

iGlobal Law Annual Alert 2023 : Poland

Legal Change	Effective Date	Action required
<p>Remote work and sobriety checks at the workplace</p> <p>The intention of the change is to adopt provisions regulating remote work into the Labour Code (regulated currently in the temporary special law on Covid-19), and to introduce rules on sobriety checks at the workplace.</p> <p>New remote work regulation</p> <p>The bill provides a legal definition of remote work, the procedure for initiating remote work when concluding an employment contract or during employment and the special categories of employees whose request to work online should be accepted.</p> <p>The instruction of remote work would require the employer to have specific rules for its conduct and to provide the employee with materials, tools (unless agreed otherwise with the employee), technical support and training necessary to perform remote work, as well as to cover the related costs. These requirements would not apply to occasional remote work (performed no more than 24 days in a year).</p> <p>The bill also regulates special cases (including during a pandemic), when the employer will be entitled to order an employee to work remotely, provided the employee has submitted a declaration confirming having the required conditions and technical facilities to perform work in this form.</p> <p>Sobriety checks at the workplace</p> <p>The bill is to implement an explicit legal basis enabling employers to carry out sobriety checks on employees and persons performing work other than under an employment contract (civil-law workers and self-employed persons). Currently, the right to initiate such checks follows only from case-law.</p> <p>The presence of alcohol in an employee’s organism will be grounds for prohibiting further work until a sobriety state and for a disciplinary penalty. The presence in the employee’s organism of substances with effect similar to alcohol will have similar disciplinary consequences for the employee. The Minister of Health is to issue a regulation with a list of these substances.</p>	<p>No exact date known.</p> <p>Anticipated in the beginning of 2023.</p> <p>The draft is at the last stages of legislative work.</p>	<p>Once the changes enter into force, if an employer intends to instruct remote work, it will be obliged to specify the rules of remote work in a collective agreement with trade unions (if any), internal regulations or individual agreements with employees/instructions issued.</p> <p>If the employer decides to conduct sobriety checks, the decision, the group of employees to be checked and the manner/frequency of the checks should be specified in a collective agreement with trade unions (if any), internal work regulations or in the employer’s announcement.</p>
<p>Protection of whistleblowers</p> <p>The bill is to implement the EU Whistleblowers Directive 2019/1937.</p>	<p>No date yet.</p>	<p>Companies with at least 50 workers will be obliged to adopt internal procedures for receiving reports on</p>

<p>In particular, the new Act will regulate:</p> <ol style="list-style-type: none"> 1) The conditions under which persons reporting a violation of law will enjoy protection – the status of whistleblower will derive from submitting an internal report or an external report or public disclosure; 2) Procedure for reporting violations through the internal channels of the employer; 3) Procedure for notifying violations through the external channels of state authorities; 4) Forms for reporting violations (paper, electronic or oral form); 5) The concept of public disclosure – the broad disclosure to the public of information about an infringement; 6) Whistleblower protection measures, in particular, prohibition on retaliation, protection against retaliation, sanctions; 7) Personal data protection requirements, such as, an obligation to delete personal data after processing by an external entity, the confidentiality of the whistleblower's identity. 	<p>Draft is at the early stage.</p>	<p>violations of law and following them up with appropriate actions.</p> <p>The internal procedures must, in particular, specify a system of incentives for submitting internal notifications of violations of law.</p> <p>According to the bill's current wording, companies with at least 250 workers (and some in special categories) will need to adopt such internal whistleblowing procedures within two months from the date of enactment, whereas the implementation deadline for entities with 50-249 workers will be December 17th 2023.</p>
<p>Parental rights and employment contracts</p> <p>The draft is to implement EU Directives 2019/1152 on transparent and predictable working conditions and 2019/1158 on the work-life balance for parents and carers into the provisions of the Labour Code.</p> <p>The draft includes, among others, changes in (a) duration and rules governing employment contracts for probationary period, (b) broadening the scope of information provided to newly hired employees, (c) rules for termination of employment contracts, (d) broadening protection - in the context of additional days off as part of carer's, parental, and paternity leave, as well as days off in the event of force majeure in urgent family matters.</p> <p>The changes also place an additional obligation on employers to give specific reasons for termination of a fixed-term employment contract. Employers would be also obliged to justify their refusal to change the terms of employment, if the employee submits a respective request.</p>	<p>No date yet.</p> <p>Draft is at an early stage.</p>	<p>Once legislative work reaches its final stage, employers should implement changes to their employees' documentation, particularly internal regulations and employment contracts.</p>
<p>Collective labour disputes</p> <p>The bill broadens the subject matter over which a collective dispute may arise – namely, a collective dispute may concern trade union collective rights and freedoms, as well as professional, economic or collective social interests or rights, related to the performance of work.</p>	<p>No date yet.</p> <p>Draft is at an early stage.</p>	<p>No specific action required.</p>

<p>The bill also empowers persons who work on civil-law contracts to take part in a collective dispute.</p> <p>Changes include, in particular, an extension of the period after which a strike may be carried out (from 14 to 21 days), a fixed maximum duration of a collective dispute (9 months with a possible extension of 3 months – currently, there is no maximum duration), an obligation to submit information about the dispute to the Minister of Labour (currently the district labour inspector), an option to use preventive mediation.</p>		
<p>Employment of foreigners</p> <p>The draft bill is, in particular, intended to implement EU Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers.</p> <p>The most significant changes arising from the draft are:</p> <ol style="list-style-type: none"> 1) Full digitisation of procedures related to obtaining a work permit and acceptance of a statement on the employment of a foreigner; 2) Introduction of an additional prerequisite for granting a work permit, in particular the number of work hours; 3) Elimination of the institution of work permit renewal; 4) Reducing the procedures involved in obtaining a work permit, such as elimination of the need to receive information from the local mayor; 5) Increase in penalties for the illegal employment of foreigners; 6) Introduction of a procedure for the automated checking of entities previously penalised for illegal employment. 	<p>No date yet.</p> <p>Draft is at an early stage.</p>	<p>No specific action required.</p>