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Working from home during the COVID-19 pandemic: remote work and telework in Polish public administration

Praca z domu w czasie pandemii COVID-19: praca zdalna i telepraca w polskiej administracji publicznej

Abstract

The COVID-19 pandemic forced a change in management and organisation processes both in everyday life and at work. This paper looks at the issue of remote working in Poland during the pandemic. Previously published analyses of home working in Poland concerned either changes in labour law or analysis of local administration. This paper, however, presents a case study of the implementation of intertemporal provisions for a new type of working from home in Poland, i.e., remote working, in central administration. The analysis covers data collected during a survey conducted in the Ministry of Justice and the organisational units supervised by the Ministry in 2020. The collected material allowed for conducting a law-in-action study and assessing the level of acceptance of intertemporal provisions, which were the subject of parliamentary work to make them a permanent element of Polish labour law in 2023. The case study also allowed to understand the road toward novelisation of Polish labour law code.

Keywords: COVID-19, remote working, teleworking, labour law

Streszczenie

Pandemia COVID-19 wymusiła zmianę procesów zarządzania i organizacji zarówno w życiu codziennym, jak i w pracy. W niniejszym artykule podjęto problematykę pracy zdalnej w Polsce w okresie pandemii. Wcześniej publikowane analizy pracy zdalnej w Polsce dotyczyły albo zmian

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w prawie pracy, albo analizy administracji lokalnej. W bieżącej analizie przedstawiono jednak studium przypadku wdrożenia przepisów intertemporalnych dotyczących nowego rodzaju pracy zdalnej w Polsce, tj. pracy zdalnej, w administracji centralnej. Analiza obejmuje dane zebrane podczas badania przeprowadzonego w Ministerstwie Sprawiedliwości i jednostkach organizacyjnych nadzorowanych przez Ministerstwo w 2020 r. Zebrany materiał pozwolił na przeprowadzenie badania prawa w działaniu i ocenę poziomu akceptacji przepisów intertemporalnych, które były w 2023 r. przedmiotem prac parlamentarnych nad uczynieniem z nich stałego elementu polskiego prawa pracy. Studium przypadku pozwoliło również zrozumieć drogę do nowelizacji polskiego Kodeksu pracy.

Słowa kluczowe: COVID-19, praca zdalna, telepraca, prawo pracy

1. Introduction

The COVID-19 pandemic forced changes in management and organisation processes both in everyday life and at work. In Poland, it particularly affected the way work is organised in the public sector. Interestingly, the public sector in Poland switched from the traditional work system to various forms of working from home much faster and more extensively than the private sector. Thus, public administration showed a high capacity for adaptation, which has been the subject of publications in the perspective of different social sciences¹. It should be emphasised here that at present (Q2 2022), public administration is also the area of employment that is returning to on-site work the fastest, while the private sector, which is slower to implement home working solutions, shows signs of keeping (at least partially) the new forms of work permanently.

Previously published analyses of working from home in Poland concerned either changes in labour law² or analysis of local administration³. This paper presents a case study of the implementation of intertemporal provisions for a new type of working from home in Poland, also known as remote working, in central administration. The analysis covers data collected during a survey conducted at the Ministry of Justice and the organisational units supervised by the Ministry in 2020⁴. The collected material allowed for conducting a law-in-action study and assessing the level of acceptance of intertemporal provisions⁵, which were the subject of parliamentary work to make them a permanent element of Polish labour law. The changes were finalised by the act of 1 December 2022 on the amendment of the Labour Code and some other acts, signed by the president and put into effect in 2023⁶. The conducted case study allows also to revisit the COVID experience and determine whether the amendment that followed was connected with the process of implementation of the work-life balance directive⁷, which mentions the need to implement remote and hybrid means of work.

Before the pandemic, the concept of working from home was known in Poland and is described in the Polish Labour Code⁸. The form of working from home was described in law as “teleworking” and was introduced to the Polish legal order in 2007.

¹ A. Goździwska-Nowica, J. Modrzyńska, P. Modrzyński, *Teleworking and remote work in local government administration management in Poland*, “European Research Studies Journal” 2020, Vol. XXIII, Special Issue 2; A. Żarczyńska-Dobiesz, K. Gaura, *The Effect of SARS-CoV-1 Pandemic on Remote Work: Reserach Results*, “European Reserach Studies Journal” 2021, Vol. XXIV, Special Issue 3.

² A. Żarczyńska-Dobiesz, K. Gaura, *The Effect...*

³ A. Goździwska-Nowica, J. Modrzyńska, P. Modrzyński, *Teleworking...*

⁴ J. Szczepański, Ł. Zamecki, *Praca zdalna w administracji publicznej w czasie pandemii COVID-19*, Warszawa 2021.

⁵ Act of 2 March 2020 on special solutions related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them (consolidated text: Dz.U. z 2024 r. poz. 340 ze zm.), hereinafter: the “COVID-19 Act”.

⁶ Act of 9 March 2023 amending the Act - Labour Code and certain other acts (Dz.U. z 2023 r. poz. 641).

⁷ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, OJ L 188.

⁸ Act of 26 June 1974 - Labour Code (consolidated text: Dz.U. z 2023 r. poz. 1465 ze zm.), hereinafter: the “Labour Code”.

However, the theoretical concept of telework is much older. It appeared during the energy crisis in the 1970s⁹. J.M. Nilles defined telecommuting in 1973 as “the substitution of telecommunications and/or computers for commuting work”¹⁰. In the course of further work, he reinforced the theoretical concept with practical guidance on the management of employees who work from home¹¹. The most recent work was translated into Polish in 2003¹², which significantly influenced the terminology used in the 2007 amendment to the Labour Code. The term telework, popularised by Nilles, was permanently introduced into the Polish law, remaining the only legal term until 2020. Currently, there are two legal forms of working from home in the Polish legal order: telework under the Labour Code, and remote work under the COVID-19 Act.

2. Two concepts of working from home: remote working vs. teleworking

Work performed outside the employer’s office is commonly referred to as “work to do at home” or “work to do at the home office”, but these expressions usually are not translated into Polish. However, in the legal order, there are two ways of performing work outside the employer’s office. The first of them is telework, the other is remote work. The practice of using both the institutions was the subject of surveys conducted in 2020 in the Ministry of Justice and the units it supervises.

Telework was defined (before 2023) in Chapter IIb of the Labour Code as: performed regularly outside the workplace, using means of electronic communication within the meaning of the legislation on the provision of services by electronic means. This means that telework should be performed on a permanent basis under a separate work contract, referred to as a “telework agreement”. This agreement may be concluded at the moment of hiring an employee (referred to as a “teleworker”) or introduced during employment. A request to change the way work is performed can be filed by both the employee and the employer. The employer is obliged to grant the employee’s request whenever possible.

Telework was regulated in great detail by the provisions of the Labour Code. The provisions refer to the need to specify the following in the agreement between the employee and the employer: the way of communication, of providing results and of reporting, and the defining of the employee’s position in the organisational structure. Moreover, the provisions refer to the need to provide the employee with equipment, to insure the equipment, cover the costs of installation, service, operation,

⁹ E. Berthiaume, *Jack Nilles tried to ignite a work-from-home trend 48 years ago. It’s finally here*, available at: <https://blogs.lawrence.edu/news/2020/08/jack-nilles-tried-to-ignite-a-work-from-home-trend-48-years-ago-its-finally-here.html> [accessed on: 15 August 2021].

¹⁰ E.J. Hill, J. Kaylene, *Telecommuting* [in:] *Encyclopedia of Quality of Life and Well-Being Research*, A.C. Michalos (ed.), Dordrecht-Heidelberg-New York-London 2014.

¹¹ J.M. Nilles, *Making telecommuting happen: A guide for telemanagers and telecommuters*, New York 1994.

¹² J.M. Nilles, *Telepraca, strategie kierowania wirtualną załogą*, Warszawa 2003.

and maintenance. The employer must also provide the teleworker with full technical support for the equipment and the necessary training package. Admittedly, a Labour Code provision allows for a separate regulation of some of these issues in an agreement between the teleworker and the employer, but it concerns only the scope of equipment insurance, the method of communication, and the method of conducting inspections.

Indeed, the employer has not only the right, but also the obligation to inspect the teleworker's workstation. Although this inspection must be announced, it means that it will be carried out in the same manner as an inspection of the workstation in the office. It means that the teleworker's workstation must comply with all the standards set out in the Labour Code for an office worker's workstation. The very provision on inspection shows how inflexible telework is as a form of employment provided for in the Labour Code.

The Labour Code provisions mean that the entire burden of financing a workstation outside the office is transferred to the employer. The employee, meanwhile, due to the obligation to organise an appropriate workplace and contractual provisions, is obliged to set aside an office space in a designated place of work performance and to perform work from that particular place. Consequently, telework provisions were never widely used in Poland (according to the Central Statistical Office, only 22,000 people were employed in the form of telework in Poland in 2018¹³). The lack of widespread interest in telework can be seen not only in the practice of applying the legislation, but also in the way Polish labour law is presented abroad. Telework has not been widely discussed in any of the recent English-language monographs on labour law¹⁴.

During the COVID-19 pandemic, when lockdowns were introduced for a long period of time, there was no possibility at all to perform work on-site. It meant that some form of working from home had to be implemented. At the same time, the need to suddenly switch to the working from home mode made it impossible to perform teleworking extensively. Moreover, it was also impossible to meet the requirements for the organisation of a separate workplace for all employees. It therefore became clear that it was necessary to introduce to teleworking an alternative form of working from home, not least because of the scale of the problem. According to Central Statistical Office¹⁵, at the end of March 2020, just before our survey was conducted, 11% of employees were already performing work in the form of working from home. It should be emphasised here that this referred only to people who were party to a work contract. This statistic excluded people who worked under business-to-business (B2B)

¹³ Główny Urząd Statystyczny, *Pracujący w gospodarce narodowej w 2018 r.*, Warszawa 2019, available at: https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5474/7/16/1/pracujacy_w_gospodarce_narodowej_w_2018_roku.pdf [accessed on: 20 September 2021].

¹⁴ J. Stelina, M. Tomaszewska, M. Zbucka-Gargas, *Introduction to Polish Labour Law with Cross-Border Aspects*, Warszawa 2021; K.W. Baran (ed.), *Principles of Polish Labour Law*, Warszawa 2018.

¹⁵ Główny Urząd Statystyczny, *Wpływ epidemii COVID-19 na wybrane elementy rynku pracy w Polsce w pierwszym kwartale 2021 r.*, 2021, available at: https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5820/4/5/1/wplyw_epidemii_covid-19_na_wybrane_elementy_ryнку_pracy_w_polsce_w_1_kwartale_2021_roku.pdf [accessed on: 20 September 2021].

contracts, common to those in the liberal arts professions and IT workers. Thus, the real percentage of people working from home in the first weeks of the pandemic was much higher. Moreover, B2B contracts performed in the form of working from home and flagrant violations of the Labour Code through temporary performance of work contracts by employees in the form of working from home (but not telework), with the employer's consent, even before the pandemic, were not isolated cases.

The answer to the real need of the labour market and the fight against the epidemic came with the COVID-19 Act. It introduced the institution of remote work, which previously had been unregulated. It was not a legal category. The regulation on remote work that appeared on 2 March 2020 was largely a legalisation of the flexible form of working from home that had already existed before the outbreak of the pandemic. The COVID-19 Act, unlike the Labour Code, introduced the possibility of assigning an employee to work at home, referred to as "remote work" for the purposes of the act. The COVID-19 Act version of working from home does not require the use of electronic means of communication, which is an important distinction that differentiates remote work from telework. The *ratio legis* for this provision was that employees of the first lockdown period were assigned to remote work even when the type of work they performed could not be done effectively in a home environment.

The aim of the maximally flexible provisions on remote work was to enable, as quickly as possible, as many workers as possible to be assigned to work from home. Moreover, and importantly in the context of the research conducted, this included hundreds of thousands of public sector employees who, unlike private sector employees, could not be assigned to work from home on an informal basis. The provisions of the repeatedly amended COVID-19 Act, also with regard to remote work, applied not only during the pandemic but also for three months after its end. As of 15 March 2022, the provisions were still in force, and thus remote work could be performed until at least mid-2022. The widespread work from home experience as a form of remote work became one of the reasons for efforts to introduce a flexible form of working from home permanently into the Labour Code.

3. Remote work in action

From the very beginning of the pandemic, remote work was used much more frequently in the public sector than in the private sector. According to statistics presented by Central Statistical Office¹⁶, in Q1 2020, nearly 8% used remote work in the private sector and over 17% in the public sector. In Q1 2021, it was nearly 11% and 25% respectively. In other words, at the height of the pandemic, one in four people in the entire public sector performed their work remotely. Central government offices in large part switched almost entirely to the work from home mode.

¹⁶ Główny Urząd Statystyczny, *Wpływ epidemii COVID-19 na wybrane elementy rynku pracy w Polsce w pierwszym kwartale 2021 r.*, 2021, available at: https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5820/4/5/1/wplyw_epidemii_covid-19_na_wybrane_elementy_ryнку_pracy_w_polsce_w_1_kwartale_2021_roku.pdf [accessed on: 20 September 2021].

The mass character of the work from home experience as a form of remote work seems in itself to be a sufficient reason to examine its perception by both employees and managers. The survey we conducted in late April and early May 2020 consisted of a 29-question computer-based questionnaire made available to all employees of the Ministry of Justice and the two units it oversees, the Academy of Justice (the Prison Service college) and the Justice Institute (the ministry's think-tank).

The questions concerned the assessment of the pandemic's impact on the work of the institutions and individual employees, the scale of the use of innovative means of remote communication allowing for audio and video transmission during the COVID-19 pandemic (e.g., videoconferencing applications such as ZOOM, Webex, Skype, MS Teams, Google Meets/Hangouts, etc.) and remote working tools (e.g., Electronic Document Management system, shared drives, intranet, or VPN), as well as an assessment of the usefulness of these tools. Participants were also asked about problems with the use of these tools and an evaluation of remote working *qua* work.

The questionnaire was filled in by 363 employees of the above institutions, which represents a significant proportion of their employees, almost 43%. Of those who took part in the survey, 45% had up to 10 years' experience in administration, 40.1% had between 10 and 20 years, and the rest over 20 years' experience. 14.4% of those surveyed held managerial positions. 56.6% of those who filled in the questionnaires were women. 43.4% of the respondents were men. The most numerous group of the respondents (42.5%) were people aged 35–44.

One of the questions concerned the number of underage children in the household, as it was assumed that having both employees and children together at home during lockdown could affect the evaluation of remote work performance. 44% of the respondents reported having underage children in the household.

The questions were consulted with officials at the preparatory stage. After the questionnaire survey was completed and compiled, in-depth interviews were conducted with public administration employees in order to obtain information on changes in the organisational culture of budgetary units where they perform their duties. The results of the quantitative research were presented in the form of a report¹⁷, while the results of qualitative research form the basis for *de lege ferenda* conclusions presented in the last part of this paper.

The first issue we explored was the government employees' possible previous experience with working remotely. Almost half (49.2%) of the employees said that remote working had not been performed in their workplace before the pandemic. Another 40.6% responded that it had been used occasionally. Only 10.2% of the respondents stated that remote working had occurred frequently or very frequently. Personal experience with working remotely was reported less often. 72.4% of respondents had never worked remotely before the pandemic, while 19.3% had done it incidentally. Experience of periodic or frequent remote working was reported

¹⁷ J. Szczepański, Ł. Zamecki, *Praca...*

by 8.3% of the respondents. Still, a noticeable number of people had experience with remote working. Comparing this with the official data on teleworking, which indicate that only a fraction of employees in Poland perform duties in this form, one can conclude that employees, when they themselves define remote working, admit that the employer makes it possible to perform official duties remotely in addition to teleworking.

The pandemic and the resulting lockdown affected the performance of official duties. At the onset of the pandemic, 83.4% of those surveyed began working remotely, with 31.5% working entirely and exclusively from home. Most of those performing remote work were sporadically at the workplace – usually once (29% of those showing up periodically at the workplace), twice (22%) a week, performing work from home the rest of the time. Weekly work periods interspersed with remote working were also a popular solution (19% of those showing up periodically at the workplace). Other remote working formulas were much less common. In subsequent research, it would be worth undertaking an evaluation of the effectiveness of different solutions for combining remote working with workplace presence.

The survey also asked the respondents to rate how the pandemic affected the functioning of their workplace. 54.4% of the respondents believed that the pandemic had significantly affected the functioning of their institution (a rating of 4 or 5).

The assessment of the pandemic's impact on the functioning of institutions could, of course, take into account the very fact of a change in the form of performing work. Therefore, the respondents were also asked how they assessed the change in the exercise of their own official duties. 41.2% said that the pandemic had significantly affected (ratings of 4–5) the way they performed their official duties. However, almost 20% noticed no change.

Another question was whether the coronavirus pandemic had effected a change in the scope of official duties. After all, employees could have been redirected to perform tasks related to preventing COVID-19. For 87.3% of the respondents, the pandemic had brought no change in the scope of their duties.

The majority of the respondents gave high marks to the preparedness of the institution where they work for the introduction of tools for use in remote work. In total, over 64.7% rated the preparation as “4” and “5” on a five-point scale.

Before the pandemic, remote communication means allowing for audio and video transmission (e.g., ZOOM, Webex, Skype, MS Teams, Google Meets/ Hangouts, etc.) were used in their work by 46.4% of the respondents. But only 16.6% of these used them “very often” and “often”. Notably, during the pandemic period, as many as 76.8% of the respondents declared that they started using these tools for remote communication, and 26% used them at least several times a week.

IT tools were widely used before the pandemic (98.6%), but this is not surprising, as the question also included email (97.5%). Shared drives and intranet were used less frequently (82.6% of the respondents in both cases), 70% of the respondents used Electronic Document Management, and a VPN was used by 20.7%. The tools used did not change noticeably as a result of the pandemic.

An important aspect of remote working and the preparedness of institutions for this form of performing official tasks is the question of computer equipment. As noted earlier, the issue of hardware was an important criterion for the implementation of working from home. The use of private equipment to perform official tasks raises data security issues. The majority of the surveyed administration employees worked on their own equipment during the lockdown (44.8%) while 42.5% worked on company equipment. Performing work on one's own equipment, or in other cases a lack of company equipment, caused some problems, more about which in the following section.

Moving on to the assessment of working remotely and attitudes towards performing it in the future, one thing to note is that as many as 76.5% of the officials interviewed rated their own experience with working remotely as "very good" or "good". It is worth emphasising that a large part of employees expressed a desire to continue working remotely after the pandemic ends, although only 25.4% of the respondents opted for this form of work full-time. 47.5% of the surveyed employees indicated a willingness to work remotely part time. Employees without underage children in the household were more willing to continue working remotely in the future: 77.6% of the respondents said they would be willing to do so full time or part time, 67.1% of whom took care of children.

Employees tend to give high ratings to the conditions for performing work remotely, with 36.2% of the respondents rating them as "very good" and 39.5% as "good". More than half (50.3%) also had no problems with the tools they used to work remotely. The others reported occasional problems involving mainly technical aspects of cooperation with ICT systems, e.g., with the remote desktop, or access to some systems and databases. The quality of the system infrastructure was the most frequently reported problem. Another initial challenge was the need to prepare an ergonomic workspace and a lack of appropriate equipment (e.g., a printer). The fact of having no company phone at home was mentioned. Problems with access to the ministry's management and to certain documents were reported less frequently. Interesting findings may also relate to the highlighted problem of poor-quality Internet connection when working remotely. Other challenges involve combining work with caring for the home and children, and with the difficulties of separating working time from family life.

It is worth noting that employees without underage children in the household gave higher ratings to their remote work conditions: 39.3% rating them as "very good" and 41.3% as "good". It was 32.3% and 37.3% respectively among the respondents with underage children in the household. Let us recall that the survey was carried out during the so-called "first lockdown", when the majority of underage children stayed at home and attended school remotely.

The usability level of remote working tools was rated very highly, with 52.8% of the respondents giving the maximum usability rating. Less enthusiastically, but still very positively rated was the usability of the so-called teleconferencing (19.9% give it a rating of "4", 32.6% a rating of "5"). The respondents most often found it

difficult to say whether remote working and new work tools affected the efficiency of their work, the ability to work in a team or the timeliness of the tasks performed.

The benefits of remote working include primarily “better time management” (about 62% of the respondents), followed by “focusing only on a specific task (without being distracted by other tasks)” (about 49%), the “possibility of working in the more pleasant environment of one’s own home” (about 40%) and “the possibility of handling household matters at the same time” (about 36%). Another important advantage, according to the respondents themselves, is the elimination of commuting and the savings in time and money spent on it.

Age did not turn out to be a significant variable and did not influence either the way work was done, the remote working tools used, or the evaluation of the work and the preparedness for performing it. Employees with more experience slightly less often responded that remote working tools allowed for better time management. The only question where age noticeably influenced responses was whether the respondent would like to work remotely after the pandemic period. Younger employees expressed such a desire more often. At the same time, as we noted earlier, those who stayed in the household with children were less likely to report a desire to work remotely after the pandemic ends. In this context, it should not be surprising that workers with children to raise gave higher ratings to the pandemic’s impact on their work performance higher. Workers without underage children at home rated the remote working experience more positively – more than 80% of workers not raising underage children in their households rated the remote working experience during the pandemic as “very good” or “good”, compared to 72% of those with children.

Gender was more important in answering the questions. Men saw a greater impact of the pandemic on the functioning of their workplace and their own work. Women much more often mentioned “A lack of conditions for remote working from home (e.g., a lack of a comfortable place to work)” as a challenge. Men, on the other hand, were more likely than women to agree that the challenges included “the need to provide care for other household members”, “the difficulty of separating work from home duties” and “problems arising from the remote work of other household members”. At the same time, men more often mentioned the possibility of simultaneously handling household matters and “better time management” as an advantage of working remotely.

4. Implementation of the post-COVID remote work concept

The amendment of 2023 effectively ended the era of telework in Poland. Chapter IIB was abolished and a new chapter, Chapter IIC, added to the Labour Code. According to Article 67¹⁸, remote work consists of performing work entirely or very often outside the place of traditional employment (e.g., an office), in a location initiated by the employee in direct consultation with the employer, often with sources of remote communication available to the employee. In practice, this often means working from

home or another place by the employee, provided that the employer is in agreement with it.

Article 67¹⁹ states that an agreement on remote work may be concluded when signing the employment contract or during the term of employment. In the event that such an arrangement is sought after a work agreement has been concluded, the arrangement may be sought at the request of the employer or the employee, in paper or electronic form. Remote work may also be ordered by the employer in special situations, such as a state of emergency, epidemic, or other threat of force majeure, provided that the employee has local and technical conditions for its operation.

The employer may decide to not operate remotely, informing the employee with at least two days advance notice, which gives the employee time to prepare to return to the office. In a situation where the employee's work cannot be started remotely, due to technical or local conditions, the employer may request this, which will revert to operating in remote mode.

The employer, in accordance with the disclosure, has a description of the elements necessary to enable the employee to perform work remotely, such as technical equipment, office supplies, access to software, or Internet access. The employer must also cover the costs associated with the installation, servicing, and operation of these tools. Importantly, in the event that the employee uses their own equipment for remote work, the employer is obligated to compensate the employee, the amount of which is determined in agreement with the employer.

It is also possible to apply a lump sum instead of reimbursement of costs incurred by the employee, which corresponds to the expected costs of remote work (e.g., energy consumption, cost of telecommunications services, etc.). The lump sum should be appropriately determined based on the standard of use of materials and market documentation.

The law also provides for the rights of employees in the scope of the possibility of remote work. The employer may refuse if remote work is unavailable due to the work equipment or the nature of the required work, but the employee must be informed of the reasons for the refusal within 7 working days. If the employer submits an application to return to the traditional workplace (in accordance with Article 67²²), each party (employee or employer) may apply to discontinue remote work. The parties then set a deadline for restoring the original working conditions in less than 30 days.

The employer is obligated to develop a procedure for the protection of personal data for employees who are required to work remotely and is likewise obligated to protect against violations. Additionally, the employer has the right to order that remote work be conducted at the place of its performance, but the employee's performance may be evaluated only during a prearranged meeting.

The principles of remote work are to be regulated in agreements concluded between the employer and the company trade unions. If such organisations operate with the employer, they should establish detailed conditions of remote work together with the employer, which concern, among others, the groups of employees covered by remote work, the principles of covering costs, compensation, or methods

of communication between the employer and the employee. In the absence of a union agreement, the employer specifies the principles of remote work in the regulations. If there are no trade unions in the company, consultations are held with employee representatives.

The employer is obligated not only to provide the necessary tools for work but also to provide employees with training and technical support needed to perform remote tasks effectively. This also applies to health and safety training, which can be conducted online for administrative and office employees. If necessary, the employee is obligated to confirm participation in training.

Remote workers must be treated equally with other employees in terms of establishing and terminating employment, employment conditions, access to training, or promotion opportunities. An employer may not discriminate against an employee for performing remote work or refusing to do so.

Although the employee performs his duties remotely, the regulations provide him with the right to access the workplace, contact other employees and the possibility of using the employer's equipment and premises, on the terms applicable to all employees. The employer is obligated to fulfil its obligations towards remote employees in the field of occupational health and safety. In the case of administrative and office positions, OHS training may be conducted entirely online.

Additionally, remote work can be also undertaken occasionally. According to Article 67³³, an employee can file a request to perform duties remotely up to 24 days a year. It is one of the effects of the implementation of the work-life balance idea in the provisions of the labour code.

5. Conclusions

Unplanned mass testing of new forms of remote work turned out to be one of the consequences of the pandemic. As it turned out, Polish law on working from home was not suited to widespread implementation, and probably for this reason it was not often utilised before the pandemic. Thus, the pandemic forced lawmakers to suddenly introduce a new, more flexible form of working from home, i.e., remote working. According to the survey conducted by the authors in the Ministry of Justice and the organisational units supervised by this Ministry in 2020, the experiences of employees who made use of this new form of work were relatively positive. Indeed, the analysis of remote work aroused expectations among employees that this form of work would be more widely used also after the end of the pandemic. At the same time, working from home is in line with the direction of changes in work quality advocated by the European Union. The material collected by the authors made it possible to conduct a law-in-action study and to assess the level of acceptance of the intertemporal provisions, which was also used by the Polish parliament when preparing the 2023 amendment of the Labour Code and the introduction of remote work.

Politicians seem to have learnt a lesson from the experience of remote working during the pandemic, as the new regulations in this respect aimed to provide more

flexible conditions for the remote work. This means that remote work stayed with us post-pandemic to a much greater extent than it had been utilised prior to it.

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