



## **CODEBAR**

***Comparisons in decentralised bargaining: towards new relations between trade unions and works councils?***

*Poland  
(work in progress)*

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# Institutional forms of employee representation in Poland

	Regulation	Composition	Involvement in company level collective bargaining	Thresholds/rules when they need to be/can be set up
Trade union (Zakładowe organizacje związkowe)	Law	Employees	Yes	At least 10 members
<b>Works council (Rada pracowników)</b>	Law	Elected councillors	No	A) At least 50 employees work for the employer B) At least 10% of employees working for the employer request an election
Employee council	Law	Elected representatives	No	Only in state-owned enterprises
Employee representatives in company boards	Law	Appointed representatives	No	Only in state-controlled private enterprises
Social labour inspectors	Law	Elected, employees	No	Only in unionised workplaces
Ad hoc employee representatives	Law	Appointed, employees	No	Appointed in specific circumstances, as the law requires consultation (for example, extending working time reference periods)

# Collective bargaining system

In Poland collective bargaining is subject to regulation by the Chapter 11 of the Labour Code.

There are two types of collective agreements recognised by the law:

- Single-employer (*zakładowy układ zbiorowy pracy*);
- Multi-employer (*ponadzakładowy układ zbiorowy pracy*)

# Principal Characteristics of Collective Bargaining in Poland

Key features	
Actors entitled to collective bargaining	Trade unions, employers/employers organisations
Importance of bargaining levels	Single-employer level dominates
Favourability principle / possibilities to derogate from (cross-) sectoral agreements	Favourability principle in place/ no possibility to derogate from (cross-) sectoral agreements and/or law
Extension mechanism (or functional equivalent)	Extension mechanism (by administrative decision) present, albeit not used

# Single- vs. multi-employer agreements

Single-employer agreements might be made by and between a given employer and trade unions operating within establishment(s) controlled by the employer.

No restrictions apply to employers (each and any employer may become a party to an agreement), while on the employee side, trade unions deemed representative in line with the Labour Code regulations, are entitled to be a party to a collective agreement.

Multi-employer agreements are sometimes incorrectly referred to as 'sectoral'.

- The right to initiate conclusion of a multi-employer collective agreement is vested with: the **organisation of employers** authorised to conclude the collective agreement on the part of employers and any **supra-establishment trade union organisation** representing employees for whom the agreement is to be concluded.
- The condition for conducting negotiations is a participation of at least one representative organisation within the meaning of Article 241(17) of the Labour Code.
- A multi-employer collective labour agreement is concluded by **all trade union organisations which conducted the negotiations or at least all the representative trade union organisations** (within the meaning of Article 241(17) of the Labour Code).
- Should the organisation of employers or all trade union organisations that are parties to the multi-employer collective agreement be dissolved, the employer may withdraw from applying the multi-employer collective agreement in whole or in part after the lapse of a period at least equal the notice period of the collective agreement.

# Trade union representativeness at company level

- No formal recognition procedure, union may be established by at least **10** employees and subsequently be registered at court;
- union assembling more than **10%** of employees in an enterprise;
- union associating more than **7%** employees within a company, provided it is affiliated to one of the trade unions confederations with the status of a national representative social partner

# Works councils

- Established by the Information and Consultation Act implementing the Directive 2002/14/EC in 2006.
- Major revision of the Information and Consultation Act in 2009, following the verdict of the Constitutional Court in 2008.
- Mandatory for employers with at least **50 employees** (prior to March 2008, the threshold was **100 employees**)
- Works council is elected in a general ballot upon the request of at least 10% of employees;

# Trade unions vs works councils

**Trade unions** monopolise the rights to:

- Collective bargaining, including signing of collective labour agreements;
- starting the procedure of collective dispute, participating in conflict resolution and organising strikes and other forms of worker protests.

**Works council** is to be informed about the following issues by employer:

- operations and the economic situation of the employer, and envisaged changes in this respect;
- the state of affairs, structure and envisaged changes with regard to employment, as well as actions aiming to maintain the current level of employment;
- actions that may cause important changes in the organisation of work or employment.



# Collective bargaining

- Coverage around **20%**.
- By 2018 **9,908** single-employer collective agreements had been registered, covering some **1.8 million** workers (about 1 million from the public sector, and roughly 800,000 from the private sector).
- In 2020 there are only **61** multi-employer collective agreements, covering about **200,000** employees, mostly in the public sector

# Trade union density 1980-2021

Year	1991	2000	2010	2015	2021
Trade union density (%)	28	20	15	11	11

Note: statistical error is +/- 3 per cent.

Source: CBOS survey data

# Number of works councils elected for a new term

Year	1 <sup>st</sup> term 2006/2008	2 <sup>nd</sup> term 2010/2012	3 <sup>rd</sup> term 2014/2016
Number of works councils	<b>3,401</b>	<b>567</b>	<b>299</b>

**+4,400** agreements implementing provisions of the I&C Act without establishing works councils signed between employers and trade unions