operation of law.

Article 241¹⁸. § 1. Upon a joint application of the organization of employers and the multi-establishment trade union organizations which concluded the multi-establishment agreement, the minister competent for labour may, by regulation, extend – when overriding social interests so require – the application of such an agreement in whole or in

part to employees working with the employer to whom no multi-establishment agreement applies and who carry on economic activity which is the same as or similar to the activity carried on by employers subject to an agreement, as ascertained under separate provisions concerning classification of economic activity, after seeking opinion of such an employer or organization of employers indicated thereby, the establishment trade union organization (if acting within the entity of the employer) and the Commission for Collective Labour Agreements appointed under separate provisions.

§ 2. The application for the extension of the multi-establishment agreement shall contain the name and the corporate seat of the employer, the justification of the extension of application of the multi-establishment agreement and information and documents necessary to ascertain the requirements referred to in paragraph 1 above.

§ 3. It shall not be necessary to seek opinion of trade union organizations and organizations of employers on draft regulation referred to in paragraph 1.

§ 4. Application of the multi-establishment agreement shall be extended until the time of application of another multi-establishment agreement to the employer.

§ 5. The provisions of paragraphs 1 to 3 above and Article 241⁸, paragraph 2 shall apply accordingly to application to repeal the extension of application of the agreement.

Article 241¹⁹. § 1. In the case of a merger or division of a trade union organization or an organization of employers which has concluded a multi-establishment agreement, their rights and duties shall be assumed by the organization established as a result of the merger or division.

§ 2. In the case of dissolution of organizations of employers or all trade union organizations which were parties to the multi-establishment agreement, the employer may cease to apply the multi-establishment agreement in part or in full after a period which is at least equivalent to the period of notice to terminate the agreement, by submitting an appropriate notification thereof to the other party to the agreement. The provisions of Article 241⁸, paragraph 2 shall apply accordingly.

§ 3. Repealed.

§ 4. Information concerning the issues referred to in paragraphs 1 and 2 shall be notified to the register of agreement.

Articles 241²⁰ to 241²¹. Repealed.

Chapter III. The Single-Establishment Collective Labour Agreement

Article 241²². Repealed.

Article 241²³. A single-establishment collective labour agreement, hereinafter referred to as “an establishment agreement” shall be concluded by the employer and the trade union organization of an establishment.

Article 241²⁴. § 1. An initiative to conclude an establishment agreement may be taken by:

- 1) the employer;
- 2) any trade union organization of the establishment.

Article 241²⁵. § 1. Where the employees for whom the establishment agreement is to be concluded are represented by more than one trade union organization, the negotiations

leading to the agreement shall be conducted by their joint representative or by particular trade union organizations acting jointly.

§ 2. Where within the time limit set by the entity which has taken the initiative to conclude the establishment agreement, not shorter than 30 days after announcement of such an initiative to conclude the agreement, not all trade union organizations enter into negotiations in accordance with the procedure specified in paragraph 1 above, the negotiations may be conducted by the trade union organizations which have entered them. The negotiations shall be conducted in accordance with the procedure specified in paragraph 1 above.

§ 3. The condition for conducting the negotiations referred to in paragraph 2 shall be participation therein by at least one representative trade union organization of an establishment, within the meaning of provisions of Article 241^{25a}.

§ 4. Where, prior to the conclusion of an agreement, a new trade union organization of an establishment is formed, it shall have the right to enter into the negotiations.

§ 5. The establishment agreement shall be concluded by all trade union organizations which conducted the negotiations concerning such an agreement or at least by all representative trade union organizations of an establishment, within the meaning of Article 241^{25a}, which participated in the negotiations.

Article 241^{25a}. § 1. The representative trade union organization of an establishment shall be a trade union organization, which:

1) is an organizational unit or member organization of a multi-establishment trade union organization considered as representative under Article 241¹⁷, paragraph 1, subparagraph 1, on condition that it groups at least 7 per cent of employees employed by a given employer, or

2) groups at least 10 per cent of employees employed by a given employer.

§ 2. Where none of the trade union organizations of an establishment meets the requirements referred to in paragraph 1 above, the representative trade union organization of an establishment shall be the organization which groups the biggest number of employees.

§ 3. In calculation of the number of employees grouped in the trade union organization of an establishment referred to in paragraphs 1 and 2 account shall be taken only of employees who had belonged to such a organization for at least 6 months before entering the negotiations concerning the conclusion of the establishment agreement. When an employee is a member of several trade union organizations of an establishment, such an employee may be considered as a member of only one trade union organization of an establishment indicated by him.

§ 4. Prior to concluding the establishment agreement, the trade union organization of an establishment may notify in writing the participants of the negotiations concerning such an agreement of its uncertainty whether another trade union organization of an establishment meets the representation criteria, referred to in paragraphs 1 and 2 above. Such an uncertainty may be also notified by the employer.

§ 5. In the case referred to in paragraph 4, the trade union organization of an establishment with regard to which the uncertainty has been notified shall apply to the district court – labour court competent for the seat of the employer – for ascertaining whether it is representative. The court shall make a ruling on that issue within 30 days of submission

the application, in accordance with the procedures provided in the Code of Administrative Proceedings on non-litigious proceedings.

Article 241²⁶. § 1. The provisions of an establishment agreement shall not be less advantageous to the employees than the provisions of a multi-establishment agreement applicable thereto.

§ 2. An establishment agreement shall not establish rules for the remuneration of employees who manage the employing establishment on behalf of the employer within the meaning of Article 128, paragraph 2, subparagraph 2, and persons who manage the employing establishment on a basis other than an employment relationship.

Article 241²⁷. § 1. Because of a financial situation of the employer, the parties to an establishment agreement may conclude an arrangement to suspend the application to that employer, in whole or in part, such an agreement and the multi-establishment agreement or either of them, for no longer than three years. When the employer is subject to only one multi-establishment agreement, the arrangement to suspend application of such an agreement or certain provisions thereof may be concluded by the parties entitled to conclude the establishment agreement.

§ 2. The arrangement referred to in paragraph 1 above shall be registered in the register of establishment agreements or multi-establishment agreements, respectively. Furthermore, the parties to the arrangement shall provide information on suspension of application of the multi-establishment agreement to the parties of such an agreement.

§ 3. Within the scope and within the period provided for in the arrangement mentioned in paragraph 1, the terms of employment contracts and other legal instruments under which an employment relationship is established, resulting from a multi-establishment agreement and an establishment agreement, shall not apply by operation of law.

Article 241²⁸. § 1. An establishment agreement may apply to several employers when they form one legal person.

§ 2. Negotiations to conclude the establishment agreement shall be conducted by:

- 1) competent body of the legal person referred to in paragraph 1 above and
- 2) all trade union organizations of an establishment acting at the employers' premises, subject to paragraph 3.

§ 3. When trade union organizations of an establishment belong to one trade union, federation or confederation, negotiations may be conducted on behalf of them by the body indicated by such a trade union, federation or confederation.

§ 4. Where within the time limit set by the entity which has taken the initiative to conclude an establishment agreement, not shorter than 30 days after announcement of such an initiative to conclude the agreement, not all trade union organizations enter into the negotiations, the latter may be conducted by the trade union organizations which have entered them, on condition that such negotiations are attended by all the bodies referred to in paragraph 3 indicated by the multi-establishment trade union organizations which represent employees employed by employers belonging to the legal person and which are representative organizations within the meaning of Article 241¹⁷, paragraph 1, subparagraphs 1 and 2, and paragraph 3.

§ 5. The establishment agreement shall be concluded by all trade union organizations which conducted negotiations thereon or at least by all the bodies referred to in paragraph 3 indicated by the multi-establishment trade union organizations which represent employees employed by employers belonging to the legal person and which are repre-

sentative according to Article 241¹⁷, paragraph 1, subparagraphs 1 and 2, and paragraph 3.

§ 6. The provisions of paragraphs 1 to 5 shall apply accordingly to units without legal personality, which group more than one employer.

Article 241²⁹. § 1. Repealed.

§ 2. In the event of a merger of several establishments' trade union organizations, one of which has concluded an establishment agreement, the rights and duties of the latter shall be transferred to the trade union organization formed as a result of the merger.

§ 3. In the event of dissolution of all trade union organizations which have concluded an establishment agreement, the employer may renounce the application of this agreement in full or in part after a lapse of a period at least equal to the period of notice to terminate the agreement. The provision of Article 241⁸, paragraph 2 shall apply accordingly.

§ 4. Repealed.

§ 5. Repealed.

Article 241³⁰. § 1. The provisions of this Chapter shall apply to an inter-establishment trade union organization of establishments functioning in relation to the employer.

SECTION XII. CONSIDERATION OF CLAIMS ARISING FROM EMPLOYMENT RELATIONSHIPS

Chapter I. General Provisions

Article 242. § 1. An employee may pursue claims arising out of his/her employment relationship before a court.

§ 2. Before submitting a case to court, an employee may demand initiation of conciliation proceedings before a conciliation commission.

Article 243. An employer and his/her employee shall aim at a conciliatory settlement of disputes arising from an employment relationship.

Chapter II. Conciliation Proceedings

Article 244. § 1. Conciliation commissions shall be appointed in order to settle disputes concerning the claims of employees connected with their employment relationships.

§ 2. Repealed.

§ 3. A conciliation commission shall be appointed jointly by the employer and the establishment trade union organization and when no trade union organization exists in the establishment of such an employer – by the employer, upon receipt of consent thereto from the employees.

§ 4. Repealed.

Article 245. The following shall be established according to the procedure specified in Article 244, paragraph 3:

- 1) the rules and procedures for the appointment of the commission;
- 2) its term of office;
- 3) the number of its members.

Article 246. The following persons may not be members of a conciliation commission:

- 1) the person managing the employing establishment on behalf of the employer;
- 2) the chief accountant;
- 3) the legal adviser;

4) the person responsible for the matters of personnel, employment and remuneration.

Article 247. A conciliation commission shall appoint, from among its members, a chairman of the commission and his/her deputies and shall establish the rules for conciliation proceedings.

Article 248. § 1. A conciliation commission shall initiate proceedings upon a written or oral application by an employee, recorded in the register. The date of such application shall be recorded on it.

§ 2. The submission of the application by an employee shall suspend the time limits referred to in article 264.

Article 249. A conciliation commission shall conduct the conciliation proceedings in groups consisting of at least 3 members of such commission.

Article 250. Repealed.

Article 251. § 1. A conciliation commission shall aim at a conciliatory settlement of the case within 14 days beginning from the date of the submission of the application. The date of termination of the proceedings before the conciliation commission shall be stated in the minutes of the session of the group.

§ 2. In the case of termination, expiry or establishment of an employment relationship referred to in Article 264, the application shall be submitted to the conciliation commission within the time limits dates specified in that provision.

§ 3. In cases specified in paragraph 2 above, the conciliation proceedings shall, by operation of law, be terminated 14 days after the day of submission of an application by an employee and in other cases – 30 days after the day of submission of the application.

Article 252. A settlement made before a conciliation commission shall be recorded in the minutes of the session of the group. The minutes shall be signed by the parties and by the members of the group.

Article 253. It shall be inadmissible to reach a settlement not in accordance with law or the principles of community life.

Article 254. Where proceedings before a conciliation commission have not resulted in a settlement, the commission, on an application submitted by the employee within 14 days after the day of termination of the conciliation proceedings, shall transfer the case to a labour court without delay. The application of the employee for a conciliation settlement of the case by the conciliation commission shall be substituted by a claim. Instead of submitting this application the employee may bring a suit to a labour court under general rules of procedure.

Article 255. § 1. Where an employer does not implement any settlement, it shall be subject to execution according to the procedure specified in the provisions of the Code of Civil Procedure, after a court has confined its executability.

§ 2. The court shall refuse to state the executability when the documents presented by the commission reveal the settlement to be inconsistent with the law or the principles of community life. Such a refusal shall not exclude the possibility of arriving at such statement of inconsistency of the settlement with the law or principles of community life, in accordance with general principles.

Article 256. Within a period of 30 days after the day of making a settlement, an employee may apply to the labour court for a declaration that such settlement be treated

as ineffective when he/she considers that the settlement infringes his/her legitimate interests. However, in the cases referred to in Article 251 paragraph 2 the employee may make an application to a court only during the period of 14 days of the day of making the settlement.

Article 257. The discharge of the duties of a member of a conciliation commission shall be an honorary public function. However, a member of a conciliation commission shall retain the right to remuneration for the period in which he does not work due to his participation in the work of such commission.

Article 258. § 1. An employer shall be obliged to provide a conciliation commission with premises and technical means enabling it to function appropriately.

§ 2. An employer shall bear the expenses connected with the activity of a conciliation commission. Such expenses shall also include the equivalent of the remuneration lost during the period for which an employee did not work due to his/her participation in the conciliation proceedings.

Articles 259 to 261. Repealed.

Chapter III. Labour Courts

Article 262. § 1. Claims arising out of employment relationships shall be considered by:

- 1) labour courts – constituting separate organizational units of district courts; and
 - 2) labour and social insurance courts – constituting separate organizational units of voivodship courts,
- hereinafter referred to as labour courts.

§ 2. Claims connected with:

- 1) the establishment of new terms of work and pay;
- 2) the application of work standards;
- 3) rooms in employee hostels shall not fall within the jurisdiction of labour courts.

§ 3. The rules for establishing labour courts, their organization and procedures before such courts shall be specified by separate provisions.

Article 263. [*The provisions of this Article are valid until 1 March 2006.*] § 1. Proceedings in respect of claims by an employee arising from his/her employment relationship shall be exempt from court fees.

§ 2. Expenses connected with matters done during the proceedings specified in paragraph 1 above shall be provisionally borne by the State Treasury.

§ 3. The labour court shall, in a decision concluding proceedings at a given instance, decide on such expenses applying the relevant provisions relating to costs of judicial proceedings in civil cases, it being understood that an award of costs may be made against an employee in particularly substantiated cases.

Article 263. [*This amendment comes into force on 2 March 2006.*] Repealed.

Article 264. § 1. An appeal from such a notice of termination of employment shall be submitted to a labour court within 7 days of the day of service of the letter notifying of the termination of the contract of employment.

§ 2. A claim for reinstatement in work or for payment of compensation shall be submitted to a labour court within 14 days of the day of service of the notification of termination

of the contract of employment without notice or of the day of the expiry of the contract of employment.

§ 3. A claim for reinstatement in employment shall be submitted a labour court within 14 days of the day of service of the notification of refusal to grant employment.

Article 265. § 1. Where an employee has, without fault, not performed the acts specified in Article 97, paragraph 2¹ and in Article 264 in due time, a labour court shall on his/her application decide whether to restore the expired time limit.

§ 2. An application to restore the time limit shall be submitted to a labour court within 7 days of the date of cessation of the reason for the failure to observe the time limit. The circumstances justifying the restoration of the time limit shall be included in the application.

Articles 266 to 280. Repealed.

NOTE 1 (to the Act's title): Within the scope of its regulation, this Act shall implement the following directives of the European Communities:

1) Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) (Official Journal of EC, L 263, 24/09/1983);

2) Directive 86/188/EEC of 12 May 1986 on the protection of workers from the risks related to exposure to noise at work (Official Journal of EC, L 137, 24/05/1986);

3) Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (Official Journal of EC, No. L 183, 29/06/1989);

4) Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, L 393, 30/12/1989);

5) Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, L 393, 30/12/1989);

6) Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, L 393, 30/12/1989);

7) Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, L 156, 21/06/1990);

- 8) Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, L 156, 21/06/1990);
- 9) Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (Sixth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, L 196, 26/07/1990);
- 10) Directive 91/322/EEC of 29 May 1991 on laying down the indicative limit values in the implementation of Directive 80/1107/EEC on the protection of workers from risks related to exposure to chemical, physical and biological agents at work (Official Journal of EC, L 177, 05/07/1991);
- 11) Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (Official Journal of EC, L 206, 29/07/1991);
- 12) Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (Official Journal of EC, No. L 288, 18/10/1991);
- 13) Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, L 245, 26/08/1992);
- 14) Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, L 245, 26/08/1992);
- 15) Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (Official Journal of EC, No. L 348, 28/11/1992);
- 16) Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time (Official Journal of EC, L 307, 13/12/1993);
- 17) Directive 94/33/EC of 22 June 1994 on the protection of young people at work (Official Journal of EC, No. L 216, 20/08/1994);
- 18) Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (Official Journal of EC, L 145, 19/06/1996);
- 19) Directive 96/71/EC of 16 December 1996 concerning the posting of workers in the framework of the provision of services (Official Journal of EC, L 018, 21/01/1997);
- 20) Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex (Official Journal of EC, L 014, 20/01/1998);
- 21) Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Official Journal of EC, L 131, 05/05/1998);
- 22) Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (Official Journal of EC, L 175, 10/07/1999);

23) Directive 1999/92/EC of December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Official Journal of EC, L 023, 28/01/2000);

24) Directive 2000/34/EC of 22 June 2000 amending Directive 93/104/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that Directive (Official Journal of EC, L 195, 01/08/2000);

25) Directive 2000/39/EC of 8 June 2000 establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work (Official Journal of EC, L 142, 16/06/2000);

26) Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Official Journal of EC, L 180, 19/07/2000);

27) Directive 2000/54/EC of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Official Journal of EC, L 262, 17/10/2000);

28) Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Official Journal of EC, L 303, 02/12/2000);

29) Directive 2002/44/EC of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (sixteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Official Journal of EC, L 177, 06/07/2002);

30) Directive 2003/10/EC of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Official Journal of EC, L 042, 15/02/2003).

The data concerning promulgation of legislative acts of the European Union and contained herein shall, from the day of obtaining by the Republic of Poland of membership of the European Union, concern promulgation of these acts in the Official Journal of the European Union – special edition.

Translated by *Hanna Husak* (Articles 1 to 189)
Marek Gizmajer (Articles 190 to 305)