



## INTERNATIONAL CONFERENCE

# **‘Challenges of Labour Law in the context of Maintaining and Increasing of Employment in the V4 Countries’**

organized within the framework of the Slovak  
Presidency of the Visegrad Group / V4 /

February 26th, 2015  
Bratislava, Slovak Republic



## PANEL I

- 1. New Forms of Labour Relations and their Flexibility**
2. Modernising of Work Organization

## PANEL II

3. The Posting of Workers Directive and the Temporary Agency Work Directive versus Illegal work



# **NEW FORMS OF LABOUR RELATIONS AND THEIR FLEXIBILITY IN THE POLISH LABOUR LAW**

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**February 26th, 2015  
Bratislava, Slovak Republic**

## The sources of modernisation of labour law in Poland



- increase in the number of dependent employment – civil contract and self-employment
- changes in the labour market
- stepping stone to permanent work
- changes in the participation of social life each of the family members
- development of new technologies
- social dialogue
- facilitation of the integration of some disadvantaged group on the labour market
- overcoming mobility problem and maintaining employment in region

**The concept of flexicurity**



## DIVERSITY IN THE FORM OF LABOUR CONTRACT:

- permanent contract
- fixed-term contract:
  1. contract for a fixed period,
  2. contract for the time of completion of specified task,
  3. contract for a trial,
  4. contract for the substitution during the justified absence from work another worker.

## TEMPORARY WORK :

- **posted worker** – posting employees abroad temporarily to perform work in the territory of a Member State other than the State in which they are habitually employed
- **temporary agency worker** – in the event of the occasional, extraordinary or seasonal work - the workers are assigned by a temporary-work agency to user undertakings to work temporarily under their supervision and direction.

## TELEWORK

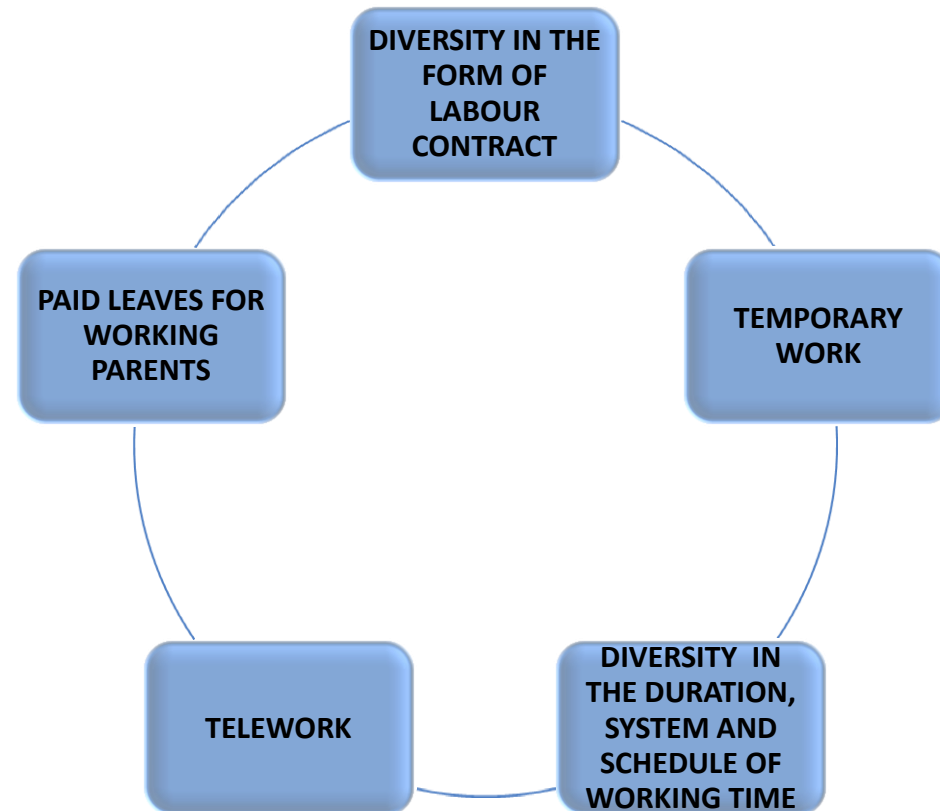
– the work perform away from the employer's premises using information technology

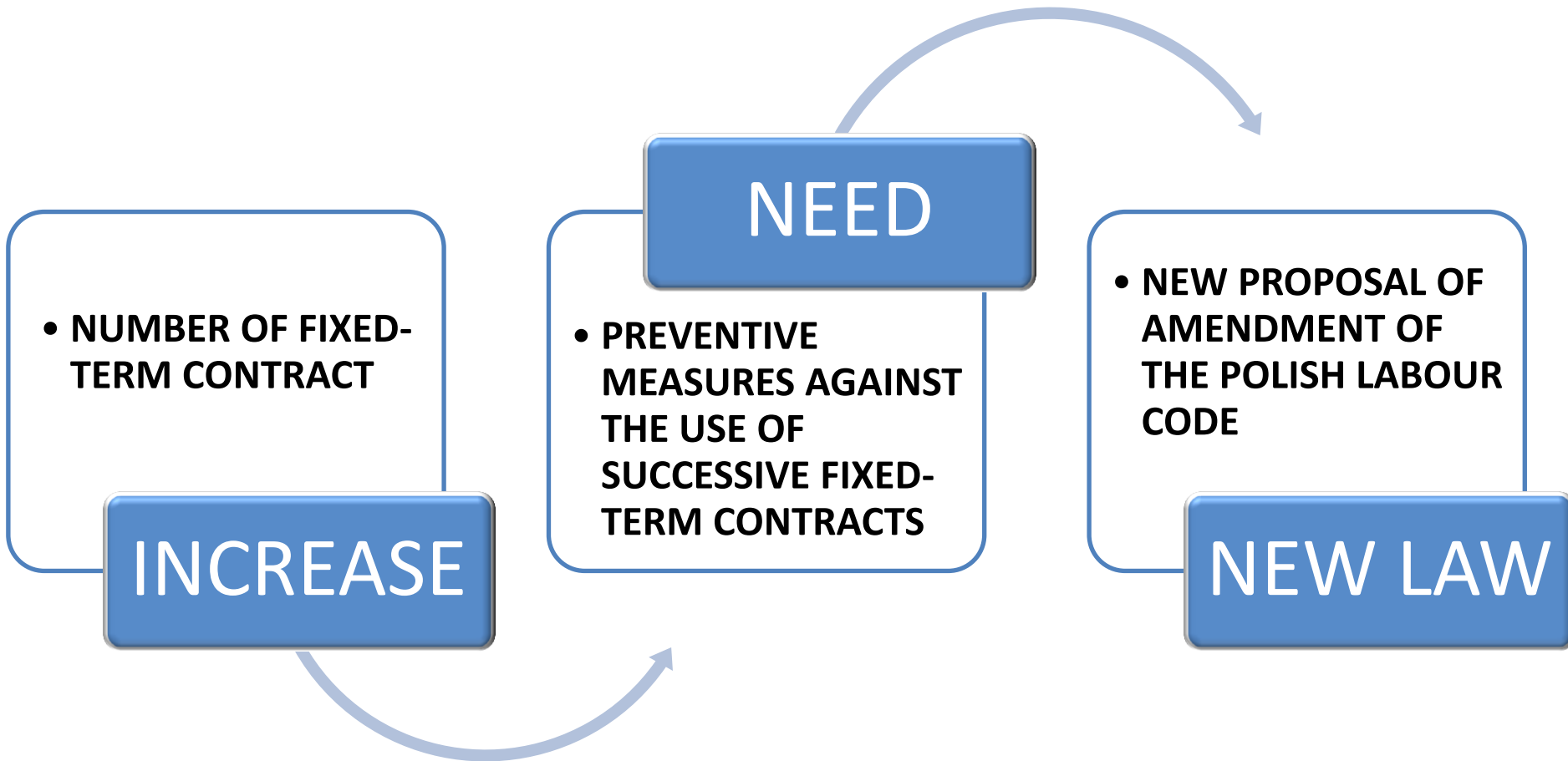
## DIVERSITY IN THE DURATION, SYSTEM AND SCHEDULE OF WORKING TIME

– the labour law provided a variety of possibilities to organize work in the manner which meets a need of employers and employees

## PAID LEAVES FOR WORKING PARENTS

## EXAMPLES OF THE POLISH REGULATIONS



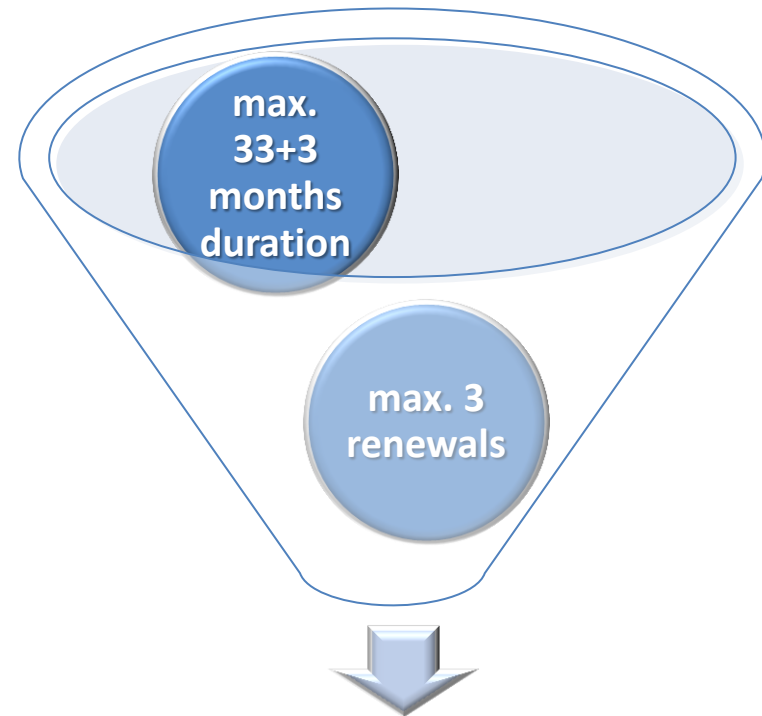




## THE NEW PROPOSAL OF AMENDMENTS

of the Polish Labour Code concerning fixed-term contracts determine ...

- ❑ **maximum total duration** of successive fixed-term contracts – 33 months (+ 3 months for the contract for a trial) and
- ❑ **the number of renewals** of such contracts – maximum 3 renewals.



**DECREASE IN THE NUMBER OF THE UNJUSTIFIED  
FIXED-TERM CONTRACTS**

# Temporary agency work as a result of a bussiness need



Ministerstwo Pracy  
i Polityki Społecznej

**NEW FORM OF  
BUSSINESS  
ACTIVITIES IN  
POLAND**

**LACK OF THE  
APPROPRIATE  
REGULATION  
IN THE POLISH  
LABOUR LAW**

**ACT ON  
TEMPORARY  
AGENCY WORK  
2003**





## **New Polish regulations (2013) aim at enabling care of the child by both parents during its first year of life by:**

- **introducing a new institution of paid parental leave (of 26 weeks) which can be use by mother or/and father of the child (independently or simultaneously).**

Besides working fathers are still entitled to:

- **paternal leave of 2 weeks** until the child is 12 months old,
- **share maternity leave and additional maternity leave with mother of the child** (except first 14 weeks reserved for mother).

**NEW REGULATION PROMOTES TAKING CHILD-CARE RESPONSIBILITIES BY FATHERS.**



52 WEEKS - IN CASE OF BIRTH OF 1 CHILD

20

- **MATERNITY LEAVE**

6

- **ADDITIONAL MATERNITY LEAVE**

26

- **PARENTAL LEAVE**

36

- **CHILDCARE LEAVE** - until the fifth birthday of the child (generally unpaid)

In case of multiple birth, the length (**without childcare leave**) amounts from 65 to 71 weeks, depending on the number of children born in one go



In Poland an **implementation of the telework regulation** in 2007 stemmed from:

- **THE EUROPEAN FRAMEWORK AGREEMENT ON TELEWORK (2002)**
- **THE NATIONAL AGREEMENT (2005)**



**THANK YOU FOR YOUR ATTENTION!**

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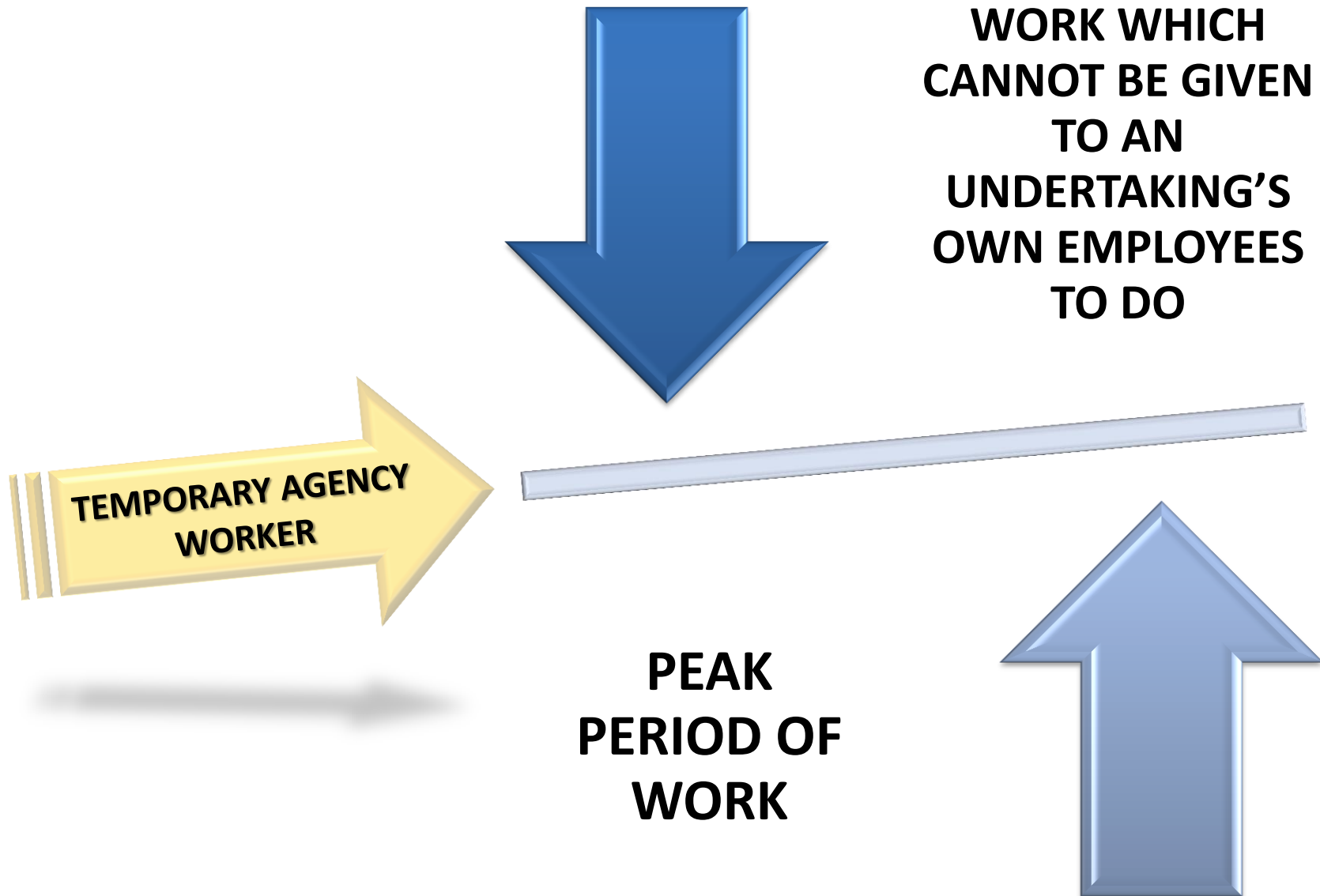


# **MODERNISING OF POLISH WORK ORGANIZATION**

**KATARZYNA KACZMARSKA**

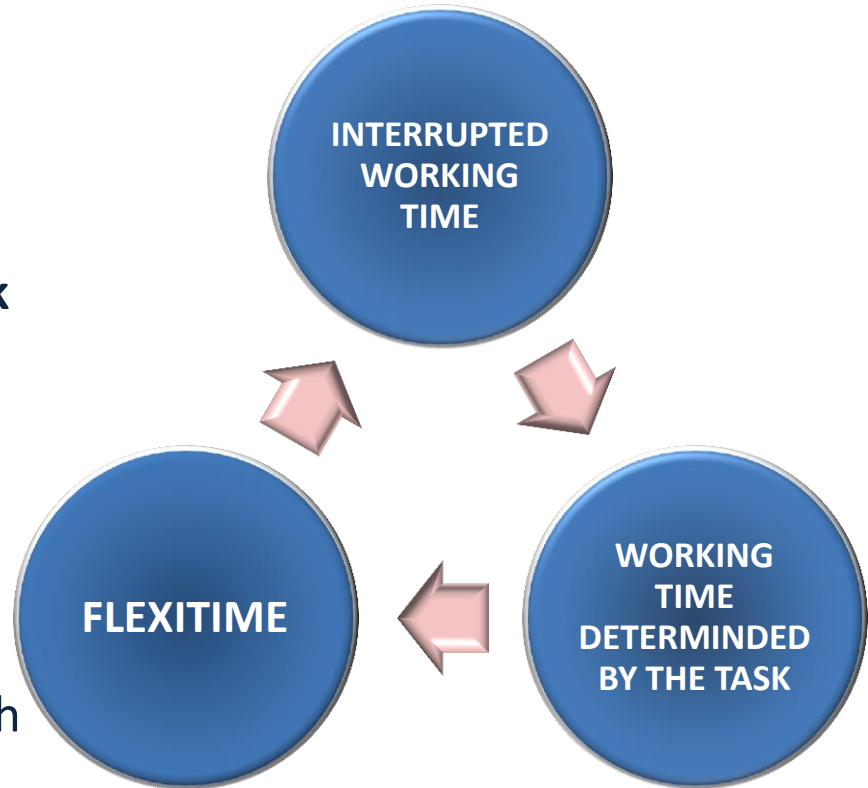
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Examples of the diversity in working organization in the Polish labour law:

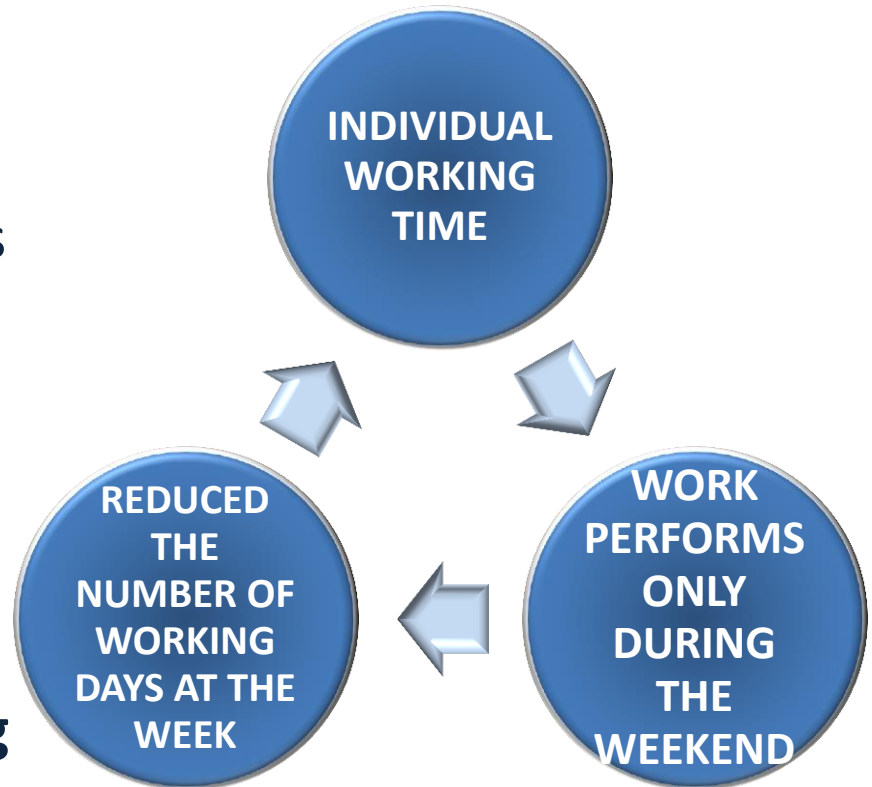
- **Interrupted working time** - when the working time has one break in a 24-hour period for no more than 5 hours
- **Working time determined by the task** to be performed by the employees in cases justified by:
  - the type or organisation of work
  - circumstances concerning the place where work is to be performed
- **Flexitime** - a system of working in which employees work a set number of hours within a fixed period of time, but can change the time they start or finish work





Examples of the diversity in working organization in the Polish labour law:

- **Individual working time** which is set by the individual request of the worker
- **Work performs only during the weekend** (Friday, Saturday and Sunday) at the worker's request
- **Reduced the number of working days at the week** by increasing the time of daily working hours





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# **APPLICATION OF THE POSTING OF WORKERS DIRECTIVE AND THE TEMPORARY AGENCY WORK DIRECTIVE FROM THE POLISH PERSPECTIVE**

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## The Posting of Workers Directive and the Temporary Agency Work Directive



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**Poland has not encountered problems in the implementation of the two Directives.**

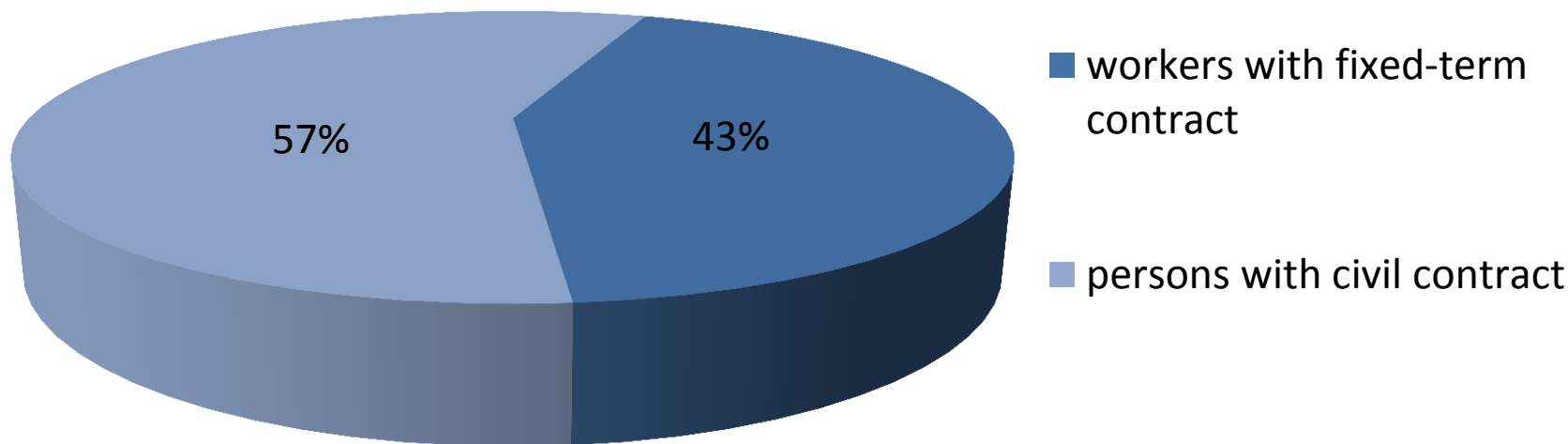
Our challenge for now is the implementation of the **Directive 2014/67/EU on the enforcement of Directive 96/71/EC** concerning the posting of workers in the framework of the provision of services.

- Despite the above-mentioned issues, we are still **monitoring the situation on the labour market** in order to adjust the Polish regulation to the current need of workers, employers, agencies and user undertakings.
- We are looking forward to hearing **the judgement of the Court of Justice of the European Union in the case Auto- ja Kuljetusalan Työntekijäliitto AKT ry C-533/13** which will concern - for the first time - the interpretation of provisions of the Temporary Agency Work Directive.



**559 465** persons were assigned in 2013 by the temporary-work agencies to user undertakings to work temporarily under their supervision and direction - which consists of **19 245** persons assigned to user undertakings abroad (3% of all).

### Temporary agency workers in 2013





**1610 temporary-work agencies** were enrolled on the Polish register in 2013.

*\*Foreign undertakings, in order to operate on the Polish market as a temporary-work agency, inform the office concerned about carrying out their activities.*

**The Polish Labour Inspection took 349 controls** concerning the conditions of temporary agency work (in 2013).

In **11** cases agencies operate without **the temporary-work agency certificate** which is required by the Polish law for the Polish undertakings.

	NUMBER OF CONTROLS IN 2013	DIFFERENT INFRINGEMENTS IN TOTAL
TEMPORARY-WORK AGENCY	163	64%
USER UNDERTAKING	186	68%



## The number of postings from Poland to EU27 - simulation

Member states to which posted workers are second	2010	2015
Germany	121 492	134 915
France	29 389	32 925
Belgium	19 417	21 582
Netherlands	16 347	18 159
Sweden	6 405	7 721
Spain	4 402	4 885
Other states	30 220	34 576
<b>TOTAL</b>	<b>227 672</b>	<b>254 943</b>

Source: COMMISSION STAFF WORKING DOCUMENT - IMPACT ASSESSMENT - Revision of the legislative framework on the posting of workers in the context of provision of services – SWD (2012) 63, 21.3.2012, str. 92-93





## The number of postings from EU27 to Poland - simulation

Member states from which posted workers are second	2010	2015
France	7 937	10 078
Germany	4 017	5 101
The Czech Republic	621	788
Spain	586	744
Belgium	285	362
The United Kingdom	208	264
Other states	1 199	1 525
<b>TOTAL</b>	<b>14 853</b>	<b>18 862</b>

Source: COMMISSION STAFF WORKING DOCUMENT - IMPACT ASSESSMENT - Revision of the legislative framework on the posting of workers in the context of provision of services – SWD (2012) 63, 21.3.2012, str. 92-93



**Undertakings established in a non-member State must not be given more favourable treatment than undertakings established in a Member State when they post employees to Poland on their account and under their direction - pursuant to article 1 paragraph 4 of the Posting of Workers Directive.**

**The Polish Labour Inspection has the right to control the workers posting in the Polish territory by the undertakings established in a non-member State.**

## Application of the so-called hard core of the Posting of Workers Directive

### PROBLEMS:

the diversity of the regulation in the Member States of the European Union leads to some doubts about application of the minimum conditions of employment in the host country.

### MINIMUM TERMS AND CONDITIONS OF EMPLOYMENT

in the Member State where the work is carried out

1. maximum work periods and minimum rest periods;
2. minimum paid annual holidays;
3. the minimum rates of pay, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes;
4. the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings;
5. health, safety and hygiene at work;
6. protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people;
7. equality of treatment between men and women and other provisions on non-discrimination.



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